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EXECUTIVE ORDER MJF 98-43

Bond Allocation—Louisiana Public Facilities Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act Number 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order Number 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 1998 (hereafter "the 1998 Ceiling");
2. the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and
3. a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Public Facilities Authority has requested an allocation from the 1998 Ceiling to be used in connection with the financing of the acquisition, construction, and equipping of a sugar mill for Alma Plantation, Ltd. (the "Project"), located on Louisiana Highway 416, Lakeland, parish of Pointe Coupee, 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 1998 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$1,700,000	Louisiana Public Facilities Authority	Alma Plantation, Ltd.

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's 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, provided that such bonds are delivered to the initial purchasers thereof on or before December 27, 1998.

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 29th day of September, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9810#011

EXECUTIVE ORDER MJF 98-44

Suspension of Absentee Voting in Person in Plaquemines Parish

WHEREAS, "in order to ensure maximum citizen participation in the electoral process and provide a safe and orderly procedure for persons seeking to qualify or exercise their right to vote, to minimize to whatever degree possible a person's exposure to danger during declared states of emergency, and to protect the integrity of the electoral process," the Louisiana Legislature enacted R.S. 18:401.1 to provide "a procedure for the emergency suspension or delay and rescheduling of qualifying, absentee voting in person, and elections"; and

WHEREAS, on September 29, 1998, pursuant to the provisions of R.S. 18:401.1(B), the secretary of state, in conjunction with the commissioner of elections and registration, certified to the governor that as a result of Hurricane Georges, a state of emergency exists in parish of Plaquemines and they recommend absentee voting in person in that parish be suspended until such time as the absentee voting in person may be resumed;

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: Under the authority of R.S. 18:401.1(B) and based on the September 29, 1998, certification of the secretary of state, in conjunction with the commissioner of elections and registration, that a state of emergency exists in the parish of Plaquemines, and the recommendation that absentee voting in person in that parish be suspended, absentee voting in person in the parish of Plaquemines is hereby suspended.

SECTION 2: In accordance with the procedures set forth in R.S. 18:401.1, absentee voting in person in the parish of Plaquemines shall resume on Wednesday, September 30, 1998 commencing at 1:00 p.m. and concluding at 5:00 p.m. Absentee voting will be conducted at the Registrar of Voter's Office in the Plaquemines Parish Governmental Building in Port Sulphur, the Pointe-a-la-Hache Courthouse and the Belle Chasse Public Library.

SECTION 3: This Order is effective upon signature.

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 29th day of September, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9810#012

EXECUTIVE ORDER MJF 98-45

Louisiana Historical Records Advisory Board

WHEREAS, Executive Order Number MJF 98-31, signed on June 12, 1998, established the Louisiana Historical Records Advisory Board (hereafter "Board"); and

WHEREAS, it is necessary to amend Executive Order Number MJF 98-31 in order to add to the membership of the Board;

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

SECTION 1: Section 3 of Executive Order Number MJF 98-31, is amended to provide as follows:

The Board shall consist of nineteen (19) members who shall be appointed by, and serve at the pleasure of, the governor. As much as practicable, Board members shall be broadly representative of public and private archives, records offices, and research institutions and organizations in the state. The membership of the Board shall be selected as follows:

- A. the director of State Archives;
- B. ten (10) members outstanding in one or more of the following fields: administration of government records, historical records, and/or archives; and
- C. eight (8) members at large.

SECTION 2: All other sections and subsections of the Executive Order Number MJF 98-31 shall remain in full force and effect.

SECTION 3: The provisions of this Order are 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 1st day of October, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9810#013

EXECUTIVE ORDER MJF 98-46

Louisiana Highway 1 Project Task Force

WHEREAS, Louisiana Highway 1 (hereafter "LA 1"), a 2-lane highway with sections which are impassible during inclement weather, is vital to the economic vitality and safety of the citizens of Louisiana who live near and/or work in the region of LA 1 between Port Fourchon/Grand Isle and Alexandria (hereafter "the region");

WHEREAS, the citizens of Louisiana who live and/or work in the region, especially those in the vicinity of Grand Isle, Port Fourchon, and Raceland, are dependent on LA 1 remaining open and passable for safe and expeditious evacuations during the threat of a hurricane and/or a tropical storm;

WHEREAS, the economic infrastructure of the region is dependent upon the integrity of LA 1 as ninety-five percent (95 percent) of the shellfish and finfish harvested in the region's waters are shipped to market over LA 1; sugar cane harvests that annually generate approximately two hundred-twenty million dollars (\$220,000,000) and vegetable harvests that annually generate approximately four million dollars (\$4,000,000) in sale revenues are transported to market and/or processing facilities over LA 1; and the vast majority of the goods and services needed to support and sustain the region's oil and gas industry, an industry that generates annual state mineral revenues in the range of half a billion dollars (\$500,000,000), are transported over LA 1;

WHEREAS, the state of Louisiana's goals for the twenty-first century include developing a transportation infrastructure in the region that will safely and adequately support an increase in traffic volume resulting from emergency situations and/or economic growth and development; and

WHEREAS, the interests of the citizens of the state of Louisiana would be best served by the creation of a task force charged with the duty of

- 1) analyzing the feasibility of upgrading, from a 2-lane to a 4-lane highway or an interstate, the section of LA 1 between Port Fourchon/Grand Isle and Alexandria; and
- 2) evaluating the impact that such an upgrade would have on the citizens of the state of Louisiana, especially those citizens who live and/or work in region;

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 Highway 1 Project Task Force (hereafter "Task Force") is established within the executive department, Office of the Governor.

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

A. Evaluating the feasibility of upgrading, from a 2-lane highway to a 4-lane highway or an interstate, the section of Louisiana Highway 1 (including Louisiana Highway 3090) that is located between Port Fourchon/Grand Isle and Alexandria (hereafter "LA 1 Project");

B. Analyzing the need for and means to provide adequate funding for the LA 1 Project, including the availability of state and/or federal funding sources and innovative financing alternatives; and

C. Evaluating and documenting the level of citizen support for the LA 1 Project by:

1) the citizens of the state of Louisiana, in the region of LA 1 between Grand Isle/Port Fouchon and Alexandria (hereafter "the region") and statewide;

2) the municipalities, communities and parishes in the region and statewide; and

3) the members of the Louisiana Legislature from the region and statewide.

SECTION 3: The Task Force shall submit a comprehensive written report to the governor; the House Committee on Transportation, Highways and Public Works; and the Senate Committee on Transportation, Highways and Public Works, by April 1, 1999.

SECTION 4: The Task Force shall be composed of a maximum of twenty-one (21) members appointed by, and serving at the pleasure of, the governor. The membership of the Task Force shall be selected as follows:

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

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

C. the commissioner of administration, or the commissioner's designee;

D. the chair of the House Transportation, Highways, and Public Works Committee, or the chair's designee;

E. the chair of the Senate Transportation, Highways, and Public Works Committee, or the chair's designee;

F. the Federal Highway Administrator for the state of Louisiana, or the Federal Highway Administrator's designee;

G. citizens of the state of Louisiana who reside in a community in the region of LA 1 between Grand Isle/Port Fourchon and Alexandria;

H. representatives of businesses and/or industries that are located in the region of LA 1 between Grand Isle/Port Fourchon and Alexandria; and

I. one (1) at-large member.

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

SECTION 6: Support staff for the Task Force and facilities for its meetings shall be provided by the Department of Transportation and Development.

SECTION 7: Task Force members shall not receive additional compensation or a per diem from the Office of the Governor, or the Department of Transportation and

Development. Nonetheless, contingent upon the availability of funds, a member who is not an elected official or an employee of the state or federal government, may receive reimbursement from the Office of the Governor for actual travel expenses incurred, in accordance with state guidelines and procedures, and upon the written approval of the commissioner of administration.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Task Force in implementing the provisions of this Order.

SECTION 9: 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 8th day of October, 1998.

¹ Factual data was provided by the Department of Economic Development in combination with the Barataria-Terrebonne National Estuary Program.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9810#069

EXECUTIVE ORDER MJF 98-47

Oversize and Excess Weight Vehicle Task Force

WHEREAS, the size, width, height, length, weight and load of vehicles which operate on the highways of the state of Louisiana are regulated by R.S. 32:379, *et seq.*;

WHEREAS, notwithstanding the limitations set forth in R.S. 32:380-386 (hereafter "standard limitations"), the Department of Transportation and Development is authorized by R.S. 32:386.1 to issue blanket oversize yearly permits for a set fee, and by R.S. 32:387, 387.2, 387.3, 387.4, 387.6, 387.7, 387.9, and 387.10 to issue special permits for a fee under certain circumstances, to vehicles which exceed standard limitations;

WHEREAS, all vehicles and motor vehicles registered in the state of Louisiana are also assessed an annual registration fee or tax pursuant to the provisions of R.S. 47:462; however, the rates assessed vehicles such as trucks, trailers, semi-trailers, and/or truck-tractors that are based on the weight of the vehicle, may not be commensurate with the amount that Louisiana's neighboring states assess comparable vehicles;

WHEREAS, the amount of deterioration, if any, caused to Louisiana's highways and/or roadways by vehicles specially permitted to carry weight in excess of standard limitations

should be studied and compared to the amount of deterioration, if any, caused by vehicles that are in compliance with standard limitations because a balance should be maintained between the economic concerns of businesses and the public's interests in preserving the safety and structural integrity of the state's highway system; and

WHEREAS, the interests of the citizens of the state of Louisiana would best be served by the creation of a task force charged with the duty of evaluating:

1. the laws that govern the vehicles which operate on the highways and roadways of this state in excess of the standard limitations set forth in R.S. 32:380-386;

2. the amount of deterioration, if any, caused to Louisiana's highways and/or roadways by such vehicles in comparison to the amount of deterioration caused by vehicles in compliance with standard limitations; and

3. the adequacy of the fees and/or taxes that vehicles on Louisiana's highways and/or roadways are assessed;

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 Oversize and Excess Weight Vehicle Task Force (hereafter "Task Force") is established within the executive department, Office of the Governor.

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

- A. analyzing Louisiana's laws, rules, and regulations which pertain to

1. the size, weight, width, height, length, and/or load of vehicles which operate on the highways and/or roadways of this state;

2. the standard and special taxes and/or fees assessed vehicles that exceed those size, weight, width, height, length and/or load limitations (hereafter "standard limitations"); and

3. the standard and special taxes and/or fees assessed vehicles that do not exceed standard limitations;

- B. evaluating the relationship, if any, of the amount of deterioration to the highways and/or roadways of this state and of the increase, if any, in hazards to public safety, as a result of vehicles that operate within the standard limitations and those that operate in excess of standard limitations on those highways and/or roadways; and

- C. evaluating the adequacy of the standard and/or special taxes and/or fees that this state assesses trucks, semi-trailers, truck-tractors, tandem trucks, or combinations, and other similar vehicles, both when in compliance with standard limitations and when in excess of standard limitations, and comparing the adequacy of those assessments to the standard and/or special taxes and/or fees assessed comparable vehicles by neighboring states.

SECTION 3: The Task Force shall submit a comprehensive written report to the governor; the House Committee on Transportation, Highways and Public Works; the House Committee on Ways and Means; the Senate Committee on Transportation, Highways, and Public Works; and the Senate Committee on Revenue and Fiscal Affairs, by March 1, 1999.

SECTION 4: The Task Force shall consist of nineteen (19) members who shall be appointed by, and serve at the pleasure of, the governor. The Task Force membership shall be selected as follows:

1. the governor, or the governor's designee;

2. the chair of the Senate Committee on Transportation, Highways, and Public Works, or the chair's designee;

3. the chair of the House Committee on Transportation, Highways, and Public Works, or the chair's designee;

4. the chair of the House Committee on Ways and Means, or the chair's designee;

5. the chair of the Senate Committee on Revenue and Fiscal Affairs, or the chair's designee;

6. the commissioner of Administration, or the commissioner's designee;

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

8. the secretary of the Department of Public Safety and Corrections, or the secretary's designee;

9. the commissioner of the Department of Agriculture, or the commissioner's designee;

10. the chair of the Louisiana Highway Safety Commission, or the chair's designee;

11. the district administrator of the Federal Highway Administration, or the district administrator's designee; and

12. one (1) representative from the Louisiana Farm Bureau Federation;

13. one (1) representative from the American Sugar Cane League;

14. one (1) representative from the Louisiana Forestry Association;

15. one (1) representative from the Louisiana Motor Transport Association;

16. one (1) representative from the Louisiana Good Roads Association;

17. one (1) representative from the Louisiana Oilfield Contractors Association; and

18. two (2) at-large members.

SECTION 5: The governor shall select the chair of the Task Force from its membership. All other officers shall be elected by the membership of the Task Force.

SECTION 6: The Task Force shall meet at least once a month and at the call of the chair.

SECTION 7: Support staff for the Task Force and facilities for its meetings shall be provided by the Department of Transportation and Development.

SECTION 8: The members of the Task Force shall not receive compensation or a per diem. Nonetheless, contingent upon the availability of funds, members who are not an employee of the state of Louisiana or one of its political subdivisions, or an elected official, may receive reimbursement from the Office of the Governor, for actual travel expenses incurred, in accordance with state guidelines and procedures, with the prior written approval of the assistant chief of staff, Office of the Governor, and concurrence of the commissioner of Administration.

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 8th day of October, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9810#070

EXECUTIVE ORDER MJF 98-48

Formosan Termite Task Force

WHEREAS, Formosan termites, tenacious insects with a "swarm" season that are eating and tunneling through buildings, live trees, agricultural crops, electronic and communication cables, creosote treated wood, wooden bridges, railroad ties, pilings, foam and fiberglass insulation, brick, mortar, caulk, plastic and many other materials, have reportedly inflicted severe damage in twenty-five (25) parishes in the state of Louisiana¹;

WHEREAS, in the city of New Orleans alone, Formosan termites have caused an estimated two billion dollars in property damage over the past decade², jeopardizing many of the city's nationally acclaimed historic buildings because repairs and/or historic restorations have become too costly;

WHEREAS, since all of Louisiana's parishes are at risk of being infested with Formosan termites, it is imperative that this state make an immediate and concerted effort to contain Formosan termites and to eradicate them from infested areas; and

WHEREAS, the interests of the citizens of the state of Louisiana would best be served by the creation of a task force designed to analyze the extent of Louisiana's infestation of Formosan termites and to recommend solutions for the containment of Formosan termites to areas already infested and the eradication of Formosan termites from those areas;

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 Formosan Termite Task Force (hereafter "Task Force") is hereby established within the executive department, Office of the Governor.

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

A. Evaluating the extent of Formosan termite infestations and/or activity in the state of Louisiana and the extent of economic and/or property damage that has resulted from Formosan termite activity and/or infestations in this state;

B. Evaluating the threat that Formosan termites pose to Louisiana's timber and agricultural industries and the mechanisms available to limit and contain infestations in timber and agricultural areas and/or prevent the spread of termite infestations to those areas;

C. Analyzing and evaluating recent developments in and strategies for treating areas infested with Formosan termites and eradicating Formosan termites, including new termiticides, baits, traps, pesticides, biological controls, and/or quarantines; and

D. Analyzing the need for and means to provide adequate funding for treating and/or containing Formosan termite infestations, and eradicating Formosan termites from infested areas.

SECTION 3: The Task Force shall submit a comprehensive written report to the governor and the commissioner of the Department Agriculture and Forestry on its research, analyses, and recommendations by April 1, 1999.

SECTION 4: The Task Force shall consist of twenty (20) members who, unless otherwise specified, shall be appointed by, and serve at the pleasure of, the governor.

1. The governor, or the governor's designee;
2. The commissioner of the Department of Agriculture and Forestry, or the commissioner's designee;
3. The secretary of the Department of Health and Hospitals, or the secretary's designee;
4. The secretary of the Department of Environmental Quality, or the secretary's designee;
5. The secretary of the Department of Economic Development, or the secretary's designee;
6. Two (2) members of the Louisiana Senate designated by the president of the Senate;
7. Two (2) members of the Louisiana House of Representatives designated by the speaker of the House of Representatives;
8. The chancellor of the Louisiana State University Agriculture Center, or the chancellor's designee;
9. The president of Jefferson Parish, or the president's designee;
10. The presiding officer of the Jefferson Parish Council, or the presiding officer's designee;
11. The mayor of the city of New Orleans, or the mayor's designee;
12. The presiding officer of the New Orleans City Council, or the presiding officer's designee;
13. The executive director of the New Orleans Mosquito and Termite Control Board, or the executive director's designee;
14. The director of the Southern Regional Research Center, Agricultural Research Service, United States Department of Agriculture, or the director's designee;
15. The president of the Louisiana Farm Bureau Federation, or the president's designee;

16. One (1) homeowner in the Greater New Orleans Metropolitan Area;

17. One (1) French Quarter property owner; and

18. One (1) pest control industry specialist.

SECTION 5: The governor and the commissioner of the Department Agriculture and Forestry, or their designees, shall serve as co-chairs of the Task Force. All other officers shall be elected by the membership of the Task Force.

SECTION 6: The Task Force shall meet monthly and at the call of the co-chairs.

SECTION 7: Support staff for the Task Force and facilities for its meetings shall be provided by the Department of Agriculture and Forestry.

SECTION 8: The members of the Task Force shall not receive additional compensation or a per diem from the Office of the Governor for services on the Task Force.

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 8th day of October, 1998.

¹ Factual data was provided by the Department of Agriculture and Forestry.

² *Id.*

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9810#071

Emergency Rules

DECLARATION OF EMERGENCY

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

CommunityCARE Emergency Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act, or until adoption of the rule, whichever occurs first.

The Bureau of Health Services Financing operates the primary care case management program for Medicaid recipients known as CommunityCARE, which was originally established by Emergency Rule published in the *Louisiana Register*, Volume 18, Number 10, renewed in Volume 19, Number 2, and adopted as a final rule in Volume 19, Number 5. The Bureau is amending the procedures for emergency care provided to CommunityCARE recipients by adopting the prudent layperson criteria and emergency medical services definition contained in Section 4704 of the Balanced Budget Act of 1997 (BBA '97) in order to comply with increased protections required for Medicaid managed care enrollees.

This rule establishes a definition for emergency medical services that may be provided in a hospital emergency room for defined emergency medical conditions. These services are reimbursable by Medicaid without a referral by the primary care physician before the service is provided. Authorization for care subsequent to stabilization requires prior authorization by the CommunityCARE enrollee's primary care physician. The rule also stipulates that the provider of emergency services must be a Medicaid enrolled provider, and prohibits reimbursement for emergency room services when the condition of the CommunityCARE recipient does not meet the definition of emergency medical condition.

This action is necessary in order to avoid sanctions or penalties from the federal government arising from failure to adopt appropriate regulations concerning provision of emergency services and the definition of medical condition required by Section 4704 the Balanced Budget Act of 1997. The fiscal impact for implementation of this rule is estimated to be an increase of \$378,746 for state fiscal year 1998-99.

Emergency Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4704 of the Balanced Budget Act of

1997 concerning provision of emergency medical services to Medicaid recipients enrolled in the Medicaid program known as the CommunityCARE Program.

Reimbursement for emergency room services which meet the definition of emergency medical services below will be made by Medicaid when provided to CommunityCARE recipients whose condition meets the definition of an emergency medical condition below. The primary care physician will approve such services whether the recipient contacted the primary care physician prior to receipt of emergency services or not. Treatment at the emergency room provided to a CommunityCARE enrollee whose condition does not meet the definition of an emergency medical condition specified below will not be authorized by the primary care physician or reimbursed by Medicaid. Authorization for care subsequent to stabilization requires prior authorization by the CommunityCARE enrollee's primary care physician.

Emergency medical services with respect to a CommunityCARE enrollee must be furnished by a provider that is qualified to provide such services under Medicaid, and consist of covered inpatient and outpatient services that are needed to evaluate or stabilize an emergency medical condition. The CommunityCARE enrollees who present themselves for emergency medical services shall receive an appropriate medical screening to determine if an emergency medical condition exists. A triage protocol is not sufficient to be an appropriate medical screening. If the medical screening does not indicate an emergency medical condition exists, the treating hospital/physician shall refer the CommunityCARE enrollee back to his/her primary care physician for treatment.

An emergency medical condition is defined as a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part.

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

David W. Hood
Secretary

9810#052

DECLARATION OF EMERGENCY

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

Pharmacy Program—Erectile Dysfunction Drugs

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and 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, Bureau of Health Services Financing currently provides coverage for prescriptions drugs for treatment of erectile dysfunction without limitation through the Pharmacy Program under the Medicaid Program. The department has determined it is necessary to limit the number of units of these drugs that are reimbursed under the Medicaid Program to six units per month. This emergency rule is being adopted in an effort to prevent potential abuse of these prescriptions drugs. The estimated savings as a result of the implementation of this rule cannot be determined at this time.

Emergency Rule

Effective for dates of service on or after October 7, 1998, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will limit the number of units of prescription drugs for the treatment of erectile dysfunction that are reimbursable by the Medicaid Program to six units per month per patient. Units include tablets, injectable, intraurethral pellets and any other dosage form which may become available. In addition, the following provisions will govern the reimbursement for these drugs.

1. Prescriptions issued for the treatment of erectile dysfunction must be hand written and shall include a medically accepted indication.
2. An ICD-9 diagnosis code must be written on the hard copy of the prescription or attached to the prescription which is signed and dated by the prescriber.
3. Recipient specific diagnosis information from the prescriber via the facsimile is acceptable when signed and dated by the prescriber.
4. Acceptable ICD-9 diagnosis codes for these drugs include impotence of non-organic origin or impotence of organic origin.
5. No reimbursement for therapeutic duplication of drugs, early refills, or duplicate drug therapy within the therapeutic class of drugs used to treat erectile dysfunction is allowed.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule. A copy

of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

9810#046

DECLARATION OF EMERGENCY

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

Pharmacy Program—Maximum Allowable Overhead Cost

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1998-99 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions including, but not limited to, pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed by the Act.

The Department of Health and Hospitals, Bureau of Health Services Financing provides a pharmacy dispensing fee in the Pharmacy Program in accordance with the methodology established for the Maximum Allowable Overhead Cost which includes a \$0.10 provider fee collected on all prescriptions dispensed to Louisiana residents by pharmacists (*Louisiana Register*, Volume 18 Number 1). This dispensing fee is called the Louisiana Maximum Allowable Overhead Cost and is determined by updating the base rate through the application of certain economic indices to appropriate cost categories to assure recognition of costs which are incurred by efficiently and economically operated providers. During state fiscal years 1995-1996, 1996-97 and 1997-98, the bureau maintained the Louisiana Maximum Allowable Overhead Cost at the state fiscal year 1994-1995 level. The bureau has determined it is necessary to continue the Louisiana Maximum Allowable Overhead Cost at the state fiscal year 1994-1995 level. This action is necessary to avoid a budget deficit in the medical assistance programs. It is difficult to estimate the savings generated by this action, but a cost avoidance of approximately \$9,305,187 is anticipated for state fiscal year 1998 and 1999.

Emergency Rule

Effective for dates of service October 28, 1998 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the

following provisions applicable to the Maximum Overhead Cost under the Pharmacy Program.

Maximum Allowable Overhead Cost

1. The Maximum Allowable Overhead Cost will remain at the level established for state fiscal year 1994-95. This Maximum Allowable Overhead Cost will remain in effect until the dispensing survey is completed and an alternate methodology is determined.

2. No inflation indices or any interim adjustments will be applied to the Maximum Allowable Overhead Costs.

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 the emergency rule. A copy of this emergency rule may be obtained from the Medicaid parish office.

David W. Hood
Secretary

9810#044

DECLARATION OF EMERGENCY

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

Private Hospitals—Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medical Assistance Program as authorized by LA R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on June 20, 1994 which established the prospective reimbursement methodology for private hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology provides for the application of an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The Department has determined that it is necessary to amend the reimbursement methodology for private hospitals contained in the June 20, 1994 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of the inflationary adjustment to the reimbursement rates for private hospitals shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill. Notwithstanding the elimination of the inflation adjustment for fiscal year 1999, the Department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private hospital care and services under the state plan are

available at least to the extent that they are available to the general population in the state. This action is necessary to avoid a budget deficit because the Louisiana Legislature did not include a budget allocation for an inflationary adjustment to the reimbursement rates for private hospitals in the 1998-99 Appropriation Bill. Public notice of this action was provided by statewide newspaper publication prior to July 1, 1998. It is anticipated that the discontinuance of the application of inflationary adjustment to the reimbursement rates will reduce expenditures by approximately \$8,482,610 for state fiscal year 1998-1999.

Emergency Rule

Effective for dates of service on or after October 28, 1998, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for private hospitals contained in the June 20, 1994 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of the inflationary adjustment to the reimbursement rates for private hospitals shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill.

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

David W. Hood
Secretary

9810#042

DECLARATION OF EMERGENCY

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

**Private Intermediate Care Facilities for Mentally
Retarded—Reimbursement Methodology**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medical Assistance Program as authorized by LA R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the rule whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on October 20, 1989 which established the reimbursement methodology for private intermediate care facilities for the mentally retarded (*Louisiana Register*, Volume 15, Number 10). The reimbursement methodology provides for the application of an inflationary adjustment to the current

reimbursement rates for non-fixed costs in those years when the rates are not rebased. The department has determined that it is necessary to amend the reimbursement methodology contained in the October 20, 1989 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of an inflationary adjustment to the reimbursement rates for private intermediate facilities for the mentally retarded shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill. Notwithstanding the elimination of the inflation adjustment for fiscal year 1999, the department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that private intermediate care facility care and services for the mentally retarded under the state plan are available at least to the extent that they are available to the general population in the state. This action is necessary to avoid a budget deficit because the Louisiana Legislature did not include a budget allocation for an inflationary adjustment to the reimbursement rates for private intermediate facilities for the mentally retarded in the 1998-99 Appropriation Bill. Public notice of this action was provided by statewide newspaper publication prior to July 1, 1998. It is anticipated that the discontinuance of the application of inflationary adjustment to the reimbursement rates will reduce expenditures by approximately \$2,744,512 for state fiscal year 1998-1999.

Emergency Rule

Effective for dates of service on or after October 28, 1998, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology contained in the October 20, 1989 rule for private intermediate care facilities for the mentally retarded to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. Subsequent application of an inflationary adjustment to the reimbursement rates for private intermediate facilities for the mentally retarded shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill.

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

David W. Hood
Secretary

9810#037

DECLARATION OF EMERGENCY

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

Private Nursing Facilities—Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medical Assistance Program as authorized by LA R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the rule whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on June 20, 1984 which established the reimbursement methodology for private nursing facilities (*Louisiana Register*, Volume 10, Number 6). The reimbursement methodology provides for the application of an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The department has determined that it is necessary to amend the reimbursement methodology for private nursing facilities contained in the June 20, 1984 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of an inflationary adjustment to the reimbursement rates for private nursing facilities shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill. Notwithstanding the elimination of the inflation adjustment for fiscal year 1999, the department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that private nursing facility care and services under the state plan are available at least to the extent that they are available to the general population in the state. This action is necessary to avoid a budget deficit because the Louisiana Legislature did not include a budget allocation for an inflationary adjustment to the reimbursement rates for private nursing facilities in the 1998-99 Appropriation Bill. Public notice of this action was provided by statewide newspaper publication prior to July 1, 1998. It is anticipated that the discontinuance of the application of inflationary adjustment to the reimbursement rates will reduce expenditures by approximately \$14,057,887 for state fiscal year 1998-1999.

Emergency Rule

Effective for dates of service on or after October 28, 1998, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the

reimbursement methodology for private nursing facilities contained in the June 20, 1984 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of an inflationary adjustment to the reimbursement rates for private nursing facilities shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill.

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

David W. Hood
Secretary

9810#043

DECLARATION OF EMERGENCY

Department of Natural Resources Office of Conservation

Pollution Control—Statewide Order No. 29-B
(LAC 43:XIX.129)

Pursuant to the power delegated under the laws of the State of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefor are now adopted and promulgated by the Commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the State of Louisiana, as well as the environment generally, by establishing a procedure for testing E&P waste after receipt at a commercial facility.

Need and Purpose

Certain oil and gas exploration and production waste (E&P waste) is exempt from the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). This exemption is based on findings from a 1987-1988 Environmental Protection Agency (EPA) study and other studies that determined this type of waste does not pose a significant health or environmental threat when properly managed. The EPA, in its regulatory determination, found that these wastes are adequately regulated under existing federal and state programs.

Existing Louisiana State regulations governing the operations of commercial E&P waste disposal facilities (Statewide Order Number 29-B) require only very limited testing of the waste received for treatment and disposal at each commercial facility. Such limited testing finds its basis in the above-mentioned national exemption for E&P waste recognized by the EPA. However, public concern warranted

the Commissioner of Conservation to issue a first Emergency Rule effective May 1, 1998 (May 1, 1998 Emergency Rule), the purpose of which was to gather technical data regarding the chemical and physical makeup of E&P waste disposed of at permitted commercial E&P waste disposal facilities within the State of Louisiana. The May 1, 1998 Emergency Rule had an effective term of 120 days. However, technical experts under contract with the Office of Conservation determined during the term of the May 1, 1998 Emergency Rule that sampling and testing should be extended for an additional 30 days for the purpose of receiving additional data in order to strengthen the validity of the inferred concentration distributions within the various E&P waste types. Therefore, a second Emergency Rule was issued on August 29, 1998, and effective through September 30, 1998.

The second Emergency Rule required continued comprehensive analytical testing of E&P waste at the site of generation together with verification testing at the commercial E&P waste disposal facility. During the terms of the first and second Emergency Rules, approximately 1,800 E&P waste testing batches were analyzed, with the raw data results being filed with the Office of Conservation. Technical experts under contract with the Office of Conservation, together with staff of the Office of Conservation, have determined that the number of raw data sets of E&P waste types, along with other published analytical results of E&P waste testing, will provide adequate numbers of validated test results of the various generic E&P waste types to reach statistically valid conclusions regarding the overall chemical and physical composition of each type of E&P waste.

Therefore, continued testing of E&P waste at the site of generation would be unnecessarily redundant, and should be discontinued. However, the Emergency Rule adopted herein requires continued testing of each E&P waste shipment at the commercial disposal facility according to procedures described in this emergency rule. Such continued testing will assure that E&P waste shipments received for disposal at commercial facilities are consistent with evolving E&P waste profiles.

The third Emergency Rule adopted herein provides requirements for continued E&P waste testing of all waste shipments received for disposal at commercial E&P waste disposal facilities. Concurrent with implementation of this Emergency Rule, the Office of Conservation will begin development of the permanent rule for the management and disposal of E&P waste at commercial facilities within the State of Louisiana. Best E&P waste management practices, based on established E&P waste profiles, will be incorporated into the permanent rule. Such permanent rule will also address specific treatment and disposal options for the various categories of E&P waste.

Synopsis of Emergency Rule

E&P Waste Will Be Transported with Identification

Each load of E&P waste transported from the site of generation to a commercial facility for disposal will be accompanied by an Oilfield Waste Shipping Control Ticket (Form UIC-28) and presented to the operator before offloading. Copies of completed Form UIC-28 are required to be timely filed with the Office of Conservation.

Produced water, produced formation fresh water and other E&P waste fluids are exempt from certain provisions of the testing requirements provided they are:

- 1) transported in enclosed tank trucks, barges, or other enclosed containers;
- 2) stored in enclosed tanks at a commercial facility; and
- 3) disposed by deepwell injection. Such provision is reasonable because, provided the above conditions are met, exposure to the public and to the environment would be minimal.

**Each Load of E&P Waste Will Be Tested
At Commercial Facility**

Before offloading at a commercial E&P waste disposal facility and in order to verify that the waste qualifies for the E&P category, each load of E&P waste shall be sampled for required parameters. Additionally, the presence and concentration of BTEX (benzene, toluene, ethyl benzene and xylene) compounds and hydrogen sulfide must be determined. Appropriate records of tests shall be kept at each commercial facility for review by the Office of Conservation.

Reasons

Recognizing the potential advantages of a testing program that is fully protective of public health and the environment and that adequately characterizes such waste as to its potentially toxic constituents, it has been determined that failure to establish such procedures in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the State of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the Commissioner of Conservation to take immediate steps to assure that adequate testing is performed before E&P waste is treated or otherwise disposed of in a commercial facility. The Emergency Rule, Amendment to Statewide Order Number 29-B set forth hereinafter is now adopted by the Office of Conservation.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§129. Pollution Control

* * *

M. Off-site Storage, Treatment and/or Disposal of E&P Waste Generated From Drilling and Production of Oil and Gas Wells

1. Definitions

* * *

Commercial Facility—a legally permitted waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, or disposes of exploration and production waste for a fee or other consideration, and shall include the term “transfer station”.

* * *

Exploration and Production (E&P) Waste—drilling fluids, produced water, and other waste associated with the exploration, development, or production of crude oil or natural gas and which is not regulated by the provisions of the Louisiana Hazardous Waste Regulations and the Louisiana

Solid Waste Regulations. Such wastes include, but are not limited to, the following:

- a. salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations;
- b. oil-base drilling mud and cuttings;
- c. water-base drilling mud and cuttings;
- d. drilling, workover and completion fluids;
- e. production pit sludges;
- f. production storage tank sludges;
- g. produced oily sands and solids;
- h. produced formation fresh water;
- i. rainwater from ring levees and pits at production and drilling facilities;
- j. washout water generated from the cleaning of containers that transport E&P waste and are not contaminated by hazardous waste or material;
- k. washout pit water and solids from oilfield related carriers that are not permitted to haul hazardous waste or material;
- l. natural gas plant processing (E&P) waste which is or may be commingled with produced formation water;
- m. waste from approved salvage oil operators who only receive oil (BS&W) from oil and gas leases;
- n. pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pig water, i.e., waste fluids generated from the cleaning of a pipeline;
- o. wastes from permitted commercial facilities;
- p. crude oil spill clean-up waste;
- q. salvageable hydrocarbons; and
- r. other approved E&P waste.

* * *

NOW—exploration and production waste.

* * *

M.5. Criteria for the Operation of Commercial Facilities and Transfer Stations

a. - h. ...

i. Receipt, Sampling and Testing of E&P Waste

* * *

ii. Testing Requirements

(a). Before offloading E&P waste at a commercial facility, including a transfer station, each load of E&P waste shall be sampled and analyzed by commercial facility personnel for the following:

- (i). color, turbidity, (clear, cloudy or muddy) and viscosity low, medium, or high); and
- (ii). pH, electrical conductivity (EC -mmhos/cm) and chloride (Cl) content; and
- (iii). the presence and concentration of BTEX (benzene, toluene, ethyl benzene, and xylene) compounds using an organic vapor monitor or other procedures sufficient to identify and quantify BTEX; and
- (iv). the presence and concentration of hydrogen sulfide (H₂S) using a portable gas monitor.

(b). The commercial facility operator shall enter the color, turbidity, viscosity, the pH, electrical conductivity, chloride (Cl) content, BTEX and hydrogen sulfide

measurements on the manifest (Form UIC-28) which accompanies each load of E&P waste.

(c). Produced water, produced formation fresh water, and other E&P waste fluids are exempt from organic vapor monitoring measurement (BTEX), and the H₂S measurement in §129.M.5.i.a if the following conditions are met:

(i). if transported by the generator or transporter in enclosed tanks trucks, barges, or other enclosed containers; and

(ii). if stored in an enclosed container at a commercial facility; and

(iii). if disposed by deep well injection.

(d). Records of these tests shall be kept on file at each commercial facility for a period of three years and be available for review by the Commissioner or his designated representative. Copies of completed Form UIC-28 shall be filed with the Office of Conservation as provided in 129.M.6.d.

* * *

Summary

The Emergency Rule herein above adopted evidences the finding of the Commissioner of Conservation that failure to adopt the above rules may lead to an imminent risk to public health, safety and welfare of the citizens of Louisiana, and that there is not time to provide adequate notice to interested parties. However, the Commissioner of Conservation notes again that a copy of the permanent Amendment to Statewide Order Number 29-B will be developed in the immediate future, with a public hearing to be held as per the requirements of the Administrative Procedure Act.

The Commissioner of Conservation concludes that the above Emergency Rule will better serve the purposes of the Office of Conservation as set forth in Title 30 of the Revised Statutes, and is consistent with legislative intent. The adoption of the above Emergency Rule meets all the requirements provided by Title 49 of the Louisiana Revised Statutes. The adoption of the above Emergency Rule is not intended to affect any other provisions, rules, orders, or regulations of the Office of Conservation, except to the extent specifically provided for in this Emergency Rule.

Within five days from date hereof, notice of the adoption of this Emergency Rule shall be given to all parties on the mailing list of the Office of Conservation by posting a copy of this Emergency Rule with reasons therefor to all such parties. This Emergency Rule with reasons therefor shall be published in full in the *Louisiana Register* as prescribed by law. Written notice has been given contemporaneously herewith notifying the Governor of the State of Louisiana, the attorney general of the State of Louisiana, the Speaker of the House of Representatives, the President of the Senate and the State Register of the adoption of this Emergency Rule and reasons for adoption.

Effective Date and Duration

1. The effective date for this emergency rule shall be October 1, 1998.

2. The Emergency Rule herein adopted as a part thereof, shall remain effective for a period of not less than 120 days hereafter, or until the adoption of the final version of an

Amendment to Statewide Order Number 29-B as noted herein, whichever occurs first.

Philip N. Asprodites
Commissioner

9810#008

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Food Stamps—Alien Eligibility (LAC 67:III.1994)

The Department of Social Services, Office of Family Support, has exercised the emergency provision [R.S. 49:953(B)]of the Administrative Procedure Act, to amend LAC 67:III.1994 pertaining to the Food Stamp Program. This rule shall remain in effect for a period of 120 days.

Pursuant to Public Law 105-185, the Agricultural Research, Extension, and Education Reform Act of 1998, changes are required regarding the eligibility of certain non-citizens for food stamp benefits. The law extended the eligibility period for certain groups of aliens from five to seven years and made additional groups of aliens eligible for food stamp benefits. Amendments to the *United States Code* mandated by the law are effective November 1, 1998; an emergency rule is necessary to avoid federal sanctions or penalties which could be imposed if implementation is delayed.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter K. Action on Households with Special Circumstances

§1994. Alien Eligibility

A. Effective November 1, 1998, only the following non-citizens are eligible for benefits for a period not to exceed seven years after they obtain designated alien status:

1. - 4. ...

5. Amerasian immigrants admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 (as contained in §101(e) of P.L. 100-202 and amended by the 9th proviso under migration and refugee assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, P.L. 100-461, as amended);

B. 1. - 3. ...

4. effective November 1, 1998, individuals who were lawfully residing in the United States on August 22, 1996 and are receiving benefits or assistance for blindness or disability as defined in §3(r) of the Food Stamp Act of 1997;

5. effective November 1, 1998, individuals who were lawfully residing in the United States on August 22, 1996 and were 65 years of age or older;

6. effective November 1, 1998, individuals who were lawfully residing in the United States on August 22, 1996 and are under 18 years of age;

C. 1. - 4. ...

D. effective November 1, 1998, individuals who are lawfully residing in the United States and were members of a Hmong or Highland Laotians tribe at the time the tribe rendered assistance to the United States personnel by taking part in a military rescue operation during the Vietnam era beginning August 5, 1964 and ending May 7, 1975 (as defined in §101 of Title 38, United States Code); the spouse or an unmarried, dependent child of such an individual; or the unremarried surviving spouse of such an individual who is deceased;

E. effective November 1, 1998, individuals who are American Indian born in Canada to whom the provisions of §289 of the Immigration and Nationality Act apply or who is a member of an Indian tribe as defined in §4(e) of the Indian Self-Determination and Education Assistance Act.

AUTHORITY NOTE: Promulgated in accordance with P. L. 104-193, P.L. 104-208, P. L. 105-33 and P. L. 105-185.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 24:354 (February 1998), LR 25:

Madlyn B. Bagneris
Secretary

9810#029

DECLARATION OF EMERGENCY

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

**Individual Family Grant (IFG) Program
(LAC 67:III.4704)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the *Louisiana Administrative Code*, Title 67, Part III, Subpart 10, Individual and Family Grant (IFG) Program.

The Federal Emergency Management Agency (FEMA), which governs the IFG Program, promulgated a rule that specifies the eligibility of non-citizens for IFG pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by Public Law 104-208, the Illegal Immigration Reform and Immigration Responsibility Act of 1996. A Notice of Intent was published in July 1998; however, in anticipation of an impending federal disaster declaration, an earlier effective date is required. In order to effect these regulations and avoid federal penalties or sanctions, this emergency rule is necessary to immediately establish the policy for IFG applicants. This rule shall remain in effect until the final rule is published.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 10. Individual and Family Grant Program

Chapter 47. Application, Eligibility, and Furnishing Assistance

Subchapter A. Need and Amount of Assistance

§4704. Special Condition of Eligibility

A. Only U.S. citizens, U.S. non-citizen nationals and qualified aliens are eligible for IFG assistance. A qualified alien is defined as:

1. an alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. an alien granted asylum under §208 of the INA;
3. a refugee admitted to the U.S. under §207 of the INA;
4. an alien paroled into the U.S. under §212(d)(5) of the INA for at least one year;
5. an alien whose deportation is being withheld under §243(h) of the INA as in effect prior to April 1, 1997 or whose removal is being withheld under §241(b)(3) of the INA;
6. an alien granted conditional entry pursuant to §203(a)(7) of the INA as in effect prior to April 1, 1980;
7. an alien who is a Cuban or Haitian entrant as defined in §501(e) of the Refugee Education Assistance Act of 1980; or

8. an alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the U.S. and otherwise satisfies the requirements of §431(c) of the Act.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 104-208.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

Madlyn B. Bagneris
Secretary

9810#007

DECLARATION OF EMERGENCY

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

**Support Enforcement—Child Support Distribution
(LAC 67:III.2514)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision [R.S. 49:953(B)] of the Administrative Procedure Act, to amend LAC 67:III.2514 pertaining to Support Enforcement Services, the child support enforcement program. This rule shall remain in effect for a period of 120 days.

Pursuant to Public Law 104-193 (the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), Public Law 105-33 (the Balanced Budget Act of 1997) and Office of Child Support Enforcement Action Transmittal

98-24, Support Enforcement Services will change the order in which collection of past-due support is distributed beginning October 2, 1998. Former recipients of Aid to Families with Dependent Children and/or Family Independence Temporary Assistance Program benefits will receive arrearages owed to the family before reimbursements to the state and federal governments are made. These reimbursements are for the cash assistance received by the recipients.

An emergency rule is necessary to avoid federal sanctions or penalties which could be imposed if implementation is delayed since the agency chose the October 1, 1998 distribution option provided by P.L. 105-33.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter D. Collection and Distribution of Support Payments

§2514. Distribution of Child Support Collections

A. Effective October 2, 1998 the agency will distribute child support collections in the following manner:

1. ...
2. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections

received through any means other than IRS intercepts will be distributed as follows:

- a. the AR shall receive an amount equal to the court-ordered monthly obligation and any arrears owed to the AR that accrued in a non-assistance period;
- b. amounts owed to the state;
- c. any arrears that accrued during assistance that exceed the unreimbursed grant will be paid to the AR.

3. - 4. ...

5. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received through IRS intercepts will be distributed as follows:

- a. amounts owed to the state; and
- b. amounts owed to the AR.

B. Any collections received through income assignments are subject to refund to the noncustodial parent based on federal and state laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33, and OCSE-AT-98-24.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:304 (March 1997), amended LR 24:703 (April 1998), LR 25:

Madlyn B. Bagneris
Secretary

9810#017

Rules

RULE

Department of Civil Service Board of Ethics

Drug Testing of Elected Officials (LAC 52:I.101 and Chapter 17)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Civil Service, Board of Ethics has promulgated rules for the random drug testing of elected officials as required by Section 1116.1 of the *Code of Governmental Ethics* (R.S. 42:1116.1).

No preamble to the rules has been prepared.

Title 52 ETHICS

Part I. Board of Ethics

Chapter 1. Definitions

§101. Definitions

* * *

Collection Agency—a person selected by the board, which has collection sites throughout the state of Louisiana.

* * *

Designated Representative—a board-appointed member of the staff of the Ethics Administration Program, whose primary responsibility includes overseeing the implementation of the program to enforce the random drug testing of elected officials.

* * *

Person Authorized by an Elected Official—a person or persons selected by the elected official who may receive notice of selection for testing. If the elected official chooses to select such a person to receive notice, the name and address of such person shall be provided by the elected official to the designated representative.

* * *

Random Number—the number assigned to the elected official, which ensures the confidentiality of the testing process.

Random Number Selector—a person selected by the board, responsible for the selection of those elected officials subject to the random drug testing.

Random Process—a generally accepted method to ensure that the elected officials are chosen by their random numbers in an unsystematic manner.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1288 (October 1997), amended LR 24:1893 (October 1998).

Chapter 17. Random Drug Testing for Elected Officials

§1701. General

The board, pursuant to R.S. 42:1116.1, shall develop and administer a program to conduct random drug testing on elected officials by means of a urine specimen collected, stored and transported in a manner effective in detecting and deterring illegal drug use. The board shall adhere to the statutory definitions and guidelines in Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950 to implement the provisions of the random drug testing for elected officials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1893 (October 1998).

§1703. Designated Representative; Duties and Responsibilities

A. The designated representative acts as the liaison between the board and the collection agency and the certified laboratories, and such duties shall be carried out as directed in Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950.

B. The designated representative shall provide the collection agency with a list of the names of the elected officials selected by the random number selector and the corresponding officials' random numbers.

C. The designated representative shall send a notice by commercial delivery to the elected official requiring the elected official or a person authorized by the elected official personally sign the proof of receipt of the notice in order to notify the elected official that he has been randomly selected to submit to a drug test.

D. The designated representative shall obtain from the commercial delivery service a copy of the receipt containing the elected official's or authorized person's signature evidencing proof of delivery of the notice to the elected official. If the elected official or person authorized refuses or is unavailable personally to receive the notice, the commercial delivery service shall report the refusal or unavailability to the designated representative.

E. The designated representative shall ensure the confidentiality of all procedures associated with the testing of the elected official, including the selection, delivery of notice, subpoena, and testing results, unless otherwise expressly provided by law or by these rules.

F. Upon receipt of the results from the medical review officer, the designated representative shall provide the elected official with a certified copy of the results of the drug test.

G. Upon receipt of the medical review officer's analysis and confirmation of a positive result of the test, the designated

representative shall submit the result of the test to the board for action pursuant to R.S. 42:1141(B)(3).

H. Upon request by the medical review officer, the designated representative shall obtain the medical records of the elected official whose test results are positive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1893 (October 1998).

§1705. Random Selection of Elected Officials

Each elected official shall be assigned a number by the designated representative. This number is utilized in the random selection process to ensure that the selection process and test results are kept confidential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998).

§1707. Selection Process; Random Number Selector

A. The designated representative shall supply the random number selector with the random numbers that have been assigned to the elected officials. The random number selector shall select by a random process a percentage of the random numbers, as determined by the board.

B. The random number selector shall not, at any time, have access to the corresponding names of the elected officials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998).

§1709. Selection Process; Percentage

The board, at its meeting immediately subsequent to the promulgation of these rules and at its April meeting every calendar year thereafter, or the next subsequent meeting if no meeting is held in April, shall determine the percentage of elected officials to be chosen by a random process for drug testing in the subsequent fiscal year. The board may apply the following guidelines:

1. 10 percent of all elected officials the first year; and
2. 5 percent increase every year thereafter, with a maximum of 50 percent of all elected officials to be selected to submit to a drug test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998).

§1710. Notice

A. Notice to the elected official shall be delivered to the elected official or person authorized by the elected official by a commercial delivery service requiring the elected official or person authorized by the elected official to sign for the notice and ordering the elected official to report to a designated collection site within 32 hours from receipt of the notice. A copy of the signature provided by the commercial delivery service shall evidence proof of delivery to the elected official. If the elected official or person authorized by the elected official refuses or is unavailable to sign the necessary form, the commercial delivery service shall notify the designated representative of the refusal or the unavailability.

B. If the elected official or person authorized does not receive the notice, the designated representative shall issue a subpoena at the date and time to be selected solely by the designated representative ordering the elected official to report to a designated collection site within 32 hours of the service of the subpoena. Such subpoena shall be personally served on the elected official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998).

§1711. Collection Agency; Duties and Responsibilities

A. The board shall select a collection agency that utilizes the National Institute on Drug Abuse (NIDA) guidelines proscribed in Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950.

B. The random numbers and the corresponding names are submitted to the collection agency.

C. The collection agency shall maintain a record as to the date and time when the elected official reported to the collection site.

D. The collection agency shall provide the designated representative with the names of the elected officials who failed to report to the collection site within the time required.

E. The collection agency shall insure the transportation of the collected sample to a NIDA-certified or College of American Pathologists-Forensic Urine Drug Testing (CAP-FUDT)-certified laboratory to be analyzed according to Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950.

F. The collection agency shall provide a certified copy to the designated representative evidencing the chain of custody of each sample from collection of the sample to its receipt by the certified laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998).

§1713. Collection Agency; Confidentiality

The collection agency and its employees have a duty to conduct such collecting, storing and transporting of the sample in a confidential manner, respecting the privacy rights of the elected official. The contract between the board and the collection agency shall prescribe penalties if the collection agency breaches the required confidentiality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998).

§1715. NIDA-Certified and CAP-FUDT-Certified Laboratories

A. The board shall maintain a list of laboratories that are certified by either NIDA or CAP-FUDT as provided by the Department of Health and Hospitals and to which the sample is submitted for testing in accordance with the guidelines in Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950.

B. Should the initial test of the sample of the elected official produce a negative result, the laboratory shall submit that result to the medical review officer who shall forward it to

the designated representative for further processing and dissemination to the elected official.

C. Should the initial test of the sample of the elected official produce a positive result, the laboratory shall conduct a confirmatory test on the remainder of the split sample. The result elicited from the confirmatory test is submitted to the medical review officer for review.

D. The certified laboratory shall provide a certified copy to the designated representative evidencing the chain of custody of each sample from receipt of the sample by the certified laboratory to its analyzation by the laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998).

§1717. Second Separate Test

A. If the board determines, pursuant to LAC 52:I.1727, that the elected official violated La. R.S. 42:1116.1, the board shall issue a subpoena for the appearance of the elected official at a collection site not less than one month and not more than six months after such determination.

B. The provisions of LAC 52:I.Chapter 17 and NIDA guidelines as set forth in Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950 shall be utilized in collecting, storing, transporting and analyzing the second separate sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1895 (October 1998).

§1719. Elected Officials; Duties and Rights

A. Upon receipt of notification, the elected official has a duty to report to the designated collection site within 32 hours to submit a sample for testing.

B. The elected official has a right to receive from the designated representative a copy of the results of the test and the confirmation by the medical review officer, if necessary.

C. The elected official must, at the request of the designated representative, authorize the release of his medical records to the designated representative for review by the medical review officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1895 (October 1998).

§1721. Good Cause for Failure to Report to Collection Site

A. Definition. For purposes of §1721, the following definitions shall apply:

Good Cause—any reason, in the considered judgment of the board or the designated representative, beyond the control of the elected official that directly prevents the elected official from reporting to the collection site within 32 hours of receipt of the notice or subpoena.

B. If an elected official cannot report for good cause, the elected official shall promptly file a written petition with the designated representative outlining the reasons establishing good cause for his unavailability. If the designated representative finds good cause, a subsequent subpoena shall be issued at a date and time to be determined solely by the

designated representative directing the elected official to report to a collection site to submit a sample.

C. If the designated representative does not find good cause, an elected official may request that the board conduct a private hearing to determine if the elected official had good cause which prevented him from reporting to the collection site within 32 hours from receipt of the notice or subpoena.

D. If the board determines that the elected official had good cause which prevented him from reporting to the collection site within 32 hours from receipt of the notice or subpoena, the board shall require that the designated representative issue a subsequent subpoena at a date and time to be determined solely by the designated representative directing the elected official to report to a collection site to submit a sample.

E. Should the board determine that the elected official did not have good cause to prevent him from reporting to the collection site within 32 hours from receipt of the notice by either commercial delivery or subpoena, such failure to report to the collection site shall constitute a refusal to submit to a drug test as provided in R.S. 42:12116.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1895 (October 1998).

§1723. Medical Review Officer; Duties and Responsibilities

A. The board shall appoint a medical review officer, who is responsible for reviewing the positive results attained by the certified laboratory, using generally accepted medical practices in reviewing the test results.

B. The medical review officer is supplied with only the random number to identify the sample results that he reviews.

C. The medical review officer provides a report to the designated representative containing his analysis and findings.

D. The medical review officer shall forward negative results to the designated representative for further processing and dissemination to the elected official.

E. The medical review officer may require the designated representative to obtain the medical records of the elected official who tested positive if the medical records could supply any possible medical reasons to explain the positive results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1895 (October 1998).

§1725. Test Result Records

A. Should the initial or confirmatory test elicit a negative result, or if the board determines that the elected official did not violate La. R.S. 42:1116.1, then the designated representative shall destroy the test results 3 years after the elected official is notified of the negative result from the laboratory or 3 years after the board's determination that La. R.S. 42:1116.1 was not violated.

B. Should the initial and confirmatory tests elicit positive results, the Board shall retain all such test results as evidence in the event the elected official should subsequently at any time test positive for illegal drugs on a second occasion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1895 (October 1998).

§1727. Violations

A. Should the initial and confirmatory tests elicit positive results, as well as confirmation of the positive test results by the medical review officer, the board may, and upon the request of the elected official shall, conduct a private hearing to determine if the elected official violated La. R.S. 42:1116.1.

B. Should the initial and confirmatory tests of the second separate test ordered by the board elicit positive results, as well as confirmation of the positive test results by the medical review officer, the board may, and upon the request of the elected official shall, conduct a public hearing to determine if the elected official violated La. R.S. 42:1116.1 and to impose penalties.

C. If the elected official does not report to the collection site within 32 hours of receipt of the notice or service of a subpoena, or willfully evades service of a subpoena, the board may, and upon the request of the elected official shall, conduct a public hearing to determine if the elected official violated La. R.S. 42:1141B by refusing to submit to a drug test required pursuant to La. R.S. 42:1116.1 and if so what penalties to impose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1896 (October 1998).

R. Gray Sexton
Ethics Administrator

9810#076

RULE

**Department of Economic Development
Racing Commission**

Coupled Entries; Fields
(LAC 35:XIII.11113)

The Louisiana State Racing Commission hereby adopts the following rule in accordance with the provisions of the authority granted under R.S. 4:141 et seq.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 111. Trifecta

§11113. Coupled Entries; Fields

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 11:616 (June 1985), repealed by the Department of Economic Development, Racing Commission, LR 24:1896 (October 1998).

Paul D. Burgess
Executive Director

9810#020

RULE

Board of Elementary and Secondary Education

Bulletin 741—Science Graduation Requirements
(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 a revision to Bulletin 741—Louisiana Handbook for School Administrators. Bulletin 741 is referenced in the Louisiana Administrative Code 28:I.901.A. The requirement will become effective for incoming freshmen 1999-2000 and will require students to have at least one Carnegie Unit of credit in the Physical Science domain. The policy change does not change the number of required units. The number of required units will remain at three. The amendment to the High School Program of Studies will include:

1. the required Biology will now be Biology I;
2. the course title General Science will be replaced with Integrated Science; and
3. the course title Vocational Agriculture will be replaced with Agriscience.

The policy change will align the science graduation requirements with the new state science standards and state assessment. Changes to Bulletin 741 under Minimum Requirements for High School Graduation are as follows:

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. 17:3761-3764.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education LR 24:

Bulletin 741: School Approval Standards and Regulations

* * *

High School Program of Studies

* * *

Science 3 units

(Effective for Incoming Freshmen 1999-2000 and thereafter)

Shall be:

- 1 unit of Biology I;
- 1 unit of Physical Science (Physical Science or Integrated Science (not both); Chemistry I, Physics I, or Physics for Technology I)¹
- 1 unit from Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics for Technology II, Agriscience I², Agriscience II², or any other course not already taken from the Physical Sciences cluster.³

¹If a student takes Physical Science or Integrated Science, s/he may then take Chemistry I, Physics I, or Physics of Technology I as an elective. If a student takes Chemistry I, Physics I, or Physics for Technology I to fulfill the Physical Science requirement, s/he may not then take Physical Science or Integrated Science as an elective.

²Both Agriscience I and II must be completed for one unit of science credit.

³Additional local electives that have been approved for science credit by the

SDE may be offered. All advanced placement science courses will be accepted for credit.

Science

2.105.20 Three units of science shall be required for graduation. They shall be:

- 1 unit of Biology I;
- 1 unit of Physical Science or Integrated Science (but not both), Chemistry I, Physics I, or Physics for Technology I; and
- 1 unit of Aerospace Science, Biology II, Chemistry I (may be taken after Physical Science or Integrated Science), Chemistry II, Earth Science, Environmental Science, Physics I (may be taken after Physical Science or Integrated Science), Physics II, Physics for Technology I, Physics for Technology II, or both Agriscience I and II to meet one required unit of science.

Course Title	Unit(s)
Aerospace Science	1.0
Agriscience I and II	1.0 (both courses are required for one unit)
Biology I, II	1.0 each
Chemistry I, II	1.0 each
Earth Science	1.0
Environmental Science	1.0
Integrated Science	1.0
Physical Science	1.0
Physics I, II	1.0 each
Physics for Technology I, II	1.0 each

* * *

Weegie Peabody
Executive Director

9810#061

RULE

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

**Tuition Opportunity Program for Students
(TOPS)(LAC 28:IV.Chapters 1-21)**

The Louisiana Student Financial Assistance Commission (LASFAC) hereby adopts rules to implement Act 165 of the 1998 First Extraordinary Legislative Session as it affects the Tuition Opportunity Program for Students (R.S. 17:3048.1) and the Tuition Opportunity Program for Teachers (R.S. 17:3042.1).

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher
Education Scholarship and Grant Programs**

Chapter 1. Scope

§101. Introduction

A. Statutory Authority. The Louisiana Student Financial Assistance Commission (LASFAC) was created by Chapter 20, Higher Education Assistance, Louisiana Revised Statutes of 1950, comprised of R.S. 17:3021-3036, for the purpose of supervising, controlling, directing and administering state and federal programs to provide loans to assist persons in meeting the expenses of higher education, and state and federal scholarship and grant programs for higher education. The Louisiana Office of Student Financial Assistance (LOSFA), under authority of the commission, administers state and federal postsecondary student scholarship, grant and loan programs.

B. Agency's Mission Statement. The mission of LOSFA is to provide resources to Louisiana residents for the pursuit of postsecondary education.

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 24:1897 (October 1998).

§103. Purpose

A. LAC 28:IV provides the rules and regulations governing participation in the scholarship and grant programs administered by LASFAC including, but not limited to:

1. applicants and recipients;
 2. high school counselors;
 3. principals and headmasters;
 4. superintendents;
 5. college and university financial aid directors and staff;
- and
6. federal and state authorities.

B. LAC 28:IV was developed to meet the following objectives:

1. establish scholarship and grant policies and procedures that implement and explain or interpret statutes;
2. define the program responsibilities of participants (applicants, recipients, and high school, school board and postsecondary institution officials);
3. ensure that scholarships and grants are awarded in accordance with statute and legislative intent;
4. establish procedures to monitor the performance of scholarship and grant recipients;
5. ensure compliance with statutory and regulatory provisions governing the administered programs.

C. Since these rules and regulations can neither anticipate nor address every situation that might be encountered in the administration of the scholarship and grant programs included herein, participants in doubt about the applicability or interpretation of a rule or regulation in LAC 28:IV are advised to contact LOSFA for guidance.

D. LAC 28:IV shall be amended and updated as necessary. Such updates will be forwarded to institutions in the form of Scholarship and Grant Program Memoranda (SGPM). SGPM will cover additions, deletions, revisions and clarifications to the rules and regulations.

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 24:1897 (October 1998).

§105. Effective Date

These rules and regulations are effective for awards beginning with the 1998-99 academic year.

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).

§107. Authority to Audit

By participating in the scholarship and grant programs administered by LASFAC and described in LAC 28:IV, all participants, including high schools and postsecondary institutions, grant LASFAC and the Louisiana legislative auditor the right to inspect records and perform on-site audits of each institution's administration of the programs for the purpose of determining the institution's compliance with state law and LASFAC's rules and regulations.

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).

§109. Discrimination Prohibition

The exclusion of a person from equal opportunity for a Louisiana scholarship and/or grant program administered by LASFAC because of race, religion, sex, handicap, national origin or ancestry is prohibited. No policy or procedure of this agency shall be interpreted as superseding or contradicting this prohibition.

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).

§111. Criminal Penalties

All certifications of student performance which are submitted to LASFAC for the purpose of determining a student's eligibility for an award under a student aid program administered by LASFAC shall be by sworn affidavit of the certifying official and such official shall be subject to criminal law applicable to false swearing.

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).

Chapter 3. Definitions

§301. Definitions

Where the masculine is used, in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Academic Year (College)—the two- and four-year college

and university academic year begins with the fall term of the award year, includes the winter term, if applicable, and culminates with the completion of the spring term of the award year. The two- and four-year college and university academic year does not include summer sessions or intersessions. The Louisiana Technical College academic year begins with the fall quarter, includes the winter and spring quarters and culminates with the summer quarter.

Academic Year (High School)—the annual academic year for high school begins with the fall session, includes the winter and spring terms and ends at the conclusion of the summer term, in that order. For purposes of determining the top 5 percent of the 1997-98 graduating class only, the annual academic year for high school begins with the summer session, includes the fall terms and ends at the conclusion of the spring term, in that order. This definition is not to be confused with the Louisiana Department of Education's definition of *school year*, which is found in Louisiana Department of Education Bulletin 741.

ACT Score—the highest composite score achieved by the student on the official American College Test prior to the date of high school graduation or an equivalent score, as determined by the comparison tables used by LOSFA, on the Scholastic Aptitude Test (SAT) taken prior to the date of high school graduation. ACT test scores which are unofficial, including so-called "residual" test scores, are not acceptable for purposes of determining program eligibility.

BESE—Board of Elementary and Secondary Education, elected and appointed body with statutory oversight of Louisiana special, elementary and secondary schools.

Cost of Attendance—the total amount it will cost a student to go to school, usually expressed as an academic year figure. This cost is determined by the school in compliance with Title IV of the Higher Education Act of 1965, as amended, and is annually updated and adopted by the institution. The cost of education covers tuition and fees, on-campus room and board (or a housing and food allowance for off-campus students) and allowances for books, supplies, transportation, child care, costs related to a disability, and miscellaneous expenses. Also included are reasonable costs for eligible programs of study abroad. An allowance (determined by the school) is included for reasonable costs connected with a student's employment as part of a cooperative education program.

Cumulative High School Grade Point Average—the final cumulative high school grade point average calculated on a 4.00 scale for all courses attempted. For those high schools that utilize other than a 4.00 scale, all grade values must be converted to a 4.00 scale utilizing the following formula:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} \cdot \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

$$\frac{3.00}{5.00} \cdot \frac{X}{4.00}$$

By cross multiplying,

$$5X \cdot 12; X \cdot 2.40$$

Quality points = Credit for course multiplied by the value assigned to the letter grade.

Dependent Student—a student who is dependent on his or her parents or legal guardian for support and therefore is required to include parental information on the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA.

Disabled Student—a student who has one or more learning, visual, hearing, or physical disabilities diagnosed by a person licensed or certified to diagnose such disability, when the diagnosis states the need for the student to be provided special accommodations relative to the curriculum requirement.

Eligible Noncitizen—an individual who can provide documentation from the Immigration and Naturalization Service (INS) that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident. Including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the U.S. must provide documentation from the INS to verify permanent residency.

Eligible Non-Louisiana High School and Eligible Out of State High School—See §1701.A.4.

Exceptional Child—a student defined as an exceptional child in accordance with R.S.17:1943(2), excluding gifted and talented.

Expected Family Contribution (EFC)—an amount, determined by a formula established by Congress, that indicates how much of a family's financial resources should be available to help pay for the student's cost of attendance. Factors such as taxable and nontaxable income, assets (such as savings and checking accounts), and benefits (for example, unemployment or Social Security) are all considered in this calculation.

Fee Schedule—a listing of the actual tuition and mandatory fees for attendance at a postsecondary school as defined by the institution.

First-Time Freshman—a student who enrolls for the first time as a full-time freshman in a postsecondary school subsequent to high school graduation, and continues to be enrolled full time on the fourteenth class day (ninth class day for Louisiana Tech). A student who begins postsecondary or university attendance in a summer session will be considered a first-time enrollee for the immediately succeeding fall term. As a one time exception and for the purposes of the TOPS Program, students who graduated from high school in Academic Year 1996-97 are considered first time freshman for the 1998 fall term, if they are in academic good standing.

Full-Time Student—

a. a student enrolled in an institution of higher education who is carrying a full-time academic workload as determined by the school under the standards applicable to all students enrolled;

b. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the spring term he has earned at least 24 hours of total credit during the fall, winter and spring terms at an institution defining 12 semester or eight quarter hours as the minimum for full-time undergraduate status;

c. for programs which permit graduate study, a graduate student must have earned at least 18 hours of total credit during the fall, winter and spring terms;

d. a workload of at least 30 clock hours per week is the full-time equivalent at a technical college.

High School Graduate—for the purposes of these rules, is defined as a student certified by award of a high school diploma to have satisfactorily completed the required units at a Louisiana public or BESE-approved nonpublic high school or certified by award of a high school diploma from an Eligible Non-Louisiana High School or certified by award of a high school diploma from an eligible out-of-state public or non-public high school approved by the appropriate state agency in said state or a student who has completed at least the final two years of a BESE-approved home study program and has reported such to BESE.

Independent Student—a student who meets at least one of the criteria listed in Subparagraphs a. - f. or has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the Higher Education Act of 1965, as amended:

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

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

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

d. has legal dependents other than a spouse;

e. is a graduate or professional student;

f. is married.

Louisiana Resident—

a. any person or independent student who has resided in the state for a period of two years or more, or for some other period of residency which is required to qualify the person for a specific program administered by the LASFAC, and has manifested an intent to permanently reside in the state by establishing Louisiana as their legal domicile and by complying with all of the following that are applicable to that person:

i. if registered to vote, is registered to vote in Louisiana; and

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

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

iv. if earning an income, has complied with Louisiana state income tax laws and regulations.

b. any dependent student who has at least one parent or a legal guardian who qualifies as a resident in accordance with a, above.

c. any member of the Armed Forces on active duty whose official military personnel or pay records show that the member claims Louisiana as his home of record and who has filed a Louisiana tax return for the most recent two years in compliance with a.iv, above.

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:

$$\text{Merit Score} = \left(\left(\frac{\text{HSGPA}}{4.00} \right) \times 60 \right) \% \left(\left(\frac{\text{ACT}}{36} \right) \times 40 \right)$$

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:

$$\text{Merit Score} = \left(\left(\frac{\text{College GPA}}{4.00} \right) \times 95 \right) \% \left(\left(\frac{\text{College Level}}{4} \right) \times 5 \right)$$

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.

Monetary Repayment—for purposes of the Rockefeller State Wildlife Scholarship and TOPS Teacher Award Programs, repaying the scholarship funding received, plus any interest accrued under the terms of the promissory note signed by the recipient, if the recipient fails to fulfill the terms of the program. See *Repayment*.

Over Award—for the purposes of LAC 28:IV, an over award occurs when a student received financial aid in excess of the cost of attendance as established in accordance with federal Title IV regulations or an award under state programs to which the student was not entitled.

Refund—a refund of school charges that the school makes to a student or to a creditor on behalf of the student, usually after the student has withdrawn from school. The refund to the student is the difference between the amount the student paid toward school charges minus the amount the school keeps for the portion of the payment period that the student was enrolled.

Repayment—the amount of the cash disbursement that a student must pay back to the school if the student withdraws from the program. If the cash disbursement was greater than the student's cost of attendance (student's education costs above and beyond the amount of tuition and fees) up to the withdrawal date, the student must repay the excess amount. The actual amount of the refund/repayment is determined according to the school's policy in accordance with federal regulations. See *Monetary Repayment*.

Substantial Financial Need—for purposes of the 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.

Tuition—the fee charged each student by a postsecondary institution to cover the student's share of the cost of instruction, including all other mandatory enrollment fees charged to all students, except for the Technology Fee authorized by Act 1450 of the 1997 Regular Session of the Legislature, which were in effect as of January 1, 1998, and any changes in the cost of instruction authorized by the legislature and implemented by the institution after that date.

Undergraduate Student—a student who has not completed the requirements for a baccalaureate degree program and/or is not classified as a professional student for the purposes of receipt of federal student aid.

Weighted Average Tuition—the total dollar value of awards made under the TOPS in the prior academic year, excluding award stipends, to students attending public colleges and universities that offer academic degrees at the baccalaureate level, divided by the total number of students that received the awards. For the 1998-99 award year only, the Weighted Average Tuition shall be computed using the total dollar value of awards made to students during academic year 1997-98 under the TAP and Louisiana Honors Scholarship Programs who attended public institutions which offer academic undergraduate degrees.

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).

Chapter 5. Application; Application Deadlines and Proof of Compliance

§501. Application

All new applicants for, and all continuing recipients of, Louisiana scholarship and grant programs must annually apply for state and federal aid by completing the Free Application for Federal Student Aid (FAFSA) or the renewal FAFSA, whichever is applicable to the individual student. The deadline for priority consideration for state aid is published in the FAFSA's instructions and may be revised annually by the LASFAC.

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 24:1900 (October 1998).

§503. Application Deadlines

A. Deadline for Priority Consideration

1. For priority consideration for the 1998-99 award year, applicants must submit the FAFSA to be received by the federal processor by June 1, 1998.

2. Priority consideration means that an applicant who submits a FAFSA by this date shall, under normal circumstances, receive notification of his eligibility for a noncompetitive award (TOPS Opportunity, Performance and Honors Awards) prior to enrolling in the fall term.

3. An applicant for a competitively awarded scholarship (TOPS Teacher Award and Rockefeller State Wildlife Scholarship) who submits a FAFSA by this date shall be considered for selection of award in the first round of applicants awarded.

4. For priority consideration for award years after 1998-99, applicants must submit the FAFSA to be postmarked by April 15, or to be received by the federal processor by May 1, preceding the award year.

B. Final Deadline. The final deadline to apply for state aid is March 1 of the award year, by which time the FAFSA must have been received by the federal processor. For example, for the 1998-99 award year, the final deadline date for receipt of the application by the federal processor is March 1, 1999.

C. If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

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 24:1900 (October 1998).

§505. Proof of Compliance

As proof of compliance with the state's final deadline for submitting the FAFSA, LASFAC will accept the documentation listed in §505.1-3. No other form of verification, including notarized or certified statements, will be accepted as proof of compliance with the deadline requirement.

1. A certificate of mailing, registered, certified, certified/return receipt requested, priority or overnight mail receipt from the United States Postal Service, or other authorized mail carriers such as United Parcel Service and Federal Express, which is dated prior to the state's final deadline.

2. The Institutional Student Information Report (ESAR ISIR), produced by the federal processor, shows that the original application was received by the state's final deadline.

3. The federal processor provides verbal or written verification to LASFAC that the original application was received by the state's final deadline.

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).

§507. Final Deadline for Submitting Documentation of Eligibility

A. LASFAC will continue to process eligibility for both new and renewal applicants during each award year until May 1 of the spring term of that award year.

B. Students not determined eligible by May 1 of the spring term of the award year are ineligible to receive program funding that award year.

C. All documentation and certifications necessary to establish student eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of Student Aid Reports, applicant confirmation forms, promissory notes and other documents which may be utilized in determining eligibility, must be received by LASFAC no later

than May 1 of the award year. For example, to receive an award for the 1998-99 award year, LASFAC must have in its possession all documents relevant to establishing eligibility by May 1, 1999.

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).

Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity; Performance and Honors Awards

§701. General Provisions

A. Legislative Authority. Awards under the Louisiana Tuition Opportunity Program for Students (TOPS), the Opportunity, Performance and Honors Awards, are established as set forth in R.S. 17:3048.1 et seq., as amended.

B. Description, History and Purpose. The Tuition Opportunity Program for Students (TOPS) is a comprehensive, merit-based student aid program consisting of a series of components, with each component having its own eligibility criteria and titled award. The purpose of TOPS is to provide an incentive for Louisiana residents to academically prepare for and pursue postsecondary education in this state, resulting in an educated work force enabling Louisiana to prosper in the global market of the future. The major components of TOPS are the Opportunity award, the Performance award and the Honors award.

C. The Opportunity, Performance and Honors awards, which will be funded for the 1998-99 academic year, combine former programs (Louisiana Tuition Assistance Plan [TAP] and the Louisiana Honors Scholarship Program) with a new component, the Honors award, to produce a comprehensive program of state scholarships.

D. The purposes of this program are to:

1. financially assist those students who are academically prepared to continue their education at a Louisiana postsecondary institution; and

2. encourage academic excellence; and

3. provide incentives for Louisiana high school graduates to pursue postsecondary education in this state.

E. Award Amounts. The specific award amounts for each component of TOPS are as follows.

1. The TOPS Opportunity Award provides an amount equal to undergraduate tuition for full-time attendance at Louisiana public two- and four-year colleges and universities.

2. The TOPS Performance Award provides a \$400 annual stipend, in addition to an amount equal to tuition for full-time attendance at Louisiana public two- and four-year colleges and universities.

3. The TOPS Honors Award provides an \$800 annual stipend, in addition to an amount equal to tuition for full-time attendance at Louisiana public two- and four-year colleges and universities.

4. In lieu of the amount equal to tuition as provided by §701.E.1-3, students participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provide therein, plus any applicable TOPS stipend and a sum of not more than

\$150 per semester or \$300 annually for the actual cost of books and other instructional materials.

5. Students attending a regionally accredited independent college or university which is a member of the Louisiana Association of Independent Colleges and Universities (LAICU) receive an amount equal to the Weighted Average Tuition, as defined in §301, plus any applicable stipend.

6. Recipients of TOPS Awards who are also beneficiaries of Student Tuition Assistance and Revenue Trust (START) Saving Program accounts, may apply the START disbursements to pay tuition, and any remaining tuition due may be paid by the TOPS award. Any balance of the TOPS award which remains after payment of the institution's charges, shall be credited to the student's account and treated in accordance with institutional policies. In the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the Cost of Attendance, 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 TOPS Award shall be reduced by the amount of any remaining over award.

7. Students funded under the Tuition Assistance Plan (TAP) or the Louisiana Honors Scholarship during the 1997-98 award year, who have maintained eligibility for the 1998-99 award year, shall be continued as TOPS Opportunity or Performance recipients, respectively.

8. Prior recipients of the Louisiana Honors Scholarship who attend a campus of the Louisiana Technical College may continue to attend that institution as a recipient of TOPS Performance award; however, they are not eligible to receive the stipend that normally accompanies that award.

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).

§703. Establishing Eligibility

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not wilful; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for not less than two years prior to the date of high school graduation, or if completing an approved home study program, no less than two years prior to the FAFSA processor receipt date; and

3. annually submit the completed Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline defined in §503; and

a. students who can demonstrate to LASFAC that they do not qualify for federal grant aid because of their family's financial condition are not required to complete those sections of the FAFSA related to the income and assets of the applicant and the applicant's parents;

b. the dependents of Louisiana residents on active duty with the Armed Forces stationed outside of the state of Louisiana must enter a Louisiana postsecondary institution in that section of the FAFSA which asks the applicant to name the colleges he plans to attend; and

4. initially apply and enroll as a *First-Time Freshman* as defined in §301, unless granted an exception for cause by LASFAC, in an eligible postsecondary institution defined in §1901, and:

a. if graduating from an eligible Louisiana or an eligible non-Louisiana high school, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from high school; or

b. if the student joins the United States Armed Forces within one year after graduating from an approved high school, enroll not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated from high school or within one year from the date of discharge, whichever is earlier;

c. if the student is eligible under the provisions of §703.A.5.c, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the receipt date on the initial FAFSA submitted by the student; or

d. if the student is eligible under the provisions of §703.A.5.c and has joined and is on active duty with the United States Armed Forces within one year of completion of the twelfth grade of an approved home study program, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the fifth anniversary of the completion of the approved home study program or within one year from the date of discharge, whichever is earlier; or

e. if a 1996-97 graduate who is an otherwise eligible applicant, enroll as a full-time student during fall, 1998;

5.a. graduate from a BESE-approved, provisionally-approved, or probationally-approved public or nonpublic Louisiana high school or eligible non-Louisiana high school as defined in §1703.A.3; and

i. at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work constituting a core curriculum as follows:

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or Comparable Advanced Math
1	Biology I
1	Chemistry I

- 1 Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II or Physics, Physics II or Physics for Technology
- 1 American History
- 1 World History, World Culture, Western Civilization or World Geography
- 1 Civics and/or Economics/Free Enterprise
- 1 Fine Arts Survey; (or substitute two units Performance courses in Music, Dance and/or Theater; or two units of Studio Art or Visual Art; or one elective from among the other subjects listed in this core curriculum)
- 2 In the Same Foreign Language (one unit or credit for three or more hours of college foreign language for students graduating from high school during the 1996-97 and 1997-98 school years).
- ½ Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; (or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

ii. core units are waived upon sworn affidavit by the school board superintendent for public schools or by the principal or headmaster for nonpublic high schools that the course was not available to the student at the school attended; or

b. graduate from a BESE approved, provisionally-approved or probationally-approved public or nonpublic Louisiana high school or eligible non-Louisiana high school as defined in §1703.A.3. and have completed the core curriculum defined in §703.A.5.a.i, unless the following exceptions apply:

i. for students in graduating classes prior to the year 2001, one or more core units are waived based upon a sworn affidavit by the principal or headmaster or authorized designee that the course was not available to the student at the school attended;

ii. for students who are *exceptional* or *disabled*, as defined in §301, be unable to complete one or more units in the core curriculum solely because of the exceptionality or disability;

iii. for students graduating in academic years 1996-97 and 1997-98, have successfully completed all requirements of the core curriculum except Foreign Language, and have successfully completed at least one unit of high school Foreign Language or three credit hours of Foreign Language in a postsecondary institution and have forwarded to LASFAC a transcript from the institution showing successful completion of at least three credit hours of Foreign Language; or

c. graduate from an out-of-state public or private high school approved by the chief state and territorial school officer (or the state agency which is the equivalent of Louisiana's Board of Elementary and Secondary Education) of the state in which the school is located (See §1701.A.4.); or

d. successfully complete at least the eleventh and twelfth grade levels of a home study program approved by BESE; and if having previously attended a Louisiana public

high school, a Louisiana nonpublic high school, or an approved non-Louisiana high school, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school; and

6. at the time of high school graduation, have taken the American College Test (ACT) and have correctly entered the applicant's high school code published by ACT, or for graduates of out-of-state high schools or approved home-study programs, that code assigned by ACT and have a composite test score or an equivalent concordant value on the Scholastic Aptitude Test (SAT) of at least:

a. if qualifying under the terms of §703.A.5.a or b;

i. the state's reported prior year ACT composite average, rounded, but never less than 19 for the Opportunity Award; or

ii. a 23 for the Performance Award; or

iii. a 27 for the Honors Award; or

b. if qualifying under §703.A.5.c or d;

i. the state's reported prior year average plus 3 points, rounded, but never less than 22 for the Opportunity Award; or

ii. a 26 for the Performance Award; or

iii. a 30 for the Honors Award; and

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; and

8. not have a criminal conviction, except for misdemeanor traffic violations, and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

9. agree that awards will be used exclusively for educational expenses.

B. Students qualifying under §703.A.5.a and b, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, for all courses attempted and recorded on the high school transcript of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.50 for either the Performance or Honors Awards.

C. Students qualifying under §703.A.5.a and b, for the Performance Award only, must be certified as graduating in the top 5 percent of the 1997-98 high school graduating class, as defined in LAC 28:IV §1703.B.4, in lieu of completing the core curriculum.

D. Students who have qualified academically for more than one of the TOPS awards, excluding the TOPS Teacher Award, shall choose the award they wish to receive and thereafter must meet the renewal requirements of the award chosen. This choice, once made, is irrevocable.

E. Students graduating in academic years 1996-97 and 1997-98 who qualify under §703.A.5.b.iv, (graduates who did not complete one year of high school foreign language), must provide LASFAC a copy of their college transcript showing completion of one or more foreign language courses. Eligibility for an award is not established until receipt of the transcript verifying that the foreign language credit was earned and the student shall first be awarded for the semester or term

following that in which eligibility was established. Under this provision, eligibility must be established not later than the conclusion of the 1998-99 award year.

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 24:636 (April 1998), amended LR 24:1902 (October 1998).

§705. Maintaining Eligibility

A. To continue receiving the TOPS Opportunity, Performance or Honors Awards, the recipient must meet all of the following criteria:

1. have received less than four years or eight semesters of TOPS Award funds; and

2. annually submit the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline defined in §501; and

3. 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; and

4. not have a criminal conviction, except for misdemeanor traffic violations and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

5. agree that awards will be used exclusively for educational expenses; and

6. continue to enroll and accept the TOPS award as a full-time undergraduate student in an eligible postsecondary institution, as defined in §1901, unless granted an exception for cause by LASFAC; and

7. earn at least 24 college credit hours during the fall and spring semesters or fall, winter and spring quarters, as evaluated at the conclusion of the spring term. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; and

8. not be on academic probation the prior academic year, term, or semester at the postsecondary institution attended; and

9. maintain, by the end of each academic year (the conclusion of the spring term), a cumulative college grade point average (GPA) on a 4.00 maximum scale of at least:

a. a 2.30 with the completion of less than 48 credit hours, a 2.50 after the completion of 48 credit hours, for continuing receipt of an Opportunity Award; or

b. a 3.00 for continuing receipt of either a Performance or Honors Award.

B. Students failing to meet the requirements listed in §705.A.8 or §705.A.9.a or b may have their tuition awards reinstated upon the lifting of academic probation and/or attainment of the required GPA, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. Students who are reinstated to a Performance or Honors Award are no longer eligible to receive the annual stipends that normally accompany these awards.

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 24:637 (April 1998), amended LR 24:1904 (October 1998).

Chapter 8. TOPS-TECH Award

§801. General Provisions

A. Legislative Authority. The TOPS-TECH Award was created by Act of the 1998 First Extraordinary Session of the Louisiana Legislature.

B. Description, History and Purpose. The TOPS-TECH award is a merit based scholarship program for Louisiana residents pursuing skill or occupational training at a Louisiana public community or technical college. The purpose of TOPS-TECH is to provide an incentive for qualified Louisiana residents to prepare for and pursue technical positions in Louisiana.

C. TOPS-TECH shall be first awarded beginning with the 1998-99 academic year to 1998 high school graduates and graduates in subsequent years.

D. TOPS-TECH provides an amount equal to tuition for up to two years of technical training at a public postsecondary institution that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree.

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 24:1904 (October 1998).

§803. Establishing Eligibility

A. To establish eligibility for the TOPS-TECH Award, the student applicant must meet the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not wilful; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV, for not less than two years prior to the date of high school graduation, or if completing an approved home study program, no less than two years prior to the FAFSA processor receipt date; and

3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline defined in §503; and

4. initially apply and enroll in a technical program as a First-Time Freshman, as defined in §301, in a public community or Louisiana Technical College, unless granted an exception for cause by LASFAC, not later than the term or semester excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from high school or, if the student joins the United States Armed Forces within one year after graduating from high school, has enrolled in such eligible institution as a first-time freshman not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated from high school; and

5. graduate from:

a. a BESE-approved, provisionally-approved, or probationally-approved public or nonpublic high school or

eligible non-Louisiana high school, as defined in §1701.A.1, 2 and 3; or

b. an *out-of-state high school* defined in §1701.A.4;

or

c. successfully complete the eleventh and twelfth grades of a home study program approved by BESE; and if having previously attended a Louisiana public high school, a Louisiana nonpublic high school, or an approved non-Louisiana high school, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school;

6. if qualifying under the terms of §703.A.5.a, at the time of high school graduation, have successfully completed 16.5 units of high school course work constituting the TOPS core curriculum as defined in §703.A.5. or the TOPS-TECH core curriculum as follows:

a. Core Curriculum—TOPS-TECH Award

Units	Course
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (one unit) or Applied Algebra IA and IB (two units)
1	Algebra II
1	Geometry, Applied Geometry, Trigonometry, Calculus or comparable Advanced Math
1	Biology I
1	Chemistry I or Applied Physics
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II Physics, Physics II or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute two units of performance courses in music, dance and/or theater; or two units of studio art or two units of visual art courses; or one elective from among the other subjects listed in this core curriculum)
2	In the same Foreign Language. (one unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (two units).

½ Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

b. for students in graduating classes prior to 2001, core units may be waived upon sworn affidavit by the principal or headmaster or authorized designee that the course was not available to the student at the school attended;

7. at the time of high school graduation, have taken the American College Test (ACT) and received composite test score, or an equivalent concordant value on the Scholastic Aptitude Test (SAT), of at least:

a. if qualifying under §703.A.5.a, the state's reported prior year average ACT composite score, rounded, but never less than 19;

b. if qualifying under §703.A.5.b or c, the state's reported prior year average ACT composite score, rounded, plus 3 points, but never less than 22; and

8. if qualifying under §703.A.5.a, have attained a cumulative high school grade point average, based on a 4.00 maximum scale, for all courses attempted and recorded on the high school transcript of at least 2.50; and

9. 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; and

10. not have a criminal conviction, except for misdemeanor traffic violations, and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

11. agree that awards will be used exclusively for educational expenses.

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 24:1904 (October 1998).

§805. Maintaining Eligibility

A. To continue receiving the TOPS-TECH Award, the recipient must meet all of the following criteria:

1. have received the TECH Award for less than two years; and

2. annually, submit the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline defined in §501; and

3. 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; and

4. not have a criminal conviction, except for misdemeanor traffic violations and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

5. agree that awards will be used exclusively for educational expenses; and

6. enroll continuously as a full-time student and accept the TECH Award at an eligible postsecondary institution defined in §1901, unless granted an exception for cause by LASFAC; and

7. earn at least 24 college credit hours during the fall and spring semesters or fall, winter and spring quarters, or complete an average of 30 clock hours per week, as evaluated at the conclusion of the spring term. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; and

8. not be placed on academic probation by the postsecondary institution attended the previous term or semester; and

9. maintain, by the end of each academic year (the conclusion of the spring term), a cumulative college grade point average of at least 2.50 on a 4.00 maximum scale.

B. Students failing to meet the requirements listed in §805.A.8 and 9 may have their tuition awards reinstated upon the lifting of academic probation and/or attainment of the required grade point average, if the period of ineligibility did not persist for more than one year from the date of loss of eligibility.

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 24:1905 (October 1998).

Chapter 9. TOPS Teacher Award

§901. General Provisions

A. Legislative Authority. The TOPS Teacher Award Program was created by Act 476, of the 1997 Regular Session of the Louisiana Legislature and amended by Act 165 of the 1998 First Extraordinary Session of the Louisiana Legislature. This bill amended and reenacted R.S. 17:3042.1(A)(3) and (4), (B), (C), and (D) and 3042.2(A) and (B); reenacted R.S. 17:3042.1(A)(5) and (6) and 3042.8; and renamed Chapter 20-B of Title 17 of the Louisiana Revised Statutes of 1950.

B. Description, History and Purpose. The Tuition Opportunity Program for Students (TOPS) Teacher Award:

1. annually provides approximately 90 competitively awarded educational loans to residents of Louisiana who commit to teach at the elementary or secondary school level in Louisiana. When the recipient teaches at an approved school in Louisiana, the loans are forgiven in the ratio of one year of loan forgiveness for each year of teaching, or two years of loan forgiveness for each year of teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state as determined by the Board of Elementary and Secondary Education (BESE);

2. was first funded for the 1997-98 award year;

3. was created to provide an incentive for Louisiana's best and brightest students to become tomorrow's classroom teachers and to provide an incentive that will attract highly qualified teachers in mathematics and chemistry at the elementary and secondary school levels.

C. Award Amounts

1. Loans are made in the amount of \$6,000 per award year for mathematics and chemistry majors.

2. Loans are made in the amount of \$4,000 per year for teacher education majors other than those listed in §901.C.1.

3. Recipient may receive a maximum of four years of funding.

4. Recipients receive one half of the annual award (\$3,000 or \$2,000, respectively) at the beginning of the fall and spring terms.

5. Recipients may, in conjunction with the Teachers Award, receive another TOPS Award.

6. In the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the Cost of Attendance, 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 TOPS-Teacher Award shall be reduced by the amount of any remaining over award.

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 24:637 (April 1998), amended LR 24:1906 (October 1998).

§903. Establishing Eligibility

To establish eligibility the student applicant must meet all of the following criteria:

1. be a U.S. Citizen or National or eligible non-citizen, and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not wilful; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for at least two years prior to July 1 of the Award Year; and

3. annually submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is applicable to the student, by the state aid deadline defined in §503; and

4. either;

a. graduate from a Board of Elementary and Secondary Education (BESE)-approved, provisionally-approved, or probationally-approved public or nonpublic high school; and

i. at the time of high school graduation, have successfully completed 16.5 units of high school course work constituting a core curriculum as defined in §703.A.1.a of LAC 28:IV; and

ii. at the time of high school graduation, have attained a composite score on the American College Test (ACT) or the Scholastic Aptitude Test (SAT) which is, or is equivalent to, at least a 23 on the 1990 version of the ACT; and

iii. graduate with a cumulative high school grade point average of at least a 3.25, calculated on a 4.00 scale, for all courses attempted and reported on the high school transcript; or

b. if by the end of June in the year of application, the student will have completed 24 or more but less than 48 hours of graded college credit, have at least a 3.25 cumulative college grade point average on a 4.00 scale; or

c. if by the end of June in the year of application, the student will have completed 48 or more hours of graded college credit, have at least a 3.00 cumulative college grade point average on a 4.00 scale; or

d. have received a baccalaureate degree from an accredited college or university and have a cumulative undergraduate grade point average of at least 3.00 calculated on a 4.00 scale; or

e. have received at least a master's degree from an accredited college or university; and

5. complete and submit such documentary evidence as may be required by LASFAC by the deadline specified in §503; and

6. 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; and

7. not have a criminal conviction, except for misdemeanor traffic violations; and

8. agree that the award will be used exclusively for educational expenses; and

9. enroll during the fall term at an eligible college or university, as defined in §1901, as a full-time student, as defined in §301, in a degree program or course of study leading to a degree in education or an alternative program leading to regular certification as a teacher at the elementary or secondary level in mathematics or chemistry.

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 24:637 (April 1998), amended LR 24:1906 (October 1998).

§905. Selection Criteria

Recipients are competitively selected for the award based upon the merit rank score computed and assigned to each eligible applicant. The formula for computing the merit rank score is defined in §301.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998).

§907. Maintaining Eligibility

A. To continue receiving the TOPS Teacher Award, recipients must meet all of the following criteria:

1. have received less than four years or eight semesters of TOPS Teacher Awards ; and

2. at the close of each academic year (ending with the spring semester or quarter), have earned at least 24 hours total credit during the fall, winter and spring terms; and

3. achieve a cumulative GPA of at least a 3.00 calculated on a 4.00 scale at the end of each academic year; and

4. not be placed on academic probation as determined by the college or university attended; and

5. continue to enroll each subsequent semester or quarter as a full-time student, unless granted an exception for cause by LASFAC, in a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level; or

6. enter a program approved by the State Board of Elementary and Secondary Education (BESE) which leads to a degree in education or to regular certification as a teacher as soon as sufficient credits have been earned to do so; and

7. 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; and

8. have no criminal convictions, except for misdemeanor traffic violations; and

9. 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. Recipients who do not maintain eligibility under the provisions of §907.A.3 or 4, may be reinstated upon attainment of the required GPA and/or academic standing and upon application for reinstatement addressed to LASFAC, provided the period of ineligibility did not exceed two years.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998).

§909. Completion of Promissory Note and Acceptance of Award

Prior to receiving an award, the recipient must agree to the terms and conditions contained in the TOPS Teacher Award Program Promissory Note by completing the form and returning it to LASFAC by the specified deadline. The promissory note obligates the recipient to teach one year for each year of funding received; or, if teaching in a school located in an *economically disadvantaged region* of the state, as defined by the State Board of Elementary and Secondary Education (BESE), teach one year for every two years of funding received, or repay the funds received, plus accrued interest and any collection costs incurred.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998).

§911. Discharge of Obligation

A. The loan may be discharged by teaching for the required period of obligation, by monetary repayment or by cancellation.

B. Discharging the loan by teaching fulfillment is accomplished by:

1. within two years of the date of certification as a teacher, perform service as a full-time classroom teacher in a Louisiana Board of Elementary and Secondary Education (BESE)-approved, provisionally-approved, or probationally-approved elementary or secondary school;

2. each year of full-time service as a teacher will fulfill an equivalent period of funding. However, if teaching in an economically disadvantaged region of the state, as defined by BESE, one year of teaching will fulfill two years of funding;

3. the first semester of full-time teaching will be applied toward of the earliest dated disbursement not previously paid under §911.C, the second semester the next earliest dated

disbursement, and continuing until all disbursements have been fulfilled;

4. teaching to discharge the loan must be completed within six years from the date of certification as a teacher.

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

1. interest will accrue on the outstanding principal at the rate of 8 percent per annum;

2. interest on each disbursement will accrue from the date of disbursement until repaid, canceled or fulfilled. Accrued interest will be capitalized when the recipient enters repayment status;

3. repayment status. The recipient enters repayment status the first of the month following:

a. determination by LASFAC that the recipient cannot discharge the loan by teaching within the required time period;

b. the date the recipient notifies LASFAC by the recipient that monetary repayment is desired; or

c. six months after LASFAC determines that the recipient is no longer pursuing a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary school level;

4. the amount to be repaid annually will be the greater of:

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

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

5. recipients in repayment status may have their payments deferred in accordance with §2105.B., Deferment of Repayment Obligation;

6. during the period of time a recipient is in deferment status, a recipient is not required to make repayments and interest does not accrue;

7. 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 TOPS Teacher Award 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. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998).

Chapter 11. Rockefeller State Wildlife Scholarship

§1101. General Provisions

A. Legislative Authority. The Louisiana State Wildlife Scholarship Program was created and amended by the following Acts of the Louisiana Legislature:

1. Act 807 of the 1980 Regular Legislative Session;
2. Act 849 of the 1987 Regular Legislative Session;
3. Act 707 of the 1989 Regular Legislative Session.

B. Description, History and Purpose

1. The Rockefeller State Wildlife Scholarship Program was established in 1980 and is funded with dedicated monies and offers competitively awarded scholarships valued at \$1,000 per academic year to both undergraduate and graduate students majoring in forestry, wildlife, or marine science as it pertains to wildlife;

2. In accepting the Rockefeller State Wildlife Scholarship, the student agrees to attain a degree in one of the required fields at a Louisiana public college or university offering such degrees. If the student fails to successfully complete an eligible course of study, as per the agreement made between LASFAC and the student, the funds must be repaid with interest.

C. Award Amounts

1. The annual award is \$1,000.

2. The cumulative maximum award is \$7,000 for up to five years of undergraduate and two years of graduate study.

3. The award is disbursed at the rate of \$500 each fall and spring term.

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 24:639 (April 1998), amended LR 24:1908 (October 1998).

§1103. Establishing Eligibility

To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and be registered with the Selective Service if required, unless the institutional Financial Aid Officer determines that failure to register was not wilful; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for at least one year prior to July 1 of the Award Year; and

3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or the Renewal FAFSA, whichever is applicable to the student, by the state aid deadline defined in §503; and

4. complete and submit such documentary evidence as may be required by LASFAC; and

5. 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; and

6. not have a criminal conviction, except for misdemeanor traffic violations; and

7. agree that award proceeds will be used exclusively for educational expenses; and

8. be enrolled or accepted for enrollment as a full-time undergraduate or graduate student at a Louisiana public

college or university majoring in forestry, wildlife or marine science, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; and

9.a. must have graduated from high school, and if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades 9 through 12 and have taken the ACT or SAT and received test score results; or

b. if, at the time of application, the student applicant has earned 24 or more hours of college credit, then the applicant must have at least a 2.50 cumulative college grade point average.

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 24:639 (April 1998), amended LR 24:1908 (October 1998).

§1105. Selection Criteria

Recipients are competitively selected for an award based upon the merit rank score computed and assigned to each eligible applicant. The formula for computing the merit rank score is defined in §301.

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 24:640 (April 1998), amended LR 24:1909 (October 1998).

§1107. Maintaining Eligibility

To continue receiving the Rockefeller State Wildlife Scholarship, recipients must meet all of the following criteria:

1. have received the scholarship for not more than seven academic years (five undergraduate and two graduate) ; and

2. at the close of each academic year (ending with the spring semester or quarter), have earned at least 24 hours total credit during the fall, winter and spring terms at an institution defining 12 semester or eight quarter hours as the minimum for full-time undergraduate status or earn at least 18 hours total graduate credit during the fall, winter and spring terms at an institution defining nine semester hours as the minimum for full-time graduate status unless granted an exception for cause by LASFAC; and

3. achieve a cumulative grade point average of at least 2.50 at the end of the first academic year and each academic year thereafter; and

4. continue to enroll each subsequent semester or quarter (excluding summer sessions and intersessions) at the same institution unless granted an exception for cause and/or approval for transfer of the award by LASFAC; and

5. continue to pursue a course of study leading to an undergraduate or graduate degree in wildlife, forestry or marine science.

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 24:640 (April 1998), amended LR 24:1909 (October 1998).

§1109. Completion of Promissory Note and Acceptance of Award

Prior to receiving an award, the recipient must agree to the terms and conditions contained in the Rockefeller State Wildlife Scholarship Program Promissory Note (LASFAC-Form RS02), by completing the form and returning it to LASFAC by the specified deadline. The promissory note obligates the recipient to obtain a Wildlife, Forestry or Marine Science degree or repay the scholarship funds received, plus accrued interest and any collection costs incurred.

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 24:640 (April 1998), amended LR 24:1909 (October 1998).

§1111. Discharge of Obligation

A. The loan obligation may be discharged by graduation in an eligible major, monetary repayment or cancellation.

B. Graduation In an Eligible Major. Awards to undergraduates are discharged by the recipient's attainment of a bachelor's degree; graduate awards are discharged by attainment of a master's or doctorate degree in wildlife, forestry or marine science.

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

1. interest accrues on the outstanding principal at the rate of 8 percent per annum;

2. interest on each disbursement accrues from the date of disbursement until repaid, canceled or fulfilled. Accrued interest will be capitalized when the recipient enters repayment status;

3. repayment status. The recipient enters repayment status the first day of the month following:

a. the date the recipient notifies LASFAC that monetary repayment is desired; or

b. six months after LASFAC determines that the recipient is no longer pursuing a degree program or course of study leading to a degree in wildlife, forestry or marine science;

4. the annual repayment amount will be the greater of:

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

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

5. recipients in repayment status may have their payments deferred in accordance with §2105.B, titled Deferment of Repayment Obligation;

a. during the period of time a recipient is in deferment status, the recipient is not required to make payments and interest does not accrue;

b. 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 all or part of Rockefeller State Wildlife Scholarship Program funds 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 completing the educational program and/or from gainful employment because of a complete and permanent medical disability or condition;

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. 17:3021-3036, 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 24:640 (April 1998), amended LR 24:1909 (October 1998).

Chapter 13. State Student Incentive Grant (SSIG)

§1301. General Provisions

A. Legislative Authority

1. Federal

a. Title IV of the Higher Education Act of 1965;

b. 34 CFR Part 692, as amended;

c. Title IV of the Higher Education Amendments of 1992 (Public Law 102-325).

2. State

a. R.S. 17:3032.5;

b. Act 632 of the 1974 Regular Legislative Session;

c. Act 228 of the 1977 Regular Legislative Session.

B. Description, History and Purpose. The Louisiana State Student Incentive Grant Program (SSIG), 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 SSIG Program. Certain functions of the program are delegated to participating schools. Schools approved for participation in the Louisiana SSIG 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. Award Amounts. Individual grants range from an annual minimum of \$200 to a maximum of \$2,000; however, the actual amount of each student's award is determined by the financial aid office at the institution and is governed by the number of recipients selected and the amount of funds available. Awards are based upon a full academic year, excluding summer sessions and intersession, beginning with the fall term and concluding with the spring term.

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 SSIG 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. Reallocation of Funds. Uncommitted institutional allotted funds are reallocated if not committed by the deadline of November 1 for colleges and universities and January 1 for proprietary schools and campuses of Louisiana Technical College. The method of reallocation is dependent upon the amount of funds available for reallocation. If the reallocation amount is less than \$50,000, then only two- and four-year colleges and universities, which have fully committed their original allotment by the appropriate deadline, receive a reallocation. If \$50,000 or more is available for reallocation, it is reallocated to eligible schools of all types, which have fully committed their original allotment by the appropriate deadline.

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).

§1303. Establishing Eligibility

SSIG applicants must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and registered with the Selective Service, if required; and

2. be a resident of Louisiana, as defined in §301 for at least one year prior to July 1 of the Award Year; and

3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is available to the applicant, by the state deadline defined in §503 and any deadline imposed by the institution attended; and

4. have a high school diploma with at least a 2.00 cumulative grade point average, or a minimum average score of 45 on the General Educational Development (GED) test, or an ACT composite score of at least 20, or a postsecondary grade point average of at least 2.00 from the most recent term; and

5. be selected and certified by the school for receipt of an SSIG award, contingent upon final approval by LASFAC; and

6. meet any additional selection criteria established by the individual institution participating in the SSIG Program; and

7. be certified as a full-time undergraduate student in an eligible program at an eligible postsecondary institution, as defined in §1901; and either:

a. be enrolled full time at the time of disbursement if disbursement occurs on or prior to the fourteenth class day (ninth class day for Louisiana Tech); or

b. be enrolled full time as of the fourteenth class day (ninth class day at Louisiana Tech) and is enrolled at least half-time at the time of disbursement if disbursement occurs after the fourteenth class day (ninth class day at Louisiana Tech); and

8. have substantial financial need, as defined in §301; and
9. 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; and
10. not have a criminal conviction, except for misdemeanor traffic violations; and
11. agree that the award proceeds will be used exclusively for educational expenses; and
12. not be in default of an educational loan.

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).

§1305. Maintaining Eligibility

To continue receiving an SSIG Award, the recipient must meet all of the following criteria:

1. meet all of the initial eligibility criteria listed in §1303; and
2. maintain a cumulative postsecondary grade point average of at least 2.00 calculated on a 4.00 scale by the conclusion of the spring term.

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).

Chapter 15. T. H. Harris Scholarship

§1501. General Provisions

A. Legislative Authority

1. R.S. 17:3036.1;
2. Act 24 of the 1938 Regular Legislative Session;
3. Act 199 of the 1940 Regular Legislative Session;
4. Act 19 of the 1942 Regular Legislative Session;
5. Act 499 of the 1948 Regular Legislative Session;
6. Act 83 of the 1977 Regular Legislative Session;
7. Act 710 of the 1985 Regular Legislative Session;
8. Act 663 of the 1990 Regular Legislative Session.

B. Description, History and Purpose. The T.H. Harris Scholarship Program was first funded with state general funds in 1942 for the purpose of granting scholarships to deserving youth enrolling at state-supported colleges or universities. A maximum cumulative award, assuming the recipient maintains eligibility, is \$2,000 for five years of study. Effective with award year 1996-97, applications are not being accepted and the program is being phased out. Students awarded during the 1995-96 award year, continue to receive an award, as long as funds are available and they maintain continuing academic eligibility.

C. Award Amounts. The annual award is \$400, with a cumulative maximum award of \$2,000 for five years. Recipients receive \$200 each fall and spring term, less a \$5 award fee.

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).

§1503. Maintaining Eligibility

To continue to receive T.H. Harris Scholarship funds, recipients must meet all of the following criteria:

1. 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; and
2. agree that award proceeds will be used exclusively for educational expenses; and
3. continue to enroll as a full-time undergraduate student in a two- or four-year public college or university, unless granted an exception for cause by LASFAC; and
4. successfully complete the minimum number of hours required for a full-time student as defined in §301; and
5. achieve a cumulative grade point average of at least 3.00, on a 4.00 scale, at the conclusion of the spring term each academic year; and
6. have received less than 10 semesters of T.H. Harris funding.

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).

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1701. Eligibility of Graduates Based Upon the High School Attended

A. Graduates of the following high schools are eligible to participate in LASFAC's Scholarship and Grant programs, as authorized herein:

1. Louisiana Public High Schools—public high schools listed in the *Louisiana School Directory* (Louisiana Department of Education Bulletin 1462);
2. approved Nonpublic High Schools—nonpublic high schools approved by the Louisiana Board of Elementary and Secondary Education (BESE) and listed in the *Louisiana School Directory* (Bulletin 1462), as an approved nonpublic school which meets the standards specified in *The Louisiana Handbook for School Administrators* (Bulletin 741). For the purposes of LAC 28:IV, approved nonpublic schools include private or diocesan high schools classified annually by the Department of Education as approved, provisionally-approved or probationally-approved;
3. eligible Non-Louisiana High Schools—eligible non-Louisiana high schools are high schools which meet all of the following:

- a. are in a state adjoining the state of Louisiana; and
- b. have provided LASFAC with acceptable evidence of an agreement dated prior to June 5, 1994, between a parish school system in the state of Louisiana and the high school's local governing authority, which authorizes the attendance of students who are residents of Louisiana; and
- c. have students who graduate during the academic year preceding the award year, who were residents of Louisiana and who were funded through the Louisiana minimum foundation program; and

d. have certified the academic performance of Louisiana graduates, in accordance with §1703;

4. Out-of-State High Schools—all other public or non-public high schools located in one of the United States other than Louisiana, which have been approved by the state's chief state or territorial school officer listed in the Louisiana Department of Education Bulletin 1462, or by the public body which is that state's equivalent of Louisiana's Board of Elementary and Secondary Education, and those high schools located in foreign countries which have been authorized or approved by a Department in the Executive Branch of the United States government to teach the dependents of members of the U.S. Armed Forces stationed abroad;

a. graduates of out-of-state high schools are eligible to participate in the Rockefeller State Wildlife Scholarship and the State Student Incentive Grant Programs;

b. graduates of out-of-state high schools who are Louisiana residents or the dependents of a Louisiana resident serving on active duty with the Armed Forces or who have a parent who is a Louisiana resident are eligible to participate in TOPS.

B. Non-high school graduates who have earned a General Education Diploma (GED) in lieu of a high school diploma are eligible to participate in the State Student Incentive Grant Program and if they have completed a BESE approved home study program, are eligible to participate in TOPS.

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).

§1703. High School's Certification of Student Achievement

A. Responsibility for Reporting and Certifying Student Performance

1. Responsibility for the identification and certification of high school graduates who meet the academic qualifications for a TOPS award is as follows:

a. the principal or the principal's designee for public high schools;

b. the principal or headmaster or designee of each nonpublic high school approved by the State Board of Elementary and Secondary Education (BESE);

c. the principal or headmaster or designee of an eligible non-Louisiana high school;

d. the principal or headmaster or designee of an out-of-state high school is responsible only for providing the high school transcript or the date of graduation for those students who have applied for a student aid program administered by LASFAC.

2. The Louisiana Department of Education shall report to LASFAC the names of students who are enrolled in and have completed all mandatory requirements through the twelfth grade level of a state-approved home study program. B. Procedures for Reporting and Certifying Student Performance

1. The responsible high school authority shall record student performance on the form provided by LASFAC or in an electronic format pre-approved by LASFAC. The

certification form shall be completed, certified and returned to LASFAC by the deadline specified on the form.

2. The certification form shall contain, but is not limited to, the following reportable data elements:

a. student's name, address, phone number and social security number;

b. month and year of high school graduation;

c. final cumulative high school grade point average for all courses attempted and recorded on the transcript, converted to a maximum 4.00 scale, if applicable;

d. number of core units earned and the number of core units unavailable to the student at the school attended;

e. total number of graduates in the graduating class and the names of those students who graduated in the top 5 percent of the class in accordance with §1703.B.4.a.

3. The responsible high school authority shall certify to LASFAC the final cumulative high school grade point average of each applicant and that average shall be inclusive of grades for all courses attempted and recorded on the applicant's official high school transcript and shall be computed and reported on a maximum 4.00 grading scale.

a. The following grading conversion shall be used to report the applicant's cumulative high school grade point average:

i. letter grade A = 4 quality points;

ii. letter grade B = 3 quality points;

iii. letter grade C = 2 quality points;

iv. letter grade D = 1 quality point.

b. Schools which award more than 4 quality points for a course must convert the course grade to a maximum 4.00 scale using the formula described in the example that follows. [In this example, the school awards one extra quality point for an honors course.]

i. Example: an applicant earned a C in an Honors English IV course and received 3 out of the 5 possible quality points that could have been awarded for the course.

ii. In converting this course grade to a standard 4.00 maximum scale, the following formula must be used:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} \cdot \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

$$\frac{3.00}{5.00} \cdot \frac{X}{4.00}$$

By cross multiplying,

$$5X = 12; X = 2.40$$

iii. In this example, the quality points for this Honors English IV course should be recorded as 2.40 when the school calculates and reports the student's cumulative high school grade point average.

4. Determine the number of 1998 graduates who are in the top 5 percent of their high school graduating class using the procedures previously adopted for the former Honors Scholarship Program and which comply with the following:

a. city and parish school boards, nonpublic high schools, special school governing boards, and LASFAC on behalf of eligible non-Louisiana high schools, shall adopt, publish and forward to LASFAC criteria for ranking graduates and determining the top 5 percent of the graduating class for high schools under their jurisdiction. Such criteria shall:

rounds up to 2.0

i. consider only the academic grades for those courses recorded on the student's official high school transcript; and

ii. define the academic courses which are to be considered in determining academic class ranking; and

iii. define the procedure by which students who would otherwise have equal academic class ranking may be ranked (tie-breaker procedure). This may include an evaluation of students' academic grades on a set of predetermined core academic courses such as English, math and science or an evaluation of the level of difficulty of the courses taken by the students, such as honors courses and higher level math or science courses; and

iv. be adopted by an affirmative act taken during a public meeting;

b. using the following formula, determine the number of graduates in the top 5 percent:

i. in computing the top 5 percent of each Louisiana high school's graduating class, apply the following formula to compute the maximum number of graduates who may rank in the top 5 percent for the purposes of the performance award:

(a). the total number of students who are Louisiana residents receiving high school diplomas from the institution during the academic year preceding the award year, multiplied by the figure 0.05, and, if not a whole number, rounded up to the next whole number. Foreign exchange students and other nonresidents shall not be counted as members of the graduating class for the purpose of this computation.

(b). Example: for a high school that awarded state high school diplomas to two summer graduates, seven midyear graduates and 79 spring graduates during the academic year, the following computation would apply:

$$(2\%7\%79) ' 88; (88 \times 0.05) ' 4.4;$$

4.4 rounds up to 5.0

(c). accordingly, five students may be selected for the performance award at the high school depicted in the example;

ii. in computing the top 5 percent of each eligible non-Louisiana high school's graduating class and calculating the number of Louisiana residents to be named as performance award recipients, apply the following formulas:

(a). the total number of students, both Louisiana residents and non-Louisiana residents, receiving a high school diploma from the institution during the academic year preceding the award year, multiplied by the figure 0.05, and, if not a whole number, rounded up to the next whole number. Example:

$$\text{Total Graduates} ' 69; (69 \times 0.05) ' 3.45;$$

rounds up to 4.0

(b). the number of academic year graduates who are Louisiana residents funded through the Louisiana minimum foundation program (MFP), multiplied by the figure 0.05, and, if not a whole number, rounded up to the next whole number. (Louisiana resident graduates not funded through MFP shall not be counted in this calculation). Example:

(c). to be certified as a performance award recipient, the student must rank both in the top 5 percent of the non-Louisiana high school's total academic year graduating class, as well as in the top 5 percent of minimum foundation program-funded Louisiana residents in the graduating class;

(d). in the examples provided above, the maximum number of Louisiana residents to be certified for the performance award is two, and the minimum number is zero. If only one Louisiana resident ranked in the top 5 percent (4 of 69) of the total graduates, then only one student could be certified to the performance award. Conversely, if three Louisiana residents ranked in the top 5 percent (4 of 69), only the top two of these three could be certified.

c. ensure that the approved selection criteria are publicly posted in each high school under the board or headmaster's jurisdiction and provide a copy of the criteria to LASFAC;

d. ensure that amendments to the criteria, as approved by the board or headmaster, shall only be effective for the years following the year in which amended.

C. Certifying 1998 Graduates for the TOPS Performance Award. 1998 Graduates who are ranked in the top 5 percent of their graduating class in accordance with §1703 shall be credited with having completed the core curriculum for purposes of the TOPS; however, only those meeting the following criteria shall be eligible for the Performance Award:

1. those students who have attained a final cumulative high school grade point average of at least a 3.50 on a 4.00 maximum scale; and

2. an ACT score of at least 23.

D. Certification by Sworn Affidavit. The high school headmaster or principal or designee shall certify by sworn affidavit that:

1. all data supplied on the certification form are true and correct, to the best of his knowledge or belief, and that they reflect the official records of the school for the students listed; and

2. records pertaining to the listed students will be maintained and available upon request to LASFAC and the legislative auditor for a minimum of three years or until audited, whichever occurs first; and

3. the school under the principal's jurisdiction shall reimburse LASFAC for the amount of a program award which was disbursed on behalf of a graduate of the school, when it is subsequently determined by audit that the school incorrectly certified the graduate.

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 24:643 (April 1998), amended LR 24:1912 (October 1998).

§1705. Notification of Certified Students

A. High schools are required to present a certificate of achievement during the graduation ceremony or other school

reception to students qualifying as recipients of TOPS Performance and Honors Awards.

B. High schools are required to invite members of the Louisiana Legislature representing the school's district to attend the ceremony or reception and to make the presentation awarding the endorsed certificates of achievement.

C. If the certifying authority elects to notify students of their certification, then the following disclaimer shall be included in any communication to the student:

"Although you have been certified as academically eligible for a Tuition Opportunity Program for Students (TOPS) Award, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. You must be a Louisiana resident as defined by the Louisiana Student Financial Assistance Commission; and
2. You must be accepted for enrollment by an eligible Louisiana college and be registered as a full-time undergraduate student; and
3. You must annually apply for federal student aid by the deadline required for consideration for state aid; and
4. You must have met all academic and nonacademic requirements and be officially notified of your award by the Louisiana Student Financial Assistance Commission (LASFAC)."

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 24:644 (April 1998), amended LR 24:1913 (October 1998).

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, State Student Incentive Grant (SSIG) 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 SSIG. 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 SSIG.

D. Approved Louisiana proprietary and beauty schools are authorized to participate in SSIG 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).

§1903. Responsibilities of Postsecondary Institutions

A. Certification of Student Data. Upon request by LASFAC, and for the purpose of determining an applicant's eligibility for a program award, an institution will report the following student data:

1. admission and full-time undergraduate enrollment; and

2. eligibility for, or enrollment in, a course of study leading to initial teacher certification; and

3. enrollment in math or chemistry as a major while pursuing teacher certification; and

4. graduate or undergraduate enrollment in wildlife forestry or marine science; and

5. cumulative college grade point average; and

6. cumulative college credit hours earned;

7. academic year hours earned.

B. Program Billing. Each term, institutions shall bill LASFAC for students who are recipients of a TOPS Award and who have enrolled at the institution in accordance with the following terms and conditions:

1. institutions may only bill for students who have been certified by LASFAC as eligible for a TOPS award; and

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award is enrolled full time, as defined in §301, as of the fourteenth class day (ninth class day for Louisiana Tech, first class day for campuses of Louisiana Technical College, and for any qualifying summer sessions as of the last day to drop and receive a full refund for the full summer session). Institutions shall not bill for students who are enrolled less than full time on the fourteenth class day (ninth class day for Louisiana Tech, first class day for campuses of Louisiana Technical College, and for any qualifying summer sessions as of the last day to drop and receive a full refund for the summer session), unless the student qualifies for payment for less than full-time enrollment as defined in §2103.B. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the fourteenth class day, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures; and

3. in the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the Cost of Attendance, 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 TOPS award shall be reduced by the amount of any remaining over award;

4. annually, two- and four-year institutions are required to provide LASFAC a current fee schedule. The schedule must include an itemized description of the composition of the mandatory fees listed on the fee schedule;

5. campuses of Louisiana Technical College are exempt from furnishing a schedule of fees, but must bill LASFAC on the first class day of each quarter for three times the monthly amount established by the Board of Elementary and Secondary Education (BESE) for full-time attendance; and

6. certify that the institution will reimburse LASFAC for any award funds incorrectly disbursed to ineligible students; and

7. upon the school's certification that a recipient of a TOPS Award is enrolled full time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. public two- and four-year colleges and universities may bill for an amount up to the maximum tuition for that institution, as defined in §301;

b. Louisiana Technical College campuses may bill each quarter for three times the monthly amount established by the Board of Elementary and Secondary Education (BESE) for full-time attendance;

c. LAICU member colleges and universities may bill for an amount up to the weighed average tuition , as defined in §301;

d. for recipients of the Performance and Honors awards, institutions may bill LASFAC for the stipend that accompanies these awards, in the amounts of \$200 or \$400 per semester, respectively;

C. Annual Application for Participation in, and Certification of Recipients of the SSIG Program

1. Annually, LASFAC forwards SSIG 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 SSIG Program during the prior award year. To be eligible for allotment of SSIG funds the institution must meet all of the following requirements:

a. complete and return the annual SSIG 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 SSIG; and

c. certify that students listed on the recipient roster meet federal, state and institutional specific SSIG eligibility criteria; and

d. certify that if the institution's SSIG 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 SSIG recipient's total package of aid does not exceed the student's financial need; and

f. certify that SSIG 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 SSIG 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 SSIG 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. Disbursement of Funds. Upon receipt of award funds and prior to their disbursement to students, the institution shall:

1. for TOPS Teacher Award recipients:

a. verify that the recipient is enrolled full time in an approved degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level; or

b. if designated as a math or chemistry major, verify enrollment in a course of study leading to certification as a math or chemistry teacher;

2. for Rockefeller State Wildlife Scholarship recipients, verify undergraduate or graduate enrollment, whichever is applicable to the student, in:

a. Wildlife, Forestry or Marine Science; or,

b. another major specified by the Louisiana Department of Wildlife and Fisheries as meeting their criteria for receipt of scholarship funds;

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 SSIG must be released to eligible recipients within 30 days of receipt by the school or be returned to LASFAC.

E. Reporting of Academic Data. At the conclusion of each academic year, the institution will complete and return to LASFAC, a College Academic Grade Report including, but not limited to, the following data elements:

1. academic year hours earned; and

2. cumulative hours earned; and

3. cumulative grade point average;

4. academic standing, and if applicable, date of placement on academic probation; and

5. upon graduation, degree date and type and name of degree.

F. Records Retention. Records pertaining to the students listed on the billing certification form will be subject to audit as required by state statute. Such records will be maintained for a minimum of three years and be available upon request to LASFAC and the Louisiana legislative auditor.

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).

Chapter 21. Miscellaneous Provisions and Exceptions §2101. Academic Suspension of Awards and Reinstatement

A. Students denied an award for their failure to maintain the required cumulative college grade point average and

academic good standing may be reinstated upon attainment of the required cumulative grade point average and the lifting of academic probation provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

B. Students whose TOPS Performance and Honors Awards are reinstated are ineligible for annual stipends.

C. Transfer of Students on Academic Probation

1. Students who transfer while on academic probation are ineligible for a prior award for a minimum of one semester at the latest institution attended, regardless of the student's status at that institution; and

2. shall remain ineligible until achieving a cumulative grade point average necessary to return to academic good standing at the institution that originally placed the student on academic probation.

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 24:646 (April 1998), amended LR 24:1915 (October 1998).

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. Initial Enrollment Requirement. Initially apply and enroll as a *First-Time Freshman* as defined in §301, unless granted an exception for cause by LASFAC, in an eligible postsecondary institution defined in §1901. Initial enrollment requirements specific to the TOPS are defined in §703A.4.

B. Continuous Enrollment Requirement. To maintain eligibility, all scholarship programs require recipients to continue to enroll as full-time students, as defined in §301, each consecutive semester or quarter, excluding summer sessions and intersession, at two- and four-year colleges and universities. Recipients who cannot meet this requirement may be granted an exception for cause, as determined by LASFAC.

C. Less Than Full-Time Attendance. The LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards and the T.H. Harris Scholarship Program for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

1. requires less than full-time enrollment to complete the undergraduate degree; or

2. is enrolled in a degree program that defines *full-time* as less than 12 hours per semester or eight hours per quarter; or

3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

D. Procedure for Requesting Exceptions to the Initial and Continuous Enrollment Requirement

1. Recipient must submit the exception request form, with documentary evidence, within the deadline specified.

2. If determined eligible for an exception, the recipient will be awarded if he or she enrolls in the first fall, winter or spring term immediately following the exception ending date.

3. If determined ineligible for an exception, subsequent appeals are to be processed in accordance with LASFAC's appeal procedures as defined in §2109.

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement

1. Parental Leave

a. Definition. The student/recipient must be pregnant or caring for a newborn or newly-adopted child less than one year of age.

b. Certification Requirements. A completed exception request form, certified by a written statement from a doctor of medicine who is legally authorized to practice or an authorized official of the adoption agency.

c. Acceptable Documentation. Includes dates of required leave of absence, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.

d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after the occurrence of the qualifying exception.

e. Maximum Length of Exception. Up to one academic year per child.

2. Rehabilitation Program

a. Definition. The student/recipient must be receiving rehabilitation in a program administered by a licensed rehabilitation center under a written individualized plan with specific dates of beginning and ending services.

b. Certification Requirements. A completed exception request form, certified by a rehabilitation counselor and doctor of medicine.

c. Acceptable Documentation. Includes dates of the required leave of absence, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.

d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after occurrence of the qualifying exception.

e. Maximum Length of Exception. Up to two academic years per occurrence.

3. Temporary Disability

a. Definition. The student/recipient must be recovering from an accident, injury, illness or required surgery that did not previously exist when he or she originally applied for the applicable scholarship and grant program(s), or his or her pre-existing condition has substantially deteriorated since the time of application, or the student/recipient's spouse, dependent, parent or guardian requires continuous care for similar conditions for at least 60 days due to an accident, illness, injury or required surgery.

b. Certification Requirements. Certified by a doctor of medicine who is legally authorized to practice and by a completed exception request form.

c. Acceptable Documentation. Includes dates of the required leave of absence, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.

d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after occurrence of the qualifying exception.

e. Maximum Length of Exception. Up to two academic years for recipient; up to a maximum of one academic year for care of a disabled dependent, spouse or parent.

4. Internship/Residency Program

a. Definition. The student/recipient must be enrolled in a required program that must be completed in order to begin professional practice or service. It must be a program where the student is working toward an appropriate scholarship and grant program degree. Participation in an Internship/Residency Program does not qualify as an exception to the initial enrollment requirement.

b. Certification Requirements. Certified by a written statement from an internship or residency program official and a completed exception request form.

c. Acceptable Documentation. Includes dates of required leave of absence from the school's dean, academic counselor, or major professor stating that the residency/internship is a requirement toward fulfilling an appropriate scholarship and grant program degree, and that the student has been accepted into the residency/internship program, the semester(s) or number of days involved, the length of the internship/residency period, the beginning and ending dates of the leave of absence.

d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days of notification of acceptance into the internship.

e. Maximum Length of Exception. Up to two academic years of required program or study.

5. Cooperative Work/Study Program

a. Definition. The student/recipient must be a registered student in the appropriate school offering the cooperative work/study program. Even though the school may have entrance requirements for the cooperative work/study programs, the student/recipient must continue to meet and maintain scholarship and grant program cumulative grade point average requirements. Participation in a Cooperative Work/Study Program does not qualify as an exception to the initial enrollment requirement.

b. Certification Requirements. Certified by a written statement from the college/school official including dates of enrollment and termination and a completed exception request form.

c. Acceptable Documentation. Includes dates of leave of absence from the school's dean, academic counselor, or major professor stating that the student is enrolled in an official cooperative work/study program sponsored by the university, the semester(s) or number of days involved, the beginning and ending dates of the cooperative work/study program.

d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days of acceptance into the cooperative work/study program.

e. Maximum Length of Exception. Up to one academic year or required program of study.

6. Religious Commitment

a. Definition. The student/recipient must be a member of a religious group that requires the student to perform certain activities or obligations which necessitate taking a leave of absence from school.

b. Certification Requirements. Certified by a written statement from the college official, a completed exception request form, and a statement from the religious group's governing official.

c. Acceptable Documentation. Includes dates of the required leave of absence from the religious group's governing official, a completed exception request form, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of the religious obligation.

d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after accepting or committing to the religious obligation.

e. Maximum Length of Exception. Up to two academic years.

7. Death of Immediate Family Member

a. Definition. The student cannot attend school for at least 30 days due to recovering from the death of a spouse, parent, guardian, dependent, sister or brother or grandparent.

b. Certification Requirements. A written statement from the college official, a completed exception request form, and a copy of the death certificate or a doctor's or funeral director's verifying statement or a copy of the obituary published in the local newspaper.

c. Acceptable Documentation. Includes dates of leave of absence from the school's registrar, a doctor's statement if student/recipient care was needed, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved.

d. Filing Requirements. The student/recipient must file a completed exception request form with certification and documentation requirements within 60 days of the date of death.

e. Maximum Length of Exception. Up to one academic semester or two quarters per death.

8. Military Service, Peace Corps, National Service Corps, VISTA. Service in the Peace Corps, National Service Corps and VISTA does not qualify as an exception to initial enrollment requirement.

a. Definition. The student/recipient is called on active duty status with the United States Armed Forces or is performing emergency state service with the National Guard or is serving in the Peace Corps, National Service Corps or VISTA.

b. Certification Requirements. Certified by a written statement from the commanding officer or regional supervisor or certified military orders and by a completed exception request form.

c. Acceptable Documentation. Includes dates of required leave of absence, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of duty (beginning and ending dates).

d. Filing Requirements. The student/recipient must file a completed exception request form, with the required

certification and documentation, within 60 days after receipt of military orders or letter of appointment.

e. Maximum Length of Exception. Up to the length of the required service period.

9. Exceptional Circumstances

a. Definition. The student/recipient has exceptional circumstances, other than those listed in §2103.E.1-8, which are beyond his immediate control and which necessitates full or partial withdrawal from, or non-enrollment in, an eligible postsecondary institution.

b. Certification Requirement. Certified by a notarized statement and by a completed exception request form.

c. Acceptable Documentation. The notarized statement should include attachments of copies of all documents relevant to the exceptional circumstance.

d. Filing Requirement. The student/recipient must file a completed exception request form, with the required notarized statement and documentation, within 60 days after the occurrence of the exceptional circumstance.

e. Maximum Length of Exception. Up to one academic year.

E. Nonqualifying Exceptions. Nonqualifying Exceptions include, but are not limited to:

1. the student is unaware of the continuation renewal requirements for a program and fails to meet such requirements;

2. the student failed to timely submit an exception request form for an exception to the continuous enrollment requirement.

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 24:647 (April 1998), amended LR 24:1916 (October 1998).

§2105. Repayment Obligation, Deferment and Cancellation

A. Monetary Repayment. Recipients of the Rockefeller State Wildlife Scholarship who do not meet their obligation to obtain a degree in wildlife, forestry or marine science and recipients of the TOPS Teacher Award who do not fulfill their obligation to teach the required number of years and who are not eligible for Discharge by Cancellation, must repay the loan principal plus accrued interest as delineated in §§1111 and 911, respectively.

B. Deferment of Repayment Obligation. Recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status may have their payments deferred for the following reasons.

1. Parental Leave

a. Definition. The student/recipient must be pregnant or caring for a newborn or newly-adopted child.

b. Certification Requirements. Certification by a written statement from a doctor of medicine who is legally authorized to practice or an authorized official of the adoption agency.

c. Acceptable Documentation. Includes dates of required leave of absence, the number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, and the required treatment.

d. Filing Requirements. The recipient must request by letter, with the required certification and documentation, within 60 days after the occurrence of the qualifying event.

e. Maximum Length of Deferment. Up to one academic year.

2. Rehabilitation Program

a. Definition. The recipient must be receiving rehabilitation in a program administered by a licensed rehabilitation center under a written individualized plan with specific dates of beginning and ending services.

b. Certification Requirements. Certification by a rehabilitation counselor or doctor of medicine.

c. Acceptable Documentation. Includes dates of the required leave of absence, the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.

d. Filing Requirements. The recipient must file a written request, with the required certification and documentation, within 60 days after occurrence of the qualifying treatment.

e. Maximum Length of Deferment. Up to two academic years.

3. Temporary Disability of Recipient, Child, Parent, Spouse, or Guardian

a. Definition. Temporary total disability of recipient or recipient's dependent, parent, guardian or spouse of whom recipient is primary care-giver.

b. Certification Requirements. Certification by a qualified physician.

c. Acceptable Documentation. Includes dates of the required leave, the length of the recovery or disability period, the beginning and ending dates of the doctor's care, the required treatment.

d. Filing Requirements. The recipient must file a written request with the required certification and documentation no earlier than 30 days but within 60 days after the occurrence of disability.

e. Maximum Length of Deferment. A deferment under §2105.B.3 for Temporary Disability of the Maker shall not exceed 36 months. A deferment under §2105.B.3 for Temporary Disability of any other person shall not exceed 12 months.

4. Military Service, Peace Corps, National Service Corps, VISTA

a. Definition. The recipient is called on active duty status with the United States Armed Forces or is performing emergency state service with the National Guard or is serving in the Peace Corps, National Service Corps or VISTA.

b. Certification Requirements. Certified by a written statement from the commanding officer or regional supervisor or certified military orders.

c. Acceptable Documentation. Includes dates of required leave of absence, the semester(s) or number of days involved, the length of duty (beginning and ending dates).

d. Filing Requirements. The student/recipient must file a written request with the required certification and documentation, within 60 days after receipt of military orders or letter of appointment.

e. Maximum Length of Deferment. Up to the length of the required service period.

5. Recipient is engaging in a full-time course of study at an institution of higher education at the baccalaureate level or higher. A deferment under §2105.B.5 shall not exceed 36 months; or

6. Recipient is:

a. seeking and unable to find full-time employment for a single period not to exceed 12 months; or

b. seeking and unable to find full-time teaching employment at a qualifying Louisiana school for a period of time not to exceed 27 months.

C. Cancellation of Repayment Obligation. Upon submission of applicable proof, loans may be canceled for the following reasons:

1. death of the recipient;

2. complete and permanent disability of the recipient which precludes the recipient from gainful employment.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998).

§2107. Funding and Fees

A. Limitation of Terms Funded

1. Routine funding for all Scholarship and Grant Programs is limited to the fall, winter and spring school terms.

2. Extensions will be granted for the TOPS Opportunity, Performance, and Honors Awards for an institution's educational programs that require recipients to attend summer sessions to complete the program's mandatory courses when such courses are not offered during regular terms.

B. Fees. The LASFAC may charge a variable fee not to exceed \$10 for each award check processed for recipients of the T.H. Harris Scholarship. This fee will be charged only if the Louisiana Legislature fails to appropriate sufficient state general funds for administration of this program. The LASFAC, at its discretion, may automatically deduct the fee from each T.H. Harris Scholarship award check.

C. Less than Full-Time Attendance. The LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards and the T.H. Harris Scholarship Program for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

1. requires less than full-time enrollment to complete the undergraduate degree; or

2. is enrolled in a degree program that defines *full-time* as less than 12 hours per semester or eight hours per quarter; or

3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

D. Insufficient Funds Appropriated

1. All LASFAC administered State Scholarship and Grant Program Awards are contingent upon the annual appropriation of funds by the Louisiana Legislature.

2. In the event appropriated funds are insufficient to fully reimburse institutions for awards and stipends for all students determined eligible for the TOPS Opportunity,

Performance, Honors and TECH Awards for a given academic year, then the number of eligible students shall be reduced in accordance with the following procedures until such funds are sufficient.

a. Applicants who do not submit financial data on the FAFSA to allow determination of eligibility for federal aid will be the first students eliminated from consideration if insufficient funds are appropriated for the program.

b. After the elimination of students under §2107.D.2.a, if funds are still insufficient to award all of those students who remain eligible for award year 1998-99, then those students qualified by the actions of the First Extraordinary Session of 1998 shall be funded only after all awards to all students who are eligible pursuant to the requirements of this Chapter as they existed prior to any Act of the 1998 First Extraordinary Session of the Legislature are fully funded. Students qualified by actions of the First Extraordinary Session of 1998 include the following:

i. students qualified by reduction of Foreign Language requirement for 1996-97 and 1997-98 graduates;

ii. students qualified as Exceptional Students/Students with disabilities;

iii. students who graduated from out-of-state high schools; and,

iv. students who completed an Approved Home Study Program.

c. After the elimination of students in §2107.D.2.a and b, if funds are still insufficient to award all of the remaining students, then those who remain will be prioritized according to their ACT score and, within ACT score, by their EFC in ranges of \$1,000, from lowest to highest. Beginning with the lowest qualifying ACT score, the students with the highest EFC shall be eliminated until the funds available are sufficient to award all remaining students or until all students with that ACT score have been eliminated. This process shall be repeated, beginning with the lowest ACT score and progressing to the highest ACT score, until the projected expenditure for awards equals the funds appropriated for that purpose.

d. After the elimination of students in §2107.D.2.a, if funds are sufficient to award all students who were eligible prior to the Act of the 1998 First Extraordinary Session of the Legislature, but are insufficient to award all students made eligible under such Act and listed in §2107.D.2.b, then those students made eligible by such Act shall be rendered ineligible by application of §2107.D.2.c, above, until funds available are sufficient to award all remaining students.

3. From among those students otherwise eligible who are denied an award because of the imposition of the procedures in §2107.D.2, if additional funds subsequently become available for expenditure in the same award year, those students who have the highest ACT scores and the least capacity to pay, as evidenced by their families' lower EFC, shall be the first to be awarded by reversing the procedure described in §2107.D.2.c.

E. Stop Payment of Uncleared Checks. The LASFAC may stop payment on checks which are issued as scholarship or grant awards but not negotiated by September 1 following the close of the academic year for which they were issued.

F. Transferability of Funds. A student receiving an award under the Tuition Opportunity Program for Students (TOPS), Rockefeller State Wildlife Scholarship and/or the T.H. Harris Scholarship may have his award transferred to another postsecondary institution which is authorized to participate in these programs, as described in §1901. The student must meet all continuation requirements and submit a Scholarship and Grant Transfer Request Form.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1919 (October 1998).

§2109. Appeal of Adverse Discretionary Decisions

A. Policies for Appeal of Adverse Discretionary Decisions

1. The Louisiana Student Financial Assistance Commission (LASFAC or commission) has established a formal appeal process consistent with the Louisiana Administrative Procedure Act by which aggrieved parties may appeal an agency adverse discretionary decision. An agency adverse discretionary decision is a decision made by agency staff based on an interpretation of legislative or regulatory intent and which has an adverse impact on an applicant or participant in a program administered by the commission. An applicant or program participant who believes the agency has incorrectly interpreted legislative or regulatory intent in making a decision and, said decision having adversely affected the applicant or participant, may file an appeal.

2. The appeal process allows for an initial review or hearing to be held by a hearing officer or an appeal committee appointed by the commission, depending upon the level of review requested.

3. If after the decision of the appeal committee or hearing officer the appellant is not satisfied, then he will have the right to seek review of the decision by the full commission.

4. If the commission refuses to review the decision of the hearing officer or the appeal committee, then the aggrieved party has the right to seek a rehearing on the matter by the full commission.

5. If the application for a rehearing is denied, then the aggrieved party has the right to seek judicial review.

B. Procedure for Appeal of Adverse Discretionary Decisions

1. Adverse discretionary decisions made by the Louisiana Office of Student Financial Assistance may be appealed to the Louisiana Student Financial Assistance Commission.

a. Petitions for appeal must be in writing and filed within 30 days of notice of the decision or, if no notice is given within 30 days from becoming aware of or the date the aggrieved party should have been aware of the adverse decision.

b. The appeal must be addressed to the Executive Director, Office of Student Financial Assistance and sent to Box 91202, Baton Rouge, LA 70821-9202, or hand delivered to the physical address of LASFAC in Baton Rouge.

c. Appeals may not be supplemented or amended after the lapse of 30 days. An appellant has the right to file a written appeal or have his appeal heard orally. Requests for an oral

hearing must be made within the 30-day time period to file the appeal.

i. If no request for an oral hearing is made, then the appellant may submit documentation and/or written memorandum to support his appeal at least 15 days prior to the review of the commission or the appeal committee appointed by the commission. Appellant will be notified at least 30 days prior to the date of the review by the commission or the appeal committee appointed by the commission. The commission or the appeal committee will review all the evidence submitted and render a decision.

ii. If the appellant requests an oral hearing, then appellant will be given at least 30 days prior notice of the hearing. The commission shall appoint a hearing officer to hear the appeal of the appellant. All hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

2. If after the review of the appeal committee or after a hearing held before the hearing officer a decision adverse to the appellant is made, then appellant may seek to have the decision reviewed by the full commission.

a. The application for review must be made within 15 days of appellant receiving notice of the decision. The appellant may submit exceptions, written arguments or briefs to support the application for review.

b. No oral hearing shall be held at this level of review. All action is stayed pending review by the full commission.

i. If the full commission denies the application for review, then the action becomes final as of the date of the denial for review.

ii. If the full commission denies the application for review then it shall set a hearing date to review the decision of the hearing officer.

3. The appellant may seek a rehearing of an adverse decision made by the full commission. The request for rehearing must conform to the provisions and time limits set by R.S. 49:959. An application for rehearing does not stay any action taken by the commission.

4. Oral Hearing. All hearings shall be held pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

a. On the day of the oral hearing appellant and appellee shall be prepared to start the hearing at the time specified in the notice of hearing.

b. The hearing may be continued for good cause provided a written request for extension is received at the commission at least seven days prior to the date of the hearing.

i. All parties will be notified of a rescheduling or postponement of the hearing.

ii. Failure to be present at the hearing and ready to proceed may result in an adverse decision against the nonappearing party.

iii. Strict rules of evidence will not apply in these hearings. The appellant shall have the following rights at the hearing:

(a) the right to present testimony, introduce evidence, and call witnesses on his behalf;

- (b). the right to cross exam witnesses called by the agency;
- (c). the right to subpoena witnesses;
- (d). the right to take depositions;
- (e). prior to the hearing, the right and the opportunity to review agency records that are relevant to his appeal; and to make copies of those records at a cost of \$.20 per page;
- (f). the right to be represented by counsel.

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 24:650 (April 1998), amended LR 24:1920 (October 1998).

§2113. Revision of the Core Curricula

LASFAC shall continually consult with BESE and the Louisiana Board of Regents to evaluate the adequacy of the TOPS core curricula to prepare students for postsecondary studies. Upon receipt of a written recommendation from either BESE or the Board of Regents that the curricula be revised, LASFAC shall draft such revision and submit the proposed revision to BESE and the Board of Regents. BESE and the Board of Regents shall formally act to recommend or reject the proposed change and notify LASFAC, in writing, of their actions. If both boards recommend the proposed change, LASFAC shall promulgate a notice of intent to adopt rule amending the core curricula as recommended. Such revisions of the core curricula shall be limited to updating the names of courses or establishing course equivalencies for any course included in the definition of core curriculum.

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 24:1921 (October 1998).

Jack L. Guinn
Executive Director

9810#25

RULE

**Department of Elections and Registration
Office of the Commissioner**

**Elections and Registration Information Network
Registrar of Voters User Manual and Commercial Services
Cost Schedule (LAC 31:II.301)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 18:31, the Department of Elections and Registration hereby adopts the rule detailed below which provides for an Elections and Registration Information Network Registrar of Voters User Manual and commercial services cost schedule.

In the Potpourri section of the July 20, 1998 issue of the *Louisiana Register*, the Department of Elections and Registration announced a public hearing to consider substantive changes to the Notice of Intent which was published in the March 20, 1998 issue of the *Louisiana Register*. As a result of this public hearing and legislative

oversight hearings, the substantive changes have been incorporated into the rule.

**Title 31
ELECTIONS**

Part II. Voter Registration

Chapter 3. Registrar of Voters

**§301. Elections and Registration Information Network
Registrar of Voters User Manual and Commercial
Services Cost Schedule**

A. The commissioner of elections has established a state voter registration computer system for the registration of voters throughout the state.

B. The commissioner of elections shall provide all registrars of voters with an Elections and Registration Information Network Registrar of Voters User Manual to be utilized with respect to the state voter registration computer system. This manual shall establish procedures with respect to all records, data, and information required for the registration of voters and the transfer of information to the department. All registrars of voters shall utilize this manual to insure the proper registration of voters. A uniform cost for the preparation of lists of registered voters shall be included in the user manual. Any updates of the manual provided by the Department of Elections and Registration to the registrars of voters shall be incorporated into the manual by each registrar of voters.

C. The Elections and Registration Information Network Registrar of Voters User Manual shall be submitted to the state attorney general's office for approval. Any updates to the manual shall also receive approval by the state attorney general's office.

D. The Elections and Registration Information Network Registrar of Voters User Manual shall be submitted to the Committee on House and Governmental Affairs and the Senate and Governmental Affairs Committee for their information. Both committees shall be kept informed of any changes to the manual.

E. The commissioner of elections establishes the commercial services cost schedule as follows.

1. Hardcopy Lists

Number of Voters	Cost
1 - 2,000 voters	\$ 50.00
2,001 +	\$ 0.025 x number of voters
(If the total number of voters is less than 2,001, the minimum charge of \$ 50.00 plus delivery applies.) Additional copies of list would cost \$0.005 times the number of voters.	

2. Labels

Number of Voters	Cost
1 - 1,428 voters	\$ 50.00
1,429 +	\$ 0.035 x number of voters
(If the total number of voters is less than 1,429, the minimum charge of \$ 50.00 plus delivery applies.) Additional copies of labels would cost \$0.01 times the number of voters.	

RULE

**Department of Elections and Registration
Office of the Commissioner**

**Procurement of Voting Machine Drayage
(LAC 31:III.Chapter 7; repeal of §§737 and 739)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 18:1371, the Department of Elections and Registration hereby amends the following rules related to the procurement of voting machine drayage. LAC 31:III.701, 705, 707, 711, 715, 719, 729, 735, 743, and 747 is hereby amended and §§737 and 739 are hereby repealed. Chapter 7 is renamed "Procurement of Voting Machine Drayage" to reflect changes in the content of the Chapter.

In the Potpourri section of the July 20, 1998 issue of the *Louisiana Register*, the Department of Elections and Registration announced a public hearing to consider substantive changes to the Notice of Intent which was published in the March 20, 1998 issue of the *Louisiana Register*. As a result of this public hearing and legislative oversight hearings, the substantive changes have been incorporated into the rule.

**Title 31
ELECTIONS**

Part III. Procurement

Chapter 7. Procurement of Voting Machine Drayage

Subchapter A. General Provisions

§701. Authority and Duties of the Commissioner of Elections

A. The commissioner of elections shall have the authority and responsibility to promulgate rules and regulations governing the procurement, management, and control of all voting machines drayage required and set forth in R.S. 18:1371.

B. The chief procurement officer of the Department of Elections and Registration shall be the commissioner of elections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:595 (June 1991), amended LR 24:1922 (October 1998).

§705. Delegation of Signature Authority

A. The commissioner of elections or his designee shall sign all contracts for drayage of voting machines.

B. This delegation of signature authority must be in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:595 (June 1991), amended LR 24:1922 (October 1998).

§707. Definition

Drayage—the transporting or cartage of voting equipment as directed by the commissioner of elections.

3. Tape

a. There will be an Up-Front charge of \$150.00 plus a per voter charge as follows:

Number of Voters	Cost
1 - 50,000	\$0.025 x number of voters (max. \$ 1,250)
50,001 - 100,000	\$0.020 x number of voters (max. \$ 1,000)
100,001 - 250,000	\$0.015 x number of voters (max. \$ 2,250)
250,001 - 500,000	\$0.010 x number of voters (max. \$2,500)
500,001 - 1,000,000	\$0.008 x number of voters (max. \$4,000)
1,000,001 - 2,500,000	\$0.005 x number of voters
(An example would be a tape with 250,000 voters and would cost \$150 + \$1,250 + \$1,000+\$2,250 = \$4,650.)	

b. Tape Updates. Four updates may be purchased within one year from the date of the original purchase at a cost of \$0.005 times the number of voters. Selection criteria for the updates must be the same as specified on the original order. A tape update is usually a new copy of all records.

4. Floppy Disk

Number of Voters	Cost
1 - 1,000	\$50.00
1,001 +	\$0.05 x number of voters
(If the total number of voters is less than 1,001, the minimum charge of \$50.00 applies.)	

5. Delivery. The cost for courier service shall be \$5.00 per job.

6. Special Requests. The prices above apply to requests using the standard criteria. A \$50.00 per hour programming charge will be added for any "special request." Registrars of voters must check with Data Processing prior to agreeing to a request that does not conform to the standard criteria.

F. Copies of the Elections and Registration Information Network Registrar of Voters User Manual can be viewed at the Department of Elections and Registration Office, 4888 Constitution Avenue, Baton Rouge, LA or at each office of the registrars of voters throughout the state, or at the Office of the State Register, 1051 North Third Street, Suite 512, Baton Rouge, LA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18 and R.S. 18:31.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 24:1921 (October 1998).

Jerry M. Fowler
Commissioner

9810#074

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:595 (June 1991), amended LR 24:1922 (October 1998).

Subchapter B. Competitive Sealed Bidding

§711. Invitation for Bids, Public Notice, and Bid Opening

A. All contracts for the drayage of voting machines shall be awarded by competitive sealed bidding on a parish or regional basis. If the commissioner of elections determines a bid will be awarded on a regional basis, the criteria shall include but not necessarily be limited to:

1. not more than four parishes in a region;
2. not more than 1,000 voting machines in a region;
3. uniform beginning delivery time with continuous drayage for each parish in a region;
4. uniform beginning return time with continuous drayage for each parish in a region;
5. input will be solicited from each clerk of court affected to be included in a regional bid; and
6. a cost savings when bid on a regional basis.

B. Competitive sealed bidding shall be accomplished by sending out written notices to persons known to be able to provide the department's requirements, and by advertising in accordance with R.S. 18:1371 at least 30 days prior to bid opening.

1. Written notices shall be mailed to those persons who have previously requested an Invitation for Bids for said parish or parishes, if regional, within the previous four years. The written notices shall be mailed to any parish governing authority included in the bid to be let.

2. The written notices and advertisements shall announce:

- a. the type of contract;
- b. the parish or region for which the contract is required;
- c. the method of acquiring an Invitation for Bids; and
- d. the date, time, and place of bid opening.

3. Advertisements shall be published in the state official journal and in the official journal of the parish or parishes, if regional, for which the contract is required. Advertisements shall be published in a newspaper of general circulation printed in such parish or parishes, if regional, or, if there is no newspaper printed in such parish or parishes, if regional, in a newspaper printed in the nearest parish that has a general circulation in the parish or parishes, if regional, covered by the contract.

4. A notice shall be sent to the parish governing authority and the clerk of court of the parish or parishes, if regional, for which the contract is required. The clerk of court shall prominently post such notice in his office.

C. The Invitation for Bids shall contain:

1. complete description of the transportation required;
2. all applicable terms, conditions, and other requirements;
3. types and limits of insurance required;
4. bid and performance bonding requirements; and
5. factors which will be used to determine responsibility of bidders.

D. Bids shall be publicly opened and read as specified in the Invitation for Bids in the presence of one or more witnesses. Bidders and the public may be present at any bid opening.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371 and R.S. 39:1594.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:595 (June 1991), amended LR 19:175 (February 1993), LR 24:1923 (October 1998).

§715. Responsibility of Bidders

A. The commissioner of elections or his designee may make reasonable inquiries to determine the responsibility of prospective contractors. In making his determination, the following factors will be considered:

1. has available the appropriate financial, material, equipment, and personnel resources and expertise, or the ability to obtain them, necessary to indicate the capability to meet all contractual requirements;
2. has a satisfactory record of performance on previous state contracts and with other persons;
3. is qualified legally to contract with the state of Louisiana (Prior to award of any contract, the successful bidder shall affirm by affidavit that he or she and/or the principal officers of a corporation are not currently under any felony conviction.); and
4. has reasonably supplied any information requested by the commissioner of elections in establishing responsibility.

B. Each bidder who is determined to be non-responsible shall be notified in writing. Such notification shall state all reasons for disqualification, and give each bidder who is proposed to be disqualified, a reasonable opportunity to refute the reasons for disqualification at an informal hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1601.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:596 (June 1991), amended LR 24:1923 (October 1998).

§719. Bid Guaranty and Bond

A. If specified in the Invitation for Bids, a bond, certified check, or money order payable to the Department of Elections and Registration in the amount of 5 percent of the bid must accompany each bid submitted.

B. If a bidder withdraws his bid after bid opening, without complying with LAC 31:III.717, or fails to execute a contract within 20 days of request, the bid bond or other security shall be forfeited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371 and LAC 34:I.523.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:596 (June 1991), amended LR 24:1923 (October 1998).

§729. Rejection of Bids; Cancellation of Solicitations

A. The commissioner of elections reserves the right to reject any and all bids when it is in the best interest of the state of Louisiana.

1. Reasons for rejecting a bid include, but are not limited to:

- a. a determination of nonresponsibility has been made against a bidder;

b. the bid is not responsive (i.e., it did not meet specifications or comply with terms and conditions).

2. Reasons for canceling a solicitation include, but are not limited to:

- a. the department no longer requires the service;
- b. bids received exceeded budgeted funds or were unreasonable;
- c. the solicitation was flawed (i.e., specifications were not complete or were ambiguous);
- d. there is reason to believe that the bids received may have been collusive;
- e. there is inadequate competition indicated by low response to the solicitation.

B. When bids are rejected, or a solicitation is canceled, written notices shall be given to the bidders, giving the reasons for the rejection or cancellation.

C. When a solicitation is canceled, where appropriate, bidders will be given the opportunity to bid on the new solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581, R.S. 39:1599, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:597 (June 1991), amended LR 24:1923 (October 1998).

§735. Specifications

All specifications shall be written so as to promote as much competition as possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:598 (June 1991), amended LR 24:1924 (October 1998).

§737. Warehouse Specifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:21, R.S. 39:1581, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:598 (June 1991), repealed LR 24:1924 (October 1998).

§739. Lease Amendments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:2(B), R.S. 39:1644, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:598 (June 1991), repealed LR 24:1924 (October 1998).

§743. Right to Protest

A. All proceedings herewith shall be carried out in accordance with the Conduct of Hearing Rules set forth in LAC 34:I.Chapter 31.

B. Any bidder may protest a solicitation or an award of a contract to the commissioner of elections.

C. In regard to the solicitation of a drayage contract, the protest must be made in writing at least two days prior to the opening of bids.

D. In regard to the award of any contract, a written protest must be made within 14 days after the contract is awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1671 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:598 (June 1991), amended LR 24:1924 (October 1998).

§747. Suspension and Debarment

A. A bidder and its principal officers and agents may be debarred or suspended from consideration for award of contracts during an investigation for probable cause if it is in the best interests of the state.

B. The commissioner of elections may suspend or debar a person for cause after notice to the bidder has been given, and the bidder has had a reasonable opportunity to respond. A bidder may be suspended if the commissioner of elections determines that there is probable cause to believe that the bidder has engaged in any activity to lead to debarment.

1. The period of time for the suspension of a drayage contract shall be one complete cycle of bidding in all parishes.

2. The period of time for debarment of a drayage contract shall be two complete cycles of bidding in all parishes.

C.1. Causes for debarment shall be in accordance with R.S. 39:1672(C).

2. In addition to the provisions of R.S. 39:1672(C), the commissioner of elections may debar a bidder for the following reasons:

a. the bidder has withdrawn a bid after an award, for whatever reason, more than once;

b. the commissioner of elections may declare other specific reasons for suspension or debarment which is in the best interests of the state.

D. The commissioner of elections shall notify the debarred or suspended bidder in writing of the decision stating the reasons for the action taken. Such notification shall also inform the debarred or suspended bidder's rights to administrative and judicial review.

E. The decision of the commissioner of elections or his designee shall be final unless:

1. the decision is fraudulent; or

2. the person has appealed to the commissioner of administration in accordance with R.S. 39:1684.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1672 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:599 (June 1991), amended LR 24:1924 (October 1998).

Jerry M. Fowler
Commissioner

9810#073

RULE

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division**

Federal Transportation Conformity
(LAC 33:III.1434)(AQ173)

(Editor's Note: The following Section of a rule published on pages 1683-1686 of the September 20, 1998 Louisiana Register is being repromulgated to include text which was inadvertently omitted.)

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

**Chapter 14. Conformity
Subchapter B. Conformity to State or Federal
Implementation Plans of
Transportation Plans, Programs, and
Projects Developed, Funded, or
Approved Under Title 23 U.S.C. or the
Federal Transit Laws**

§1434. Consultation

A. Pursuant to 40 CFR 93.105 interagency consultation (federal, state, and local) shall be undertaken before making conformity determinations and before adopting applicable State Implementation Plan (SIP) revisions.

* * *

[See Prior Text in B]

1. Representatives of the MPOs, DEQ, and the state and local transportation agencies shall collectively undertake an interagency consultation process in accordance with this Section with local or regional representatives of EPA, FHWA, and FTA on the development of the applicable implementation plan, the list of TCMs in the applicable implementation plan, the unified planning work program under title 23 CFR section 450.314, the transportation plan (TP), the TIP, any revisions to the preceding documents, and associated conformity determinations required by this regulation.

* * *

[See Prior Text in B.2-E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), amended LR 24:1684 (September 1998), repromulgated LR 24:1925 (October 1998).

Gus Von Bodungen
Assistant Secretary

9810#075

RULE

**Department of Environmental Quality
Office of Water Resources
Water Quality Management Division**

Mermentau River Basin Use Attainability
Analysis (LAC 33:IX.1123)(WP029)

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.1123.C.3 (Log Number WP029).

As part of the Louisiana Water Quality Management Plan the state publishes a list of priority water bodies biennially under Clean Water Act (CWA) section 305(b). In accordance with CWA section 303(d), water bodies are placed on the list of priority water bodies because assessment methodology indicates they do not meet applicable water quality standards. After further review and assessment, some of these water bodies may be prioritized for field work, Use Attainability Analyses (UAAs), and if appropriate, water body modeling for Total Maximum Daily Loads (TMDLs). However, until a UAA is conducted to determine the "attainable" uses and criteria, a TMDL based upon national criteria may be inappropriate for many water bodies. Water bodies which have been classified as the highest priority on Louisiana's 1998 303(d) list include six streams in the Mermentau River Basin:

Bayou Des Cannes—headwaters to Mermentau River, 050101; Bayou Plaquemine Brule—headwaters to Bayou Des Cannes, 050201; Bayou Nezpique—headwaters to Mermentau River, 050301; Mermentau River—origin to Lake Arthur, 050401; Bayou Queue de Tortue—headwaters to Mermentau River, 050501; and Lacassine Bayou—headwaters to Grand Lake, 050601. A UAA has determined that naturally dystrophic waters critical periods for dissolved oxygen (DO) occur in the months of March through November in these six Mermentau River water body segments. However, while these waters bodies may experience naturally occurring seasonal variations in DO, no changes in designated uses are made. The recommended DO criteria are:

December through February	5.0 mg/L; and
March through November	3.0 mg/L.

The UAA presents the required information for a site specific water quality standard revision to the DO standard in accordance with state and federal water quality regulations, policies, and guidance.

The basis and rationale for this rule are to comply with the CWA and achieve the national goal of attaining water quality which provides for the protection and propagation of fish,

shellfish, and wildlife, and provides for recreation in and on the water. Analyses of use attainability are conducted by the department to determine the uses and criteria an individual water body can attain. The UAA process entails the methodical collection of data which is then scientifically analyzed and summarized and used to establish site-specific uses and criteria.

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.

- 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

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality Regulations

Chapter 11. Surface Water Quality Standards

§1123. Numerical Criteria and Designated Uses

* * *

[See Prior Text in A - C.2]

3. Designated Uses. The following are the category definitions of Designated Uses that are used in Table 3 under the subheading "DESIGNATED USES."

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 - 042209]									
	MERMENTAU RIVER BASIN (05)								
050101	Bayou Des Cannes - Headwaters to Mermentau River	A B C F	90	30	[16]	6.0-8.5	1	32	260
* * * [See Prior Text in 050102 - 050103]									
050201	Bayou Plaquemine Brule - Headwaters to Bayou Des Cannes	A B C F	90	30	[16]	6.0-8.5	1	32	260
050301	Bayou Nezpique - Headwaters to Mermentau River	A B C F	90	30	[16]	6.0-8.5	1	32	260
* * * [See Prior Text in 050302 - 050304]									
050401	Mermentau River - Origin to Lake Arthur	A B C F	90	30	[16]	6.0-8.5	1	32	260
* * * [See Prior Text in 050402]									
050501	Bayou Queue de Tortue - Headwaters to Mermentau River	A B C F	90	30	[16]	6.0-8.5	1	32	260
050601	Lacassine Bayou - Headwaters to Grand Lake	A B C F	90	30	[16]	6.0-8.5	1	32	400
* * * [See Prior Text in 050602 - 120806]									

[See Prior Text in [1] through [15]]

ENDNOTES:

* * *

[16] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/L December - February, 3 mg/L March - November.

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).

Linda Korn Levy
Assistant Secretary

9810#062

RULE

Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

Election Nominations and Committee; Ballot Procedure;
Board Member Installation; Inquiries and Special Education
(LAC 58:V.1701-1711)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity ("Fund"), pursuant to R.S. 11:3363(F), has adopted rules and regulations regarding the conduct of nominations and election of Trustees to the Board of the Fund from the ranks of eligible active and retired members of the New Orleans Fire Department. These rules regulate the election process conducted pursuant to R.S. 11:3362(A) and (B), by providing safeguards for the secrecy of the ballot and integrity of the system of ballot tabulation.

Title 58

RETIREMENT

Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Chapter 17. Election Rules

§1701. Nominations

A. Election for positions on the Board of Trustees as described in R.S. 11:3362(A)(2) and (3) will be held in the second week of December every two years on odd numbered years. Elected members will be seated on the second Wednesday in January of the following year.

B. Notices for nomination will be carried in monthly Fund minutes, beginning in August of any election year.

C. Nominations for vacant positions will be accepted from eligible members in writing during the second week in November (Monday-Friday, 9 a.m.-4 p.m.) in the Fund office. The Fund office will forthwith notify all nominees of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1927 (October 1998).

§1703. Election Committee

All members nominated for the Board will automatically become members of the election committee for the election in which they have been nominated. The committee will serve until the next election is held. On the Wednesday following the close of nominations, the election committee will meet to

review all the rules of the election. The committee can discuss procedures but will not have the authority to change any rules for any election. Any committee member may offer recommendations or rule changes for any subsequent election, which shall be recorded in the minutes of the committee or a special report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1927 (October 1998).

§1705. Ballot Procedure

A. Ballots with security envelopes and return envelopes will be mailed out on the fourth Monday in November, subject to the following controls.

1. Outgoing postage receipt of total mailing will be kept at the pension office.

2. The listing of all members mailed ballots will be kept at the pension office. Any member may inspect, but not copy, the voter mailing list.

3. The election committee will make available to members with the number of names added to the list after the initial mailing and the number of duplicate ballots mailed to members who did not receive the original ballot.

4. The election committee will account for all ballots (used and unused).

B. All ballots must be returned, signed, no later than 4 p.m. on the second Wednesday in December, subject to the following controls.

1. Ballots will be verified for eligibility by pension office staff daily.

2. The election committee will have authority to check for eligibility prior to counting of ballots.

3. A current account of envelopes returned will be preserved.

4. Ballots will be placed in two secured ballot boxes at the pension office. Separate boxes will be maintained for active and retired members.

5. Each ballot box will be secured with two different locks. The election committee will designate two incumbent members and two non-incumbent member nominees to control the keys to all four locks.

C. The following voting instructions and procedures shall apply.

1. Each member will receive an official ballot with voting instructions.

2. A blank security envelope and a self-addressed stamped envelope addressed to:

Firefighters' Pension and Relief Fund
329 South Dorgenois Street
New Orleans, LA 70119

3. Members must vote for only the specified number of candidates in the appropriate sections. Members may vote for less than the specified number, however, voting in excess of the specified number, in the appropriate section, will spoil the ballot for that section.

4. Members should place their ballot in the security envelope, then seal the envelope. The security envelope should then be placed inside the self-addressed, stamped envelope.

RULE

**Office of the Governor
Office of Elderly Affairs**

Long Term Care Ombudsman
(LAC 4:VII.1229)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Governor's Office of Elderly Affairs (GOEA) hereby amends §1229 of the GOEA Policy Manual effective October 20, 1998. The purposes of this amendment are to update definitions to conform to current related statutory language; to modify the provisions for designation of local ombudsman entities; to create separate visitation standards for adult residential care facilities and skilled nursing facilities in hospitals and rehabilitation centers; and to modify the on-going training requirements for ombudsmen. This rule complies with Section 701 of the Older Americans Act.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter D. Service Provider Responsibilities

§1229. Office of the State Long Term Care Ombudsman

A. - B.1. ...

2. a nursing facility as defined in Section 1919(a) of the Social Security Act;

3. a nursing home as defined in Section 1098(3) of the Social Security Act;

4. any nursing home or adult residential care home licensed by the state or required to be licensed by the state under the terms of R.S. 40:2009.12, and R.S. 40:2151-2163.

C.1. - 4. ...

5. to provide information to public agencies, legislators, the general public, the media and others, as deemed necessary and feasible by the Office, regarding the problems and concerns, including recommendations related to such problems and concerns, of older individuals residing in long-term care facilities;

C.6. ...

7. to coordinate ombudsman services with the protection and advocacy systems for individuals with disabilities established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.), under the Protection and Advocacy of Mentally Ill Individuals Act of 1986 (42 U.S.C.10801 et seq.); and under the Protection and Advocacy of Individual Rights (29 U.S.C. 794(e)); and

8. to include any area or local ombudsman entity designated by the State Long Term Care Ombudsman.

D.1. - D.2.a.vii. ...

b. The State Ombudsman shall designate each local ombudsman entity. Any representative (as defined in R.S. 40:2010.1) of an entity so designated (whether an employee

5. Members must sign the self-addressed envelope in the upper left corner in the space provided. A member's signature shall serve as proof of eligibility. Any envelopes not signed will be rejected.

6. All ballots must be returned signed, to the fund office, no later than 4 p.m. on the second Wednesday in December.

D. All ballots will be counted at the Fund Office at 9 a.m. on the Thursday following the deadline for ballots to be returned, subject to the following conditions.

1. The election committee shall report to the pension office no later than 8:30 a.m.

2. The election committee is to oversee the counting of ballots.

3. The election committee is responsible for accuracy of votes counted.

E. Envelopes and ballots will be maintained and preserved at the pension office for three months following any election.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1927 (October 1998).

§1707. Installation of Elected Members

Newly elected board members will be seated at the meeting held on the second Wednesday in January of the following year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1928 (October 1998).

§1709. Election Inquiries

A. Any questions from members regarding the election should be directed to the election committee, in writing, addressed care of the Fund Secretary-Treasurer.

B. The election committee may propose comments, suggestions and recommendations on any changes for the next election to be held following the election under its supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1928 (October 1998).

§1711. Special Elections

Special elections must be called within 30 days of any vacancy on the board, caused by death, resignation or otherwise. The foregoing rules for regular elections shall apply to all special elections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1928 (October 1998).

Richard Hampton
Secretary-Treasurer

9810#001

or an unpaid volunteer) shall be treated as a representative of the Office for purposes of this Section.

D.2.c.i. ...

ii. submit for approval by the State Long Term Care Ombudsman a written plan of visitation which provides for regular visitation to each facility in the service area by program personnel. Every facility must be visited by a certified ombudsman at least once per month, except that skilled nursing facilities located in hospitals and rehabilitations centers not otherwise licensed as long-term care facilities must be visited a minimum of once every six months and adult residential care homes must be visited at least quarterly unless conditions warrant more frequent visitation. The plan of visitation shall be incorporated into the contract with GOEA.

C.2.c.iii. - E.2.a.i. ...

ii. college credit may be substituted for the service requirement at the discretion of the State Ombudsman.

E.2.b.i. - v. ...

vi. to visit in each long term care facility within the service area at least once a year;

E.2.b.vii. - E.3.a.i. ...

ii. comparable experience may be substituted for the educational requirement at the discretion of the State Ombudsman.

E.3.b.i. - 4.b.vi. ...

vii. to attend at least six hours of training a year on topics related to nursing homes, aging, managed care and the ombudsman program.

F.1. - 2.a. ...

b. The ombudsman shall be assigned to a long term care facility(ies) by the State Ombudsman after consultation with the ombudsman, and the ombudsman coordinator. The administrator of the long term care facility where the ombudsman is assigned shall be so informed by the State Ombudsman.

F.2.c. ...

3. Training

a. Individuals shall be certified as ombudsmen upon successful completion of the ombudsman certification training program. The training program consists of four components: an orientation program, a twenty-six hour training program, an examination, and an internship in a long term care facility. The State Ombudsman or his designee shall conduct the certification program. Trainees must meet the minimum personnel qualifications specified in §1229.E.3.a.

F.3.b.i. - x. ...

xi. ombudsman policies and procedures;

xii. investigative techniques; and

xiii. managed care.

c. Certification must be renewed annually. Renewal is based on successful completion of at least fifteen (15) contact hours of in-service training each year and on adherence to ombudsman policies and procedures. At least six (6) hours of this training must be sponsored by the Office. The remainder may be earned by attending any relevant training, subject to the conditions described below. If requirements for

the current year have been met, hours earned during the final quarter of a calendar year may be carried over to the following year.

F.3.d. - 4.c. ...

d. Each trainee may take the examination no more than three times, without repeating the classroom component of the training. All attempts must be made within one year of the completion of the classroom component of the training. The recommendation of the Coordinator and the permission of the State Ombudsman are required before a trainee can repeat the classroom component.

F.5. - H.1. ...

2. Records. Records may be reviewed only with the written consent of the resident or the resident's legal representative. The ombudsman may review those portions of a resident's records which are relevant to resolving a specific problem. If a resident is unable to consent to such review and has no legal representative, the ombudsman shall have access to the resident's medical and social records.

I. - L.2.b.iv. ...

c. Complaints about a Coordinator

i. Complaints about a Coordinator should be directed to the State Ombudsman. Upon receipt of a complaint, the State Ombudsman shall notify the Coordinator and his/her immediate supervisor of the complaint; conduct an investigation to determine whether the complaint is valid; advise the following persons of the findings: the complainant, the Coordinator, and the director and/or other supervisory staff of the local designated ombudsman entity; and take appropriate action to remedy the situation.

ii. If the State Ombudsman fails to respond to or act upon a complaint within 30 days, the person filing the complaint may refer the complaint to the director of the Office of Elderly Affairs.

L.2.d. - 3.c.iv. ...

d. Grievances against a Coordinator. Grievances against a Coordinator must be submitted to the State Ombudsman. Upon receipt of the grievance, the State Ombudsman shall submit a copy of the grievance to the Coordinator and his/her immediate supervisor; request that the Coordinator submit a written response within 10 working days; inform the Coordinator and the complainant of the date by which a decision shall be issued; investigate the allegation stated in the grievance; consider the relief sought by the complainant; and issue a written decision.

L.3.e. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:2010.4 and OAA Section 712(a)(5)(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:35 (January 1985), LR 11:1078 (November 1985), LR 13:742 (December 1987), LR 15:379 (May 1989), LR 17:600 (June 1991), LR 18:267 (March 1992), LR 24:1928 (October 1998).

P.F. "Pete" Arceneaux, Jr.
Executive Director

9810#003

RULE

Office of the Governor Office of Elderly Affairs

Title III-C Nutrition Services (LAC 4:VII.1223)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, the Governor's Office of Elderly Affairs (GOEA) hereby amends §1223 of the GOEA Policy Manual effective October 20, 1998. This rule redefines: the services that can be funded under Title III-C of the Older Americans Act; participant eligibility requirements; criteria for United States Department of Agriculture (USDA) support; minimum standards for service delivery; the time frame for reassessment of need for home delivered meals; packaging requirements for home delivered meals; menu standards; and mandatory menu patterns. The proposed changes are intended to improve the efficiency of program operations. This rule complies with Sections 307, 313 and 336 of the Older Americans Act.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

§1223. Title III-C Nutrition Services

A. Definitions of Nutrition Services

1. Congregate Meals. A congregate meal is a meal provided at an Older Americans Act (OAA) Title III-C Program "nutrition site" as described in Subsection F.2 of this Section. Congregate meals shall provide a minimum of one-third of the 1989 Recommended Dietary Allowance RDAs for men over 51 years or Adequate Intake (AI) for men ages either 50 to 70 years of age or 70, whichever is the higher requirement, as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council. Congregate meals may be hot, cold, or a combination of both. Congregate meals must be provided at least once a day, five or more days per week, no less than 250 days per year (except in sites located in rural areas where such frequency is not feasible and a lesser frequency is approved by the State Agency).

2. Home-Delivered Meals. A home-delivered meal is a meal served in the home to an individual who meets the criteria in Subsection B.2.a of this Section. Home delivered meals shall provide a minimum of one-third of the 1989 Recommended Dietary Allowances (RDAs) for men over 51 years or Adequate Intake (AI) for men ages either 50 to 70 years of age or 70, whichever is the higher requirement as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council. Home delivered meals may consist of hot, cold, frozen, dried, canned, or medical foods. Home-delivered meals shall be available to participants five or more days per week, no less than 250 days per year (except in rural areas where such frequency is not feasible and a lesser frequency is approved by the State Agency).

3. Nutrition Education. Nutrition Education is a

program to promote better health by providing accurate and culturally sensitive nutrition, physical fitness, or health (as it relates to nutrition) information and instruction to participants or participants and care givers in a group or individual setting overseen by a dietitian or individual of comparable expertise.

4. Outreach. The term "outreach" is defined as an intervention initiated by an agency or organization for the purpose of identifying potential clients and encouraging their use of existing services and benefits.

B. Participant Eligibility

1. Congregate Nutrition Services

a. Eligible participants include:

i. persons aged 60 or older, and their spouses, regardless of age. Preference must be given to clients who are economically and/or socially needy;

ii. handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided;

b. - c. ...

d. each area agency shall establish procedures that will allow nutrition services providers the option to offer a meal, on the same basis as meals are provided to participants, to individuals providing volunteer services during the meal hours, and to individuals who reside at home with and accompany disabled older individuals who are eligible Title III participants.

2. Home-Delivered Nutrition Services

a. Eligible participants include:

i. ...

ii. individuals with disabilities who reside at home with the recipient if receipt of the meal is deemed in the best interest of the homebound older person; and

iii. ...

b. Each area agency must establish procedures for nutrition projects to ensure that participants receiving home-delivered meals shall be selected and prioritized using GOEA's Uniform Intake and Assessment Instrument. The minimum criteria for determination of need are that the participant must be unable to leave home without assistance and have no one available to provide assistance in the preparation and consumption of a meal. Preference must be given to clients who are economically and/or socially needy. However, no criteria that disqualifies an eligible participant from receiving nutrition services shall be established.

C. USDA Entitlement

1. The United States Department of Agriculture (USDA) provides USDA food, cash, or a combination of food and cash for nutrition services providers. The Governor's Office of Elderly Affairs will distribute cash received from USDA to area agencies for nutrition services based on each agency's proportion of the total number of eligible meals served in the state. The Louisiana Department of Agriculture contracts directly with the nutrition services provider for the distribution of USDA food.

2. A meal served in Title III-C programs is eligible for USDA support, regardless of the funding source, if it meets the following three criteria.

a. The meal served provides a minimum of one-third

of the 1989 Recommended Dietary Allowance (RDAs) established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council.

b. The meal is served to an individual who is eligible for a meal as specified in Subsection B of this Section.

c. ...

2. Area Agencies must spend USDA cash for buying only United States agricultural commodities and food.

3. The requirements of 7 CFR Part 250 for participation in the USDA program govern all USDA commodity transactions for the elderly nutrition program. The nutrition services provider must establish procedures for any USDA food made available and must assure appropriate and cost effective arrangements for the transportation, storage and use of the food. The Area Agency on Aging should require the inclusion of USDA regulatory mandates in contracts/grants with Title III-C providers and subcontractors.

D. Selection of Nutrition Services Providers. An area agency may make awards for congregate and home-delivered nutrition services to a provider that furnishes either or both type(s) of service.

a. Nutrition Services Providers. The area agency must award funds for the provision of nutrition services through a competitive process in compliance with guidelines established by the Governor's Office of Elderly Affairs.

b. Home-Delivered Meals Providers. To the extent feasible, in making awards for home-delivered meals, an area agency must give preference to public, private nonprofit, and voluntary organizations which:

i. have demonstrated an ability to provide home-delivered meals efficiently and reasonably; and

ii. have furnished assurances to maintain efforts to solicit voluntary support and not to use the funds received under this part to take the place of funds from non-federal sources.

E. ...

F. Minimum Standards

1. The area agency shall assure that each nutrition service provider employs mechanisms to insure sound financial management. The area agency must develop a policy which assures that each congregate nutrition provider shall:

a. - b. ...

c. serve an average of at least 20 meals per day at each congregate site or a number that is determined to be cost effective and a lesser number is approved by the State Agency;

d. serve meals at least five days per week, no less than 250 days per year (except in sites located in rural areas where such frequency is not feasible and a lesser frequency is approved by the State Agency);

e. make special provisions as necessary for the service of meals to eligible handicapped individuals;

f. provide meals during emergencies where feasible in accordance with menus approved annually by GOEA;

g. post emergency procedures, (e.g., fire, storms, etc.);

h. have available to the public a copy of written policy for determining who is eligible to receive home-delivered meals; and

i. ...

2. Nutrition sites shall be located in as close proximity to the majority of eligible individuals' residences as feasible, with particular attention upon multipurpose senior centers, schools, churches, or other appropriate community facilities, preferably within walking distance where possible, and where appropriate, transportation to such sites is furnished. Emphasis shall be placed on locating sites in areas having high concentrations of economic or social needy older individuals.

3. The area agency must develop procedures that will assure a quarterly inspection of each nutrition site by appropriate staff.

4. ...

5. The area agency shall assess all Title III-C Nutrition Program participants using GOEA's Uniform Intake and Assessment Instrument for all nutrition participants. At a minimum, each client's record should include: the participant's name, address, telephone number, date of birth, sex, and emergency information.

6. - 7. ...

8. Exceptions to the assurances in Paragraph 1 of this Subsection must be approved in writing by the Governor's Office of Elderly Affairs.

G. ...

H. Reassessment for Home Delivered Meals. Each home-delivered meals provider must reassess the need for home-delivered meals and other nutrition services in accordance with GOEA uniform intake and assessment procedures.

I. ...

J. Food Stamp Program. Nutrition services providers must assist participants in taking advantage of benefits available to them under the food stamp program. Nutrition services providers must coordinate their activities with agencies responsible for administering the food stamp program to facilitate participation of eligible older persons in the program.

K. - M.3. ...

4. Cold and hot food must be packaged and packed separately. Divided containers must be used for hot food. Appropriate individual containers with tight fitting lids must be used for all cold food. "Sandwich" type bags which can be sealed may be used for bread. Bread must not be placed on top of other food. All food delivery equipment and carriers must be sanitized daily.

N. - P. ...

Q. Menu Standards

1. Menus prepared for the nutrition program must:

a. be accompanied by nutrient calculations using computer software based on *Bowes and Church's Food Values of Portions Commonly Used, USDA Handbook Number 8*, or other appropriate nutrient data base;

b. be certified in writing by the licensed dietitian/nutritionist whose services are utilized by the provider as providing one-third of the current Recommended Dietary Allowances (RDAs) for men over 51 years or Adequate Intake (AI) for men ages either 50 to 70 years of age or 70, whichever is the higher requirement;

c. incorporate the dietary guidelines of the U.S. Department of Agriculture.

i. The total fat content, based on total calories, must not exceed 35 percent of the meal. The sodium content of the meal must fall within the range of a "NO ADDED SALT" diet (no more than 1,000-1,300 milligrams of sodium per meal). High fiber foods should be included in meals.

ii. Sodium and fat restrictions may be waived for emergency meals only.

d. - h. ...

2. Service providers shall use the following menu pattern.

a. Meat or Meat Alternate Group. A serving shall consist of three ounces of cooked, edible meat, fish or fowl; eggs; or cheese. Meat alternates such as cooked dried beans are encouraged in order to increase fiber and lower fat content of meals. (One-fourth cup of cooked beans or peas is equivalent to 1 ounce of the meat requirement).

b. Vegetable and Fruit Group. Two one-half cup servings shall be provided. This shall include all vegetable juices, all fruits, and all full strength fruit juices. Fruit used as a dessert should not be counted toward the suggested two servings of vegetables and fruits. A minimum of 4 high fiber selections per week shall be provided, for example: fruits and vegetables, peas, beans, tossed salads, etc.

c. Bread or Bread Alternate Group. One serving shall be provided of enriched or whole-grain bread, biscuits, muffins, rolls, sandwich buns, cornbread, or other hot breads. Bread alternates may include enriched or whole-grain cereals or cereal products, such as spaghetti, macaroni, rice, dumplings, pancakes, and waffles.

d. ...

e. Milk Group. One-half pint of 2 percent, 1 percent or ½ percent milk shall be provided. Coffee, tea, decaffeinated beverages, soft drinks and fruit flavored drinks may be served but cannot be used to substitute for the milk requirement.

3. Vitamins and/or mineral supplements shall not be provided with nutrition services funds.

R. Use of Nutrition Contributions. Nutrition services providers shall use all contributions to increase the number of meals served by the provider, to facilitate access to such meals, and to provide other supportive services directly related to nutrition services.

AUTHORITY NOTE: Promulgated in accordance with OAA 307(a)(13), 331, and 336.

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 15:384 (May 1989), LR 16:505 (June 1990), LR 24:1930 (October 1998).

P.F. "Pete" Arceneaux, Jr.
Executive Director

9810#005

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Livestock Management Practices and Prescriptions
(LAC 46:LXXXV.700, 705, and 707)

The Louisiana Board of Veterinary Medicine hereby amends LAC 46:LXXXV. 700, 705, and 707 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§700. Definitions

Alternative Livestock—animals that have not been domesticated, but are bred or kept on a farm for use or commercial profit.

* * *

Cosmetic Surgery—that branch of veterinary medicine that deals with surgical procedures designed to improve the animal's appearance.

* * *

Livestock—domestic animals to include only cattle, hogs, sheep, and goats, bred or kept on a farm for use or commercial profit.

* * *

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 19:1328 (October 1993), amended LR 20:1381 (December 1994), LR 24:941 (May 1998), LR 24:1932 (October 1998).

§705. Prescribing and Dispensing Drugs

A. - F. ...

G. Providing Prescriptions

1. A client is not obligated to purchase a prescription medication from the prescribing veterinarian. Therefore, when a veterinarian-client-patient relationship exists and a veterinarian has determined that a prescription medication will be used in a patient's treatment or preventive health plan, it shall be considered a violation of the rules of professional conduct, within the meaning of R.S. 37:1526(14), for a veterinarian to refuse to provide a written prescription to the client so long as the following conditions exist:

a. the veterinarian has determined that the patient's life is not endangered without the immediate administration of the prescription medication, and

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State Health Care Data Clearinghouse
(LAC 48:V.Chapter 151)

b. in the veterinarian’s medical opinion, the prescribed substance is medically safe for in-home administration by the client.

2. A veterinarian shall not be required under §705 to write a prescription for controlled substances or a prescription for any medication that, in the veterinarian’s medical judgment, is not appropriate for the patient’s medical care.

3. A veterinarian may refuse to write a prescription under §705 if it is not directly requested by a client with whom a veterinarian-patient-client relationship exists.

4. A written prescription can be construed to include any manner of authorization for filling a prescription, including verbal or electronic communication.

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 LR 16:226 (March 1990), LR 19:1329 (October 1993), LR 20:1381 (December 1994), LR 23:1686 (December 1997), LR 24:1932 (October 1998).

§707. Accepted Livestock Management Practices

A. The following are hereby declared to be accepted livestock management practices as provided by R.S. 37:1514(3):

1. the practice of artificial insemination (A.I.) and the non-surgical impregnation (with frozen embryo) of livestock to include that performed for a customer service fee or that performed on individually-owned livestock;

2. the procedure involving the collection, processing, and freezing of semen from privately owned livestock carried out by NAAB-CSS approved artificial insemination business organizations;

3. ...

4. performing the operation of male castration, docking, or ear-marking of livestock raised for human consumption;

5. performing the normal procedure of dehorning livestock, with the exception of surgical cosmetic dehorning, which is defined as the practice of veterinary medicine;

6. ...

7. treating livestock for disease prevention with a non-prescription medicine or vaccine;

8. branding and/or tattooing for identification of livestock;

9. - 10. ...

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 9:213 (April 1983), amended LR 23:969 (August 1997), LR 24:1933 (October 1998).

Charles B. Mann
Executive Director

9810#010

Under the authority of LSA R.S. 40:1300.112(D) and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., as amended, the Department of Health and Hospitals, Office of Public Health amends LAC 48:V governing the practice of Preventive Health Services to add Subpart 53, entitled State Center for Health Statistics, and Chapter 151, entitled State Health Care Data Clearinghouse. This rulemaking provides procedures and guidelines for the reporting of hospital discharge data and the protection of the confidentiality of certain data elements in order to better understand patterns and trends in the availability, use and charges of health care services, and the underlying patterns of disease which necessitate these services in the state.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Preventive Health Services

Subpart 53. State Center for Health Statistics

Chapter 151. State Health Care Data Clearinghouse

§15101. Purpose

Louisiana R.S. 40:1300.111 et seq. established a “state health care data clearinghouse” in the Office of Public Health with responsibility for the collection and dissemination of health care data. The legislative action was based upon a finding that as a consequence of rising health care costs, a shortage of health care professionals and health services in many areas of the state, and the concerns expressed by health care providers, consumers, third party payors, and others involved with planning for the provision of health care, there is a need to understand patterns and trends in the availability, use, and charges for these services and the underlying patterns of disease which result in these services. The statute requires that state agencies and licensed health care providers shall provide the information necessary to carry out the purpose of this law. In accordance with the statute, the collection of hospital discharge data is to be accomplished in collaboration with representatives from hospitals, health care providers, payors, data users and other state agencies. It is the purpose of these regulations to provide directions for the required collection, submittal, management and dissemination of health data and to provide for the confidentiality of the data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1933 (October 1998).

§15103. Definitions

A. For the purposes of these regulations, the following words and phrases, when used herein, shall be construed as listed below.

Act—the Act 622 of the 1997 Regular Legislative Session, LA R.S. 40: 1300.111 et seq.

Aggregate Data Set—an array of counts of patient level records, or of totals of patient level record quantities (example: Total Charges), classified by data categories (example: “year of discharge”). Aggregate data sets may be used to present health data usefully, yet in a manner which can minimize potential for identification of confidential information, since they can be assured to have any necessary minimum cell size. Aggregate data sets shall not include the following information:

- a. facility identifiers;
- b. patient or insured identifiers;
- c. physician or other health care service provider identifiers;
- d. payor identifiers;
- e. employer identifiers.

Confidential Information—that information defined as confidential in this rule including, but not limited to:

- a. employer identifiers, facility identifiers, patient or insured identifiers, payor identifiers, or physician or other service provider identifiers;
- b. information identified by the identifiers;
- c. combinations of data categories derived from part or all of the hospital discharge database information that would identify or tend to identify an employer, facility, patient or insured person, payor, or physician or other service provider; and
- d. information identified by combinations of these data categories.

Data Base—a structured repository of data, consisting of one or more related structured data tables.

Data Category—one of the typically (though not necessarily) non-unique data values of a data element, or to equivalent labels for these values. For example, the data categories of the data element years may be three in number: “98,” “99,” and “00,” and may be labeled “1998,” “1999,” and “2000,” whereas the data categories of the data element patient birth date may have thousands of possible values, some of which are probably uniquely associated with exactly one person.

Data Element—a logical field of a data record or a column of a data table, and includes both the named data elements in this rule, and any other data elements obtained or created by analytic or synthetic methods. Examples: discharge year, age group, sex, or disease group.

Data Record—the row of a data table, or the set of related rows from related tables in a database.

Data Set—a structured subset of data from a database.

Department—the Louisiana Department of Health and Hospitals.

Employer Identifier—employer name, employer location/address excluding the first three digits of the ZIP code, or other information that identifies an employer.

Facility Identifier—provider name, provider telephone number, provider FAX number, federal tax number or EIN, federal tax sub ID, Medicare provider number, national provider identifier, mailing address excluding the first three digits of the ZIP code, or other information that identifies a facility.

Guide—the Hospital Discharge Data Submittal Guide included in §§15113-15129 of this rule.

Health Research—the study of patterns or trends in health or health care.

Hospital—any institution, place, building or agency, public or private, whether organized for profit or not-for-profit, which is subject to licensure as a hospital by the Louisiana Department of Health and Hospitals.

Hospital Discharge Information—all billing, medical, and personal information describing a patient, the services received, and charges billed, associated with a single inpatient hospital stay, including all elements of the Uniform Billing form, UB-92.

Hospital Discharge (Data) Record—the structured document, in paper or electronic form, of all the UB 92 data for a single hospital stay, or the data content of that document. This often will include more than one data record.

Hospital Stay or Inpatient Hospital Stay—the period, activities, events, and conditions associated with a patient, from the time of admission to a hospital, to the time of discharge from that hospital. Facilities licensed as hospitals and having different provider numbers are, for the purpose of this definition, distinct hospitals having discrete hospital stays and hospital discharges.

Intermediary—a data processing agent of a hospital, who is contracted or employed by that hospital to relay their Hospital Discharge Records to OPH in compliance with these rules.

Office, also OPH—the Louisiana Office of Public Health;

Panel or Research Panel—the Hospital Discharge Data Research Panel as described in §15007 of this rule.

Patient or Insured Identifier—patient name, insured’s name, patient address or insured’s address (specifically including P.O. Box or street address, but not city, 5-digit ZIP Code, or state), patient control number, SSN, medical record number, health insurance claim identification number, or information that would identify or tend to identify an individual patient or insured person under whom the patient may be covered.

Patient Level Data—the non-aggregate, one logical record per discharge, form of data submitted by hospitals which includes part or all of the submitted data elements or recoded data derived from submitted data elements. This term refers to both the *raw* patient level data still in the form in which it is submitted, and the *cleaned* patient level data which may have had error checking or *edits* applied or which may have been separated into the specifically named patient or insured identifier data elements and the remaining data elements. Patient level data may include all or part of the hospital discharge data record.

Payor Identifier—the payor name, payor identification, insured group name, insurance group number, or other information that identifies a payor.

Physician and Other Service Provider Identifier—attending physician name, attending physician number, operating physician name, operating physician number, other physician name, other physician number, or other information that identifies a physician or other service provider.

Publish—to make any hospital discharge information available in paper or electronic form to person(s) who are not:

- a. part of the research group authorized to use that information by the research panel as described in §15109; or
- b. OPH staff authorized to use that information.

Release—a conditional distribution of hospital discharge information for purposes authorized by this rule.

Secure Information—that information which is not subject to release by OPH or the research panel, and will not be released for any purpose. Secure information includes patient and insured identifiers.

Submit—(with respect to a submission date, and data, reports, surveys, statements or documents required to be submitted to the Louisiana Office of Public Health) to deliver, or to cause to be delivered, to the Office of Public Health, in the form and format specified, by the close of business on the prescribed date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 2419340 (October 1998).

§15105. Confidentiality

A. Act 622 of 1997 provides for the strictest confidentiality of data and severe penalties for violation of the Act. After editing and compilation of data submitted under this rule, the Office of Public Health shall separate all secure information from the rest of the file. Redundant methods shall be employed to assure physical security, media security, transmission security, logical security, secure authorized access, and backup of all secure or confidential information. The collection, editing, compilation, storage, analysis and dissemination of reports or data shall be done in a manner that protects publication of information that identifies or tends to identify an individual patient.

B. Patient level data and the individual forms, computer tapes, or other forms of data collected by and furnished for the State Health Care Data Clearinghouse shall not be available for public inspection. In accordance with R.S. 40:1300.111D, any data that can be used to identify any individual patient shall not be subject to discovery in civil or criminal proceedings.

C. Data may be used as described in §§15107 and 15109 below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1935 (October 1998).

§15107. Use of Hospital Discharge Records by OPH

A. Patient level data (raw or cleaned) may be released by OPH to the data provider that submitted that particular data.

B. The office may use patient level data in fulfilling its public health mission. The office will establish procedures for secure use of the data by OPH staff.

C. The office may release patient level data (excluding secure information) for use in health research, public education, administrative and health industry research in accordance with the provisions of §15109 of this rule (approval of the Hospital Discharge Data Research Panel). In consideration of the existing information industry in Louisiana, and to assure a measure of completeness and quality of this data during the initial years of the implementation, this data will not be released during the first 12 months following discharge. Starting with year 2000 discharges, the minimum delay observed will decrease by one month per year (a discharge 1/1/2000 may be released 12/1/2000), until 2010, when a minimum delay will no longer be observed.

D. Aggregate Information

1. The office may develop and publish aggregate data reports and aggregate data as resources permit that do not disclose *confidential information* as defined in §15103 of this rule. The aggregate data reports and aggregate data shall be public information and may be distributed electronically.

2. The office may also release aggregate data on request, as resources permit. Such data may be released when it does not disclose confidential information, as defined in §15103 of this rule. The data request should be made to the director of the Division of Health Information, DHH-OPH and must include:

- a. rationale for the study or data use;
- b. a summary of the research plan, including a definition of, and justification for the particular fields and records necessary for the research;
- c. signed agreement for use of data affirming that data will be used only for the purpose stated in the request, and that no attempts will be made to combine data provided for this request with other data provided from a previous request or another source, or attempt to identify confidential information;
- d. affirmation that a copy of any publication resulting from the use of the records shall be provided to the director of the Division of Health Information;
- e. a signed agreement to indemnify and hold the state, DHH, and OPH, its employees, and the original providers of the patient level data harmless from any liability arising out of the authorized or unauthorized use of the data.

E. OPH Reports Containing Identifiers

1. The office may apply to the Hospital Discharge Data Research Panel (§15109 of this rule) for approval for publication of health care data reports with employer, facility, payor and/or physician and/or other healthcare provider identifiers. The application shall state the purpose of the report and a justification for releasing it with identifiers. If the panel approves the request, a copy of the report(s) shall be provided to all panel members at least one full working day prior to release for publication.

2. The criteria for approval by the panel shall include, but are not limited to:

- a. the report content and design reflect that the proposal is in the best interest of the public health;
- b. the report reflects the use of accepted methods of data analysis;

c. the investigators/researchers are deemed qualified based on their past research, employment and education;

d. provisions to protect the confidentiality of the patient identifiers comply with §15109.B.2.

3. Panel action on office proposals to publish employer, facility, payor, physician or other healthcare provider specific reports shall be in accordance with §15109.B of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1935 (October 1998).

§15109. Use of Hospital Discharge Records in Research

Any person may apply to the office to conduct research for health surveillance, public education, administrative, or health industry purposes using patient level data. Non-aggregate data (patient level data) shall be disclosed only when the Hospital Discharge Data Research Panel has deemed that it would be impractical to perform the research with aggregate data. Only the fields and records necessary for the proposed study will be released.

1. Panel. Pursuant to R.S. 40:1300.112.B(1) and D., the Hospital Discharge Data Research Panel is established. It shall operate in accordance with the following guidelines.

a. Membership. The panel shall be composed of at least 15 members with varying background and expertise, to promote complete and adequate review of research activities commonly conducted using hospital discharge data.

i. The panel membership shall reflect sufficient experience and expertise with hospital data and/or data analysis, sensitivity to cultural diversity and privacy issues, and the professional competence necessary to review research proposals in terms of institutional commitments and regulations, applicable law, and standards of professional conduct and practice.

ii. The panel shall include the following representatives of the Office of Public Health:

(a). the state health officer or programmatic designee;

(b). the director of the Division of Health Information; and

(c). the State Registrar of Vital Records. The state health officer or his designee shall chair the panel.

iii. The state health officer shall appoint 12 additional panel members representing groups and organizations that have knowledge and expertise in fields related to research using health care data. Accordingly, the appointees will include a representative of health care consumers, a representative of payors, private hospital representation, and members of the following organizations:

(a). Louisiana Health Care Review Inc.;

(b). Louisiana Health Information Management Association;

(c). Louisiana Hospital Association;

(d). Louisiana State Medical Society;

(e). Louisiana State University;

(f). Metropolitan Hospital Council of New Orleans;

(g). Rural Hospital Coalition;

(h). Tulane University; and

(i). VHA Gulf States.

b. Panel Meetings. The state health officer or designee shall convene panel meetings. The panel will review research requests on a quarterly basis or as needed. Regular meeting dates shall be communicated to panel members in writing at least 21 calendar days prior to the meeting. If any emergency or ad-hoc meetings are required, meeting dates for these additional meetings shall be communicated to panel members, in writing, at least seven calendar days prior to the meeting.

c. Panel Quorum. A quorum shall require the presence of eight members. A majority of the members present must concur via a roll call vote for the panel to take action on the approval or disapproval of any research application.

d. Panel Records. Adequate documentation of the panel activities shall be maintained including the following:

i. copies of all research and special report proposals reviewed, including attachments;

ii. minutes of all panel meetings shall be in sufficient detail to show attendance at meetings, actions taken by the panel, the vote on the actions including the number of members voting for, against or abstaining, the basis for requiring changes in or disapproving research, and a written summary of controversial issues and their resolution;

iii. copies of all correspondence;

iv. the records required by these rules shall be retained for at least three years after completion of the research. These records shall be exempt from the Public Records Law.

2. Research Using Patient Level Records

a. Application. A request for use of hospital discharge information, excluding secure information, in research shall be in writing and shall be addressed to the state health officer. The data request must include:

i. a complete experimental protocol, including health objectives, rationale for the study, design detail and scientific basis for selection of subjects;

ii. a summary of the protocol, including a definition of, and justification for, the particular fields and records necessary for the research;

iii. copy of the informed consent form and an outline of the consent process, if required by the panel (for proposed follow-back research or contact with employers, payors, facilities, physicians or other healthcare providers);

iv. provisions to fully protect the confidentiality of the data and the privacy of patients and insured persons related to the patient;

v. affirmation that data files provided by OPH to the applicant will not be re-released to other researchers or anyone else not connected to the specific study for which the data is released;

vi. résumés of all investigators identifying their specific qualifications to do the research proposed, listing educational degrees and societies, certifying boards and academic institutions which have recognized their competence by granting membership, diploma, or title, previous work in the subject area and employment;

vii. approval from an institutional review board for this study or approval from an educational department

chairman where the applicant is employed by or associated with an institution which requires such approval;

viii. affirmation that a report of the findings resulting from the use of the records shall be provided to the state health officer;

ix. a signed agreement to indemnify and hold the office, its employees, panel members, and the original providers of the patient level data harmless from any liability arising out of the authorized or unauthorized use of the data.

b. Use of employer, facility, payor, physician or other healthcare provider identifiers. Researchers requesting any of these identifiers must additionally affirm that none of these identifiers or combinations of elements that identify or tend to identify any of these parties will be published or otherwise disclosed without the specific approval of the panel. If any physicians or other healthcare providers will be identified in a proposed publication, the panel must receive a copy of the study or report prior to submission for publication. Following receipt of this copy, the panel will require a two-week waiting period prior to final approval for publication.

c. Confidentiality of Data Used for Research. The researcher shall establish reasonable administrative, technical and physical safeguards to prevent unauthorized use or disclosure of the records. At the end of the project all confidential information will be destroyed.

d. Criteria for Approval of Research. The criteria for the approval of research shall include, but are not limited to:

i. the study objective and design reflect that the proposal is in the best interest of the public health;

ii. the selection of subjects is made on a scientific basis;

iii. the investigators/researchers are deemed qualified based on their past research, employment and education or other appropriate credentials;

iv. where appropriate, approval of an institutional review board has been obtained;

v. provisions to protect the confidentiality of the data and subjects comply with §15109.B.2 of this rule;

vi. the informed consent process and forms follow the guidelines required in these rules and will be appropriately documented as required.

e. Panel Review and Notification. The panel will review research requests on at least a quarterly basis. Following review, the panel shall notify requesters, in writing, of the decision to approve or disapprove the proposed study or modifications required to secure approval of the research activity. If the panel disapproves a request, it shall include in its written notification a statement of the reasons for its decision and give the investigator/researcher an opportunity to request reconsideration, in writing.

f. Requests for Reconsideration. Requests for reconsideration must be filed within 30 days of the date appearing on the notification. The panel shall schedule a hearing of the appeal to be held within 90 days of the date of receipt of the appeal. The principal investigator/ researcher has the right to appear to defend the proposal at a reconsideration hearing. If on reconsideration the research proposal is denied, the requester shall have a right to appeal the panel's decision in accordance with the procedure outlined below.

g. Appeal of Data Use Denial. Any person who submits a research, educational or administrative use proposal to the panel that is denied shall have a right to petition for judicial review of the panel's final action in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.). This remedy shall be the exclusive means of appealing the action of the panel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1936 (October 1998).

§15111. Incorporation by Reference

A. The following documents are incorporated by reference. They are available for public review at the State Center for Health Statistics, Office of Public Health.

1. *International Classification of Diseases, Clinical Modifications 9*. Copies are available from the World Health Organization, P.O. Box 5284, Church Street Station, New York, New York 10249.

2. *International Classification of Diseases, Clinical Modifications 10* (due for publication, December 1998). Copies will be available from the World Health Organization, P.O. Box 5284, Church Street Station, New York, New York 10249.

3. *Louisiana Uniform Billing Training Manual, UB-92*, including final addenda of July 21, 1993. Copies are available from the Louisiana Hospital Association, P.O. Box 80720, Baton Rouge, LA 70898-0026.

4. Uniform Hospital Billing Form 1992 (UB92/HCF-1450). Copies are available from the Office of Public Affairs, Health Care Financing Administration Humphrey Building, Room 428-H, 200 Independence Avenue S.W., Washington, D.C. 20201.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1937 (October 1998).

§15113. Hospital Discharge Data Submittal Guide—General

A. Data Reporting Source. All facilities operated and licensed as a hospital in the state of Louisiana by the Louisiana Department of Health and Hospitals will report *discharge data* to the Office of Public Health (OPH) for each patient admitted as an inpatient. A failure to report may result in action by the licensing authority.

B. Reporting Responsibilities

1. The single billing discharge data record must be submitted for the reporting period within which the discharge occurs. If a claim will not be submitted to a provider or carrier for collection (e.g., charitable service), a hospital discharge data record must still be submitted to OPH, with the normal and customary charges, as if the claim was being submitted.

2. Multiple Discharges. For a patient with multiple discharges, submit one discharge data record for each discharge.

3. Multiple Billing Claims. For a patient with multiple billing claims, the facility should submit all data related to a discharge in one of two ways:

a. consolidate the multiple billings into one discharge data record for submittal for the reporting period within which the discharge occurs; or

b. submit each interim billing claim for the reporting period in which the claim is generated.

4. A hospital may submit discharge data directly to OPH, or may designate an intermediary, such as a commercial data clearinghouse. Use of an intermediary does not relieve the hospital from its reporting responsibility. In order to facilitate communication and problem solving, each hospital should designate a contact person and a backup for the contact person. Provide the names, telephone numbers, and job titles of the persons assigned this responsibility to the Office of Public Health, Center for Health Statistics, on forms provided by OPH.

C. Confidentiality of Data. Act 622 provides for the strictest confidentiality of data and severe penalties for the violation of the Act. Any information collected from hospitals that identifies a patient or person under whom the patient is insured cannot be released. In addition, physician, facility, payor or employer identifiers cannot be released without Research Panel approval. The Office of Public Health needs patient-specific information to complete analyses. The office will take every prudent action to ensure the confidentiality and security of the data submitted. Procedures include, but are not limited to, physical security and monitoring, separation of personal identifiers from the analytical file, access to the files by authorized personnel only, passwords and encryption. Not all measures taken are documented or mentioned in this guide to further protect the data. After receiving and editing the data, OPH will separate personal patient identifiers (i.e., name, street address or P.O. Box, and SSN or other patient number). The database edits system will assign a unique nonpersonal key in order to maintain patient level data (i.e., a patient with multiple discharges can be tracked within and among hospitals.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1937 (October 1998).

§15115. Guide—Hospital Discharge Data Submittal Schedule

A. Each licensed Louisiana hospital which collects Hospital Discharge Information, as set forth in this rule, shall submit Hospital Discharge Records to the Office of Public Health in a manner that complies with the provisions of the guidelines here included for all hospital discharges occurring on or after January 1, 1998. While all hospitals are responsible for submitting their data to the Office of Public Health, some may contract with third-party intermediaries. All hospitals or their intermediaries will submit data to the Office of Public Health according to the reporting schedule listed below. See the section on use of intermediaries for further details.

1. Submittal Schedule. Discharge data records will be submitted to the Louisiana Office of Public Health as specified below.

a. Reporting Period. Hospitals (or their representatives) must generate and submit their data to OPH quarterly, excepting the first year (1998), in which data may

be submitted semiannually. Monthly submittal via electronic transfer is also encouraged.

b. Data Source. The submittal file must be created from the current transaction file or an equivalently cumulatively updated claim file and the submittal must be received by OPH no later than the dates below. Earliest practical submission of complete data is requested.

Note: It is understood that data for a given claim may not be complete during the first three-month post-discharge.

2. Reporting Schedules by Year

Reporting Schedules by Year	
Person's Date of Discharge Is	Data Must be Received By
1998	
January 1 through June 30, 1998	December 31, 1998
July 1 through December 31, 1998	June 30, 1999
1999	
January 1 through March 31	September 15, 1999
April 1 through June 30	December 15, 1999
July 1 through September 30	March 15, 2000
October 1 through December 31	June 15, 2000
2000 and after	
January 1 through March 31	August 31 (same year)
April 1 through June 30	November 30 (same year)
July 1 through September 30	February 28 (following year)
October 1 through December 31	May 31 (following year)

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1938 (October 1998).

§15117. Guide—Use of Data Processing Intermediaries

A. Third-party intermediaries may be utilized by hospitals for the delivery of data to the Office of Public Health. Intermediaries must be registered with OPH on registration forms provided by the Office. Additions and deletions to the intermediary's list of hospitals represented must be submitted at least 10 days prior to the submittal schedule reporting due date.

B. Hospitals shall notify the Office by January 1 of each year if they plan to submit the required data to the Office through a third-party intermediary that is registered with the Office. Hospitals selecting this option are responsible for ensuring that the submitted data conform to specifications contained in the Guide. These specifications include, but are not limited to, the format, timeliness, and quality criteria of completeness, validity and consistency outlined in the Guide. The third-party intermediary is responsible to the hospital for ensuring that the data are submitted to the Office in conformance with specifications contained in the Guide.

C. The following additional requirements and information apply to intermediaries delivering data to OPH:

1. Data may be delivered in any number of submittals (i.e., one per hospital, several hospitals combined, or all hospitals combined in one submittal), but the minimum unit of data submittal is all discharge records from one hospital per submittal time period.

2. Data may be submitted via any approved transfer media - declared at the time of registration.

3. Data may be submitted in any approved data format declared at the time of registration.

4. The intermediary must submit data for three or more hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1938 (October 1998).

§15119. Guide—Extensions and Waivers

A. All hospitals will submit discharge data in a form consistent with the requirements unless an extension or waiver has been granted. Extensions may be granted when the hospital documents that unforeseen difficulties, such as technical problems, prevent compliance. Waivers may be granted when the hospital documents the need for data format changes before it can begin collecting and submitting specific data elements. Waivers will also be granted upon request for difficulties that prevent compliance for the time period January 1 to June 30, 1998. Requests for extensions or waivers should be in writing and be directed to: Director, Division of Health Information, Louisiana Office of Public Health, 325 Loyola Avenue, Suite 503, New Orleans, LA 70112. Phone: (504) 568-7708 FAX: (504) 568-6594.

1. Extension of Time for Data Submittal

a. Any hospital which determines it temporarily will be unable to comply with a data submittal date or with data submittal time lines established in a previously submitted plan of correction may apply to the Office for an extension. An application for extension should be submitted at least 15 working days prior to the data submission deadline. The application for extension shall reference the relevant section number(s) and the relevant text of the rule or the documents incorporated by reference under §15111. The application for extension shall include specific reasons why the provider cannot comply with the rule in the required time frame, a specific plan sufficient to correct the problem, and the proposed data submission date.

b. The office shall act upon an application for extension of time within 10 working days of receiving the written request. Failure of the office to act on the application shall be deemed as a grant of the extension.

c. A denial of the application for extension shall be appealable to the assistant secretary of the Office of Public Health. The appeal shall be filed within seven days of receipt of the denial letter. The assistant secretary shall act on the request within seven days of its receipt and his/her action shall be final.

2. Waivers of Data Requirements

a. Any hospital which determines it will be unable to comply with any of the provisions of this rule or with the provisions of a previously submitted plan of correction, for

submission of particular data elements of the required format, quality or completeness for specific discharge periods, may apply to the office for a waiver. A data element-based waiver may be granted for the submission of specific data elements for specific durations and does not, in this case, relieve the hospital of the obligation to submit other required data elements in a timely manner. A general waiver may also be granted for compliance with the required data format. An Application for Waiver should be submitted at least 30 working days prior to the data submission deadline on a form provided by the office. In every case, the Application for Waiver shall reference the relevant section number(s) and the relevant text of the rule or the documents incorporated by reference under §15111. The Application for Waiver shall include specific reasons why the hospital cannot comply with the rule, a specific plan sufficient to correct the problem(s), and the earliest date(s) when the hospital will be compliant. Waivers will be granted upon determination of a satisfactory application during the first year, and as necessary thereafter.

b. The office shall act upon an Application for Waiver within 20 days of receiving the written request. Failure of the office to act on the application shall be deemed as a grant of the waiver.

c. A denial of the Application for Waiver shall be appealable to the assistant secretary of the Office of Public Health. The appeal shall be filed within seven days of receipt of the denial letter. The assistant secretary shall act on the request within seven days of its receipt and his/her action shall be final.

d. Failure of the hospital to submit an acceptable plan or to follow an accepted plan shall be considered continued and substantial noncompliance with this rule unless determined otherwise by the assistant secretary of the Office of Public Health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1939 (October 1998).

§15121. Guide—Data Errors and Certification

A. Hospitals will review the discharge data records prior to submittal for accuracy and completeness. Correction of invalid records and validation of aggregate tabulation are the responsibility of the hospital. All hospitals will certify the data submitted for each reporting period in the manner specified and will annually review summary reports before statistical analyses are published by the Center for Health Statistics, Louisiana Office of Public Health.

1. Error Correction

a. The hospital is responsible for submitting accurate and complete data in one of the specified formats. The state may identify errors for hospital review, comment, and correction when applicable. The records with errors will be identified in a simplified format providing record identification and an indication or explanation of the error. The error report will be sent by certified mail or e-mail to the attention of the individual designated to receive the correspondence at the hospital.

b. In the event 5 percent or more of the records per hospital in a submittal period are in error, the submittal for that hospital will be rejected. A record is in error when one or more

Required Data Elements are missing or in error (excepting those elements for which a waiver has been granted). Notification of the rejection will accompany the error report and will be sent by certified mail to the attention of the individual designated to receive the correspondence at the hospital.

c. After the submittal has been corrected, the submittal is to be resubmitted, in its entirety and original format, within one month of receipt, to the Center for Health Statistics, Louisiana Office of Public Health. This correction cycle may repeat.

2. Certification and Review

a. Following receipt of a data submittal and completion of any needed error correction, the Center for Health Statistics will send the hospital-designated contact a Discharge Data Summary Report containing the total number of records received for the reporting period, by discharge disposition, and by payor class for each hospital.

b. The hospital-designated responsible contact will validate, in writing, the accuracy of the Discharge Data Summary Report and verify that the data sent were complete for that reporting period. Regardless of any waiver granted, the hospital will provide an estimate of the number of any unreported discharges for the reporting period. The signed validation will be returned to the Center for Health Statistics, Louisiana Office of Public Health within 10 working days.

3. Noncompliance

a. Upon written notification of noncompliance by the office, the chief executive officer shall have 10 working days following receipt of the written notification of noncompliance to provide the office with a written plan for correcting the deficiency. The plan of correction shall include specific reasons why the hospital cannot comply with the rule in the required time frame, a specific plan sufficient to correct the problem, and the proposed data submission date.

b. Failure of the hospital to submit an acceptable plan or to follow an accepted plan shall be considered continued and substantial noncompliance with this rule unless determined otherwise by the assistant secretary of the Office of Public Health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1939 (October 1998).

§15123. Guide—Data Submittal Specifications

A. Currently, data may be submitted by modem (the preferred method), PC diskette, CD-ROM, magnetic tape (reel), or electronic media to be determined by OPH. Additional media or modes of transfer will be announced by OPH as they become available. Data submittals not in compliance with transfer media or format specifications will be rejected unless approval is obtained prior to the scheduled due date from the Center for Health Statistics. Media labeling and data submittal specification updates will be posted on the OPH Web page.

1. Transfer. Data submittal standards shall encourage the use of electronic transfer of database files (structure to be provided by OPH) or structured ASCII files via telecommunications. Editing of data prior to submittal is

encouraged and assistance from OPH will be provided.

2. Address for Data Submittal: Center for Health Statistics, Louisiana Office of Public Health, 325 Loyola Avenue, Suite 503, New Orleans, La 70112; or: LAHIDD@dhhmail.dhh.state.la.us.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1940 (October 1998).

§15125. Guide—Data Elements

A. Listed below are required and conditionally required data elements. Submission of any other data elements is optional; hospitals do not need to suppress or strip other elements appearing in their claims files. All elements submitted will be treated confidentially.

1. Required Data Elements. If a hospital is currently or temporarily unable to provide any of the data elements listed here, the hospital must apply for a waiver or extension, as detailed in §15119 of this rule.

Data Element	Form Locator	1300 Record Number	1450	
			Record Type	Record Number
Patient Control Number • assigned by Provider	3	1	20	3
Type of Bill	4	2	40	4
Federal Tax ID (Facility EIN) • with Sub ID Number if applicable	5	3 165	10	4 5
Statement Covers Period From	6	4	20	19
Statement Covers Period Thru	6	5	20	20
Patient Name	12	(none)	20	4-6
Patient Address	13	6 (zip only)	20	12-16
Patient Date of Birth	14	7	20	8
Patient Sex	15	8	20	7
Admission Date	17	9	20	17
Type of Admission	19	11	20	10
Source of Admission	20	12	20	11
Patient Status at time of discharge	22	13	20	21
Medical/Health Record Number	23	14	20	25
Revenue Codes • Include all listed • Must be valid UB92 codes	42	Odd Number's 15-59	60 50	4, 13, 14, 4, 11, 12, 13
Units of Service • Include all listed	46	Odd Number's 97-141	60	8, 13, 14
Total Charges • Include all listed	47	Even Number's 16-60	60 50	9 7
Payor Classification • Include all listed • HCFA Payor ID number preferred	50	156, 157, 158	30	5

Principal Diagnosis Code	67	69	70	4
Other Diagnosis codes • Include all listed	68-75	70-77	70	5-12
Admitting Diagnosis Code	76	78	70	25
External cause of injury code (E-code) • Must contain data if possible	77	79	70	26
Principal Procedure Code and Date	80	80-81	70	13-14
Other Procedure Codes and Dates • Include all listed	81	82-91	70	15-24
Attending Physician ID • State License Number	82	92	80	5
Operating Physician Number • State License Number • Required if present	83	93	80	6
Other Physician ID • State License Number • Required if present	84	94	80	7-8
Patient Social Security Number	60 Only if insured	161	22	5a
Patient Race	none	155	22	7a
*Number of Claims	N/A	N/A	95	6
*Record Type	N/A	N/A	all	1
*Sequence Number	N/A	N/A	21-70, 72, 80-81	2

a. Elements marked with an asterisk are required for submittals of the electronic 1450 only; they are included because they are essential to the 1450.

b. The definitions of most data elements referred to in this rule can be found in the *Louisiana UB-92 Users Manual* referenced in §15109 of this rule. Hospitals using data sources other than uniform billing should evaluate their definitions for agreement with the definitions specified in this Guide and the *Louisiana UB-92 Users Manual*. The exceptions to referenced definitions are listed below.

i. *Patient's Race*—this alphanumeric one-character element contains race category information based on self-identification, which is to be obtained from the patient, a relative, or a friend. The hospital should not categorize the patient based on observation or personnel judgment. The patient may choose not to provide the information. If the patient chooses not to answer, the hospital should enter the code for unknown. If the hospital fails to request the information, the field should be space filled. Code as follows: 1 = Native American or Alaskan Native: A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition. 2 = Asian or Pacific Islander: A person having origins in any of the peoples of the Far East, South East Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa. 3 = African

American/Black: A person having origins in any of the black racial groups of Africa. 4 = Caucasian/White: A person having origins in any of the Caucasian peoples of Europe, North Africa, or the Middle East. 5 = Other: Any possible options not covered in the above categories. 6 = Unknown: A person who chooses not to answer the question. Blank Space: The hospital made no effort to obtain the information.

ii. *Patient Social Security Number*—numeric, 10-character entry containing the Social Security Number of the patient receiving care. This field is to be right justified with zeroes to the left to complete the field. The format of SSN is 0123456789 without hyphens. If the patient is a newborn, use the mother's SSN. If a patient does not have a social security number fill with zeroes. The field is edited for a valid entry.

2. Additional Data Elements Required if Available. These elements are required if the facility systematically collects the data in the ordinary course of operations as part of the facility's standard operating procedures and that data is readily available for inclusion in the claim file.

Date Element	Form Locator	1300 Record Number	1450	
			Record Type	Record Number
Provider Name	1	(none)	10	12
Provider Address • Must include zip code and city	1	(none)	10	13-16
Marital Status	16	(none)	20	9
Admission Hour	18	10	20	18
Discharge Hour	21	166	20	22
Provider Number	51	62, 144, 149	30	24
Insured's Name	58	(none)	30	12-14
Patient's Relationship to the Insured	59	63, 145, 150	30	18
(Insured's) Certificate/SSN/Health Insurance Claim/Identification Number	60	64, 146, 151	30	7
Insured Group Name	61	(none)	30	11
Insurance Group Number	62	65, 147, 152	30	10
Treatment Authorization Code	63	(none)	40	5-7
Employment Status Code	64	66	30	19
Employer Name or EIN	65	67	31 21	9 4
Employer Location	66	68 (zip only)	31 21	10-13 5-8

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1940 (October 1998).

§15127. Guide—Record Formats

A. The accepted data record formats are the UB-92 1450 version 4.1 format and the UB-92 1300 flat file format. The

definition specified for each data element is in general agreement with the definition in the *UB-92 Users Manual*. Hospitals using data sources other than uniform billing should evaluate definitions for agreement with the definitions specified in this Guide and the *UB-92 Users Manual*. See §§15125 and 15127.B.3 to identify possible differences between standard referenced formats and requirements under this rule.

1. UB-92 1450 Version 4.1 Record Specification. The UB-92 1450 claim record is made up of a series of 192-character physical records, as listed in the *Louisiana UB-92 Training Manual*. Record Types not specified in the required data elements list are requested but are not required for submittal.

2. UB-92 1300 Record Specification. The UB-92 1300 flat file contains one record per discharge, except in the case of multi-page claims. However, the standard 1300 format does not contain some fields that are found on the 1450 format. The 1300 record format is included in §15127.A.2.c below.

a. Use of Multi-Page Claims. All data except revenue code and charge fields should be duplicated on successive records. All available revenue and charge fields should be completely filled before using additional records. The last entry must be the Total Charge (001) Revenue Code and the Charge Amount must be the total of all previous entries. Any remaining revenue and charge fields must be blank or zero filled. No zero or space filled fields should precede the 001 entry.

b. Exceptions to 1300 Format. Inclusion of the 1300 format as an accepted data format required the addition of data elements not found in the version currently used in Louisiana. The following fields indicate the locations for the additional data elements:

Number	Field Name	Form Locator
10	Admission Hour	FL18
14	Medical Record Number	FL23
78	Admitting Diagnosis	FL76
93	Operating Physician Number	FL83
153	Infant Birth Weight	(none)
154	Infant APGAR Score	(none)
155	Patient Race	(none)

c. 1300 Discharge Record. The record layouts that follow will provide the following information.

i. Record Number: Sequentially assigned record number (This is not the Form Locator).

ii. Field Name—the name of the data element (field).

iii. Picture—this is the COBOL picture. Pic X is initialized to blanks and Pic 9 is initialized to zeroes. All money and date fields are Pic 9.

iv. Justification—indicates how the data field is justified (left or right).

v. Start Position—leftmost position in the record.

vi. End Position—rightmost position in the record.

vii. Form Locator—this is the number found on the UB-92 paper form associated with the given field.

Record Number	Field Name	Picture	Justification	Start	End	Form Locator
1.	Patient Control Number	X(20)	L	1	20	FL03
2.	Type of Bill	9(3)	R	21	23	FL04
3.	Federal Tax Number (EIN)	X(10)	L	24	33	FL05
4.	Statement Covers Period: FROM MMDDYYYY	9(8)	R	34	41	FL06
5.	Statement Covers Period: TO MMDDYYYY	9(8)	R	42	49	FL06
6.	Patient Address Zip Code	X(9)	L	50	58	FL13
7.	Patient Date of Birth MMDDYYYY	9(8)	R	59	66	FL14
8.	Patient Sex	X(1)	L	67	67	FL15
9.	Admission Date	9(8)	R	68	75	FL17
10.	Admission Hour	9(2)	R	76	77	FL18
11.	Type of Admission	X(1)	L	78	78	FL19
12.	Source of Admission	X(1)	L	79	79	FL20
13.	Patient Status	9(2)	R	80	81	FL22
14.	Medical Record Number	X(17)	L	82	98	FL23
15.	Revenue Code Line 1	9(4)	R	99	102	FL42
16.	Total Charges by Revenue 1	S9(8)V99	R	103	112	FL47
17.	Revenue Code Line 2	9(4)	R	113	116	FL42
18.	Total Charges by Revenue 2	S9(8)V99	R	117	126	FL47
19.	Revenue Code Line 3	9(4)	R	127	130	FL42
20.	Total Charges by Revenue 3	S9(8)V99	R	131	140	FL47
21.	Revenue Code Line 4	9(4)	R	141	144	FL42
22.	Total Charges by Revenue 4	S9(8)V99	R	145	154	FL47
23.	Revenue Code Line 5	9(4)	R	155	158	FL42
24.	Total Charges by Revenue 5	S9(8)V99	R	159	168	FL47

25.	Revenue Code Line 6	9(4)	R	169	172	FL42
26.	Total Charges by Revenue 6	S9(8)V99	R	173	182	FL47
27.	Revenue Code Line 7	9(4)	R	183	186	FL42
28.	Total Charges by Revenue 7	S9(8)V99	R	187	196	FL47
29.	Revenue Code Line 8	9(4)	R	197	200	FL42
30.	Total Charges by Revenue 8	S9(8)V99	R	201	210	FL47
31.	Revenue Code Line 9	9(4)	R	211	214	FL42
32.	Total Charges by Revenue 9	S9(8)V99	R	215	224	FL47
33.	Revenue Code Line 10	9(4)	R	225	228	FL42
34.	Total Charges by Revenue 10	S9(8)V99	R	229	238	FL47
35.	Revenue Code Line 11	9(4)	R	239	242	FL42
36.	Total Charges by Revenue 11	S9(8)V99	R	243	252	FL47
37.	Revenue Code Line 12	9(4)	R	253	256	FL42
38.	Total Charges by Revenue 12	S9(8)V99	R	257	266	FL47
39.	Revenue Code Line 13	9(4)	R	267	270	FL42
40.	Total Charges by Revenue 13	S9(8)V99	R	271	280	FL47
41.	Revenue Code Line 14	9(4)	R	281	284	FL42
42.	Total Charges by Revenue 14	S9(8)V99	R	285	294	FL47
43.	Revenue Code Line 15	9(4)	R	295	298	FL42
44.	Total Charges by Revenue 15	S9(8)V99	R	299	308	FL47
45.	45 Revenue Code Line 16	9(4)	R	309	312	FL42
46.	Total Charges by Revenue 16	S9(8)V99	R	313	322	FL47
47.	Revenue Code Line 17	9(4)	R	323	326	FL42
48.	Total Charges by Revenue 17	S9(8)V99	R	327	336	FL47
49.	Revenue Code Line 18	9(4)	R	337	340	FL42
50.	Total Charges by Revenue 18	S9(8)V99	R	341	350	FL47
51.	Revenue Code Line 19	9(4)	R	351	354	FL42

52.	Total Charges by Revenue 19	S9(8)V99	R	355	364	FL47
53.	Revenue Code Line 20	9(4)	R	365	368	FL42
54.	Total Charges by Revenue 20	S9(8)V99	R	369	378	FL47
55.	Revenue Code Line 21	9(4)	R	379	382	FL42
56.	Total Charges by Revenue 21	S9(8)V99	R	383	392	FL47
57.	Revenue Code Line 22	9(4)	R	393	396	FL42
58.	Total Charges by Revenue 22	S9(8)V99	R	397	406	FL47
59.	Revenue Code Line 23	9(4)	R	407	410	FL42
60.	Total Charges by Revenue 23	S9(8)V99	R	411	420	FL47
61.	Filler	X(25)		421	445	
62.	First Provider Number (Payor)	X(13)	L	446	458	FL51A
63.	Patient's Relationship to Insured	X(2)	L	459	460	FL59A
64.	Certificate/SocSec Number/ Health Insurance Claim/ Identification Number	X(19)	L	461	479	FL60A
65.	Insurance Group Number	X(20)	L	480	499	FL62A
66.	Employment Status Code	X(1)	L	500	500	FL64
67.	Employer Name	X(24)	L	501	524	FL65
68.	Employer Zip Code	X(9)	L	525	533	FL66
(For Diagnosis and Procedure Codes (69-90)-omit decimal)						
69.	Principal Diagnosis Code	X(6)	L	534	539	FL67
70.	Other Diagnosis Code 1	X(6)	L	540	545	FL68
71.	Other Diagnosis Code 2	X(6)	L	546	551	FL69
72.	Other Diagnosis Code 3	X(6)	L	552	557	FL70
73.	Other Diagnosis Code 4	X(6)	L	558	563	FL71
74.	Other Diagnosis Code 5	X(6)	L	564	569	FL72
75.	Other Diagnosis Code 6	X(6)	L	570	575	FL73
76.	Other Diagnosis Code 7	X(6)	L	576	581	FL74

77.	Other Diagnosis Code 8	X(6)	L	582	587	FL75
78.	Admitting Diagnosis	X(6)	L	588	593	FL76
79.	External Cause of Injury (E-Code)	X(6)	L	594	599	FL77
80.	Principal Procedure Code	X(7)	L	600	606	FL80
81.	Principal Procedure Date MMDDYY	9(6)	R	607	612	FL80
82.	Other Procedure 1 : Code	X(7)	L	613	619	FL81
83.	Other Procedure 1 : Date MMDDYY	9(6)	R	620	625	FL81
84.	Other Procedure 2 : Code	X(7)	L	626	632	FL81
85.	Other Procedure 2 : Date MMDDYYYY	9(6)	R	633	638	FL81
86.	Other Procedure 3 : Code	X(7)	L	639	645	FL81
87.	Other Procedure 3 : Date MMDDYY	9(6)	R	646	651	FL81
88.	Other Procedure 4 : Code	X(7)	L	652	658	FL81
89.	Other Procedure 4 : Date MMDDYY	9(6)	R	659	664	FL81
90.	Other Procedure 5 : Code	X(7)	L	665	671	FL81
91.	Other Procedure 5 : Date MMDDYY	9(6)	R	672	677	FL81
92.	Attending Physician Number	X(22)	L	678	699	FL82
93.	Other Physician Number	X(22)	L	700	721	FL83
94.	Other Physician Number	X(22)	L	722	743	FL84
95.	Filler	X(2)	L	744	745	
96.	Century Flag Patient's DOB 0=Birth Year 1900 1=Birth Year<1900	9(1)	R	746	746	
(Dates of Service-even numbers from 97-142; MMDDYY)						
97.	Units of Service Line 1	9(7)	R	747	753	FL46
98.	Date of Service Line 1	9(6)	R	754	759	FL45
99.	Units of Service Line 2	9(7)	R	760	766	FL46

100.	Date of Service Line 2	9(6)	R	767	772	FL45
101.	Units of Service Line 3	9(7)	R	773	779	FL46
102.	Date of Service Line 3	9(6)	R	780	785	FL45
103.	Units of Service Line 4	9(7)	R	786	792	FL46
104.	Date of Service Line 4	9(6)	R	793	798	FL45
105.	Units of Service Line 5	9(7)	R	799	805	FL46
106.	Date of Service Line 5	9(6)	R	806	811	FL45
107.	Units of Service Line 6	9(7)	R	812	818	FL46
108.	Date of Service Line 6	9(6)	R	819	824	FL45
109.	Units of Service Line 7	9(7)	R	825	831	FL46
110.	Date of Service Line 7	9(6)	R	832	837	FL45
111.	Units of Service Line 8	9(7)	R	838	844	FL46
112.	Date of Service Line 8	9(6)	R	845	850	FL45
113.	Units of Service Line 9	9(7)	R	851	857	FL46
114.	Date of Service Line 9	9(6)	R	858	863	FL45
115.	Units of Service Line 10	9(7)	R	864	870	FL46
116.	Date of Service Line 10	9(6)	R	871	876	FL45
117.	Units of Service Line 11	9(7)	R	877	883	FL46
118.	Date of Service Line 11	9(6)	R	884	889	FL45
119.	Units of Service Line 12	9(7)	R	890	896	FL46
120.	Date of Service Line 12	9(6)	R	897	902	FL45
121.	Units of Service Line 13	9(7)	R	903	909	FL46
122.	Date of Service Line 13	9(6)	R	910	915	FL45
123.	Units of Service Line 14	9(7)	R	916	922	FL46
124.	Date of Service Line 14	9(6)	R	923	928	FL45
125.	Units of Service Line 15	9(7)	R	929	935	FL46
126.	Date of Service Line 15	9(6)	R	936	941	FL45

127.	Units of Service Line 16	9(7)	R	942	948	FL46
128.	Date of Service Line 16	9(6)	R	949	954	FL45
129.	Units of Service Line 17	9(7)	R	955	961	FL46
130.	Date of Service Line 17	9(6)	R	962	967	FL45
131.	Units of Service Line 18	9(7)	R	968	974	FL46
132.	Date of Service Line 18	9(6)	R	975	980	FL45
133.	Units of Service Line 19	9(7)	R	981	987	FL46
134.	Date of Service Line 19	9(6)	R	988	993	FL45
135.	Units of Service Line 20	9(7)	R	994	1000	FL46
136.	Date of Service Line 20	9(6)	R	1001	1006	FL45
137.	Units of Service Line 21	9(7)	R	1007	1013	FL46
138.	Date of Service Line 21	9(6)	R	1014	1019	FL45
139.	Units of Service Line 22	9(7)	R	1020	1026	FL46
140.	Date of Service Line 22	9(6)	R	1027	1032	FL45
141.	Units of Service Line 23	9(7)	R	1033	1039	FL46
142.	Date of Service Line 23	9(6)	R	1040	1045	FL45
143.	Filler	X(25)	L	1046	1070	
144.	Second Provider Number (Payor)	X(13)	L	1071	1083	FL51B
145.	Patient's Relationship to Insured	X(2)	L	1084	1085	FL59B
146.	Certificate/SocSec Number/ Health Insurance Claim/ Identification Number	X(19)	L	1086	1104	FL60B
147.	Insurance Group Number	X(20)	L	1105	1124	FL62B
148.	Filler	X(25)	L	1125	1149	
149.	Third Provider Number (Payor)	X(13)	L	1150	1162	FL51C
150.	Patient's Relationship to Insured	X(2)	L	1163	1164	FL59C

151.	Certificate/SocSec Number/ Health Insurance Claim/ Identification	X(19)	L	1165	1183	FL60C
152.	Insurance Group Number	X(20)	L	1184	1203	FL62C
153.	Infant Birth Weight (in grams)	9(4)	R	1204	1207	
154.	Infant APGAR Score	9(4)	R	1208	1211	
155.	Patient Race	9(1)	R	1212	1212	
156.	Primary Payor Code	X(2)	L	1213	1214	FL50A
157.	Second Payor Code	X(2)	L	1215	1216	FL50B
158.	Third Payor Code	X(2)	L	1217	1218	FL50C
159.	Medicaid Provider Number	X(12)	L	1219	1230	FL51
160.	Medicare Provider Number	X(12)	L	1231	1242	FL51
161.	Patient Social Security Number	X(9)	L	1243	1251	FL60
162.	Primary Payor Carrier ID Code	X(4)	L	1252	1255	
163.	Second Payor Carrier ID Code	X(4)	L	1256	1259	
164.	Third Payor Carrier ID Code	X(4)	L	1260	1263	
165.	Federal Tax Sub ID.	X(4)	L	1264	1267	
166.	Filler	X(2)	L	1268	1269	
167.	Filler	X(31)	L	1270	1300	

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1941 (October 1998).

Interested persons may submit written comments within 20 days of this publication at the following address: Mark Shields, MD, MS, MPH, Director, Division of Health Information, DHH-OPH, P.O. Box 60630, New Orleans, Louisiana 70160.

David Hood
Secretary

9810#057

RULE

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

Maternal and Child Health Block Grant Application

The Department of Health and Hospitals (DHH) is adopting a Rule to apply for Maternal and Child Health (MCH) Block Grant Federal Funding for FY 1998-99 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, Number 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

9810#056

RULE

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

Ambulatory Surgical Centers (LAC 48:I.4523)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the licensing regulations for ambulatory surgical centers as established by R.S. 40:2131-2141. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 45. Ambulatory Surgical Center
§4523. Water Supply**

* * *

All centers shall be provided with an adequate supply of safe and palatable water under pressure. Water must be obtained from a water supply approved by the Office of Public Health.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2143.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 24:1946 (October 1998).

David W. Hood
Secretary

9810#048

RULE

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

**Medicaid—Children Supplemental
Security Income (SSI)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4913 of the Balanced Budget Act of 1997 to establish a new mandatory eligibility group for eligible children whom on August 22, 1996 were receiving Supplemental Security Income (SSI) but who effective July 1, 1997, or later, lost SSI payment because of a disability determination under the rules enacted by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

Medicaid benefits for children whose eligibility is reinstated under this provision applies to medical assistance furnished on or after July 1, 1997.

David W. Hood
Secretary

9810#055

RULE

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

Medicaid—Hemophilia Settlement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4735 of the Balanced Budget Act of 1997 which states that notwithstanding any other provision of law, payments made from any fund established pursuant to a class settlement entitled, "Factor VIII or IX Concentrate Blood Products Litigation," MDL 986 (Number 93-C-7452, Northern District of Illinois) shall not be considered as income or resources in determining either eligibility for, or the amount of benefits under, the Medicaid program. While the

settlement payments may not be counted as income or resource under Medicaid, Section 4735 does not similarly exempt any income that may be derived from those payments. Provisions governing transfers of assets and treatment of trusts under Section 1917 of the Social Security Act are not applicable, since the settlement payments are not counted as income or resources in determining eligibility.

David W. Hood
Secretary

9810#054

RULE

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

Medicaid—Louisiana Children's
Health Insurance Program (LaChip)

The Department of Health and Hospitals, Bureau of Health Services Financing, adopts the following rule as authorized by R.S. 46:153. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements the first phase of the Louisiana Children's Health Insurance Program (LaCHIP) for children up to 133 percent of the federal poverty level (FPL) by expanding coverage to uninsured children under the Title XIX (Medicaid) and Title XXI. This is in compliance with the section 4901 of the Balanced Budget Act enacting Title XXI of the Social Security Act and Act 128 of the First Extraordinary Session of the 1998 Louisiana Legislature enacting the LaCHIP Program. The LaCHIP Medicaid expansion covers uninsured children who meet the following criteria:

- 1) are under the age of 19;
- 2) are from families with incomes at or below 133 percent of the federal poverty level;
- 3) do not meet the state's Medicaid eligibility criteria in effect as of March 31, 1997.

Children who are excluded from coverage under the LaCHIP Medicaid expansion are:

- 1) those currently eligible for Medicaid;
- 2) those currently covered by other types of health insurance;
- 3) inmates of a public institution; and
- 4) patients in an institution for mental disease.

Children are considered uninsured for the purpose of determining eligibility for LaCHIP if they do not have creditable coverage for health insurance. The department is adopting the definition of creditable coverage for health insurance, the definition for health insurance coverage, and the exceptions to health insurance coverage as cited in section 2110 of the Social Security Act which references 42 U.S.C. §300 gg(c)(1), §300 gg-91(b)(1), and §300 gg-91(c)(1).

Children shall not be considered uninsured if their creditable coverage is dropped within the three calendar months prior to application for LaCHIP benefits unless the reason for dropping the coverage is loss of the employment that provided access to

insurance coverage. For the purposes of this proposed rule, the term *loss of employment* shall include the following:

- 1) loss of employment due to a lay-off, down-sizing, resignation, firing, etc.;
- 2) death of the parent whose employment provided access to dependent coverage;
- 3) change of employment to an employer that does not provide an option for dependent coverage;
- 4) discontinuation of health benefits for all employees of the applicant's employer;
- 5) expiration of coverage periods established by the Consolidated Omnibus Reconciliation Act of 1985 (COBRA); or
- 6) termination of health benefits due to a long term disability of the parent whose employment provided access to dependent coverage.

David W. Hood
Secretary

9810#036

RULE

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

Medicaid—Low Income Families

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the current policy governing countable resources for low income families with children to exempt the following resources from consideration for the determination of Medicaid eligibility:

1. burial insurance, funeral plans, or funeral agreements;
2. cash surrender values of life insurance policies; and
3. equity value up to \$10,000 of one vehicle used for personal transportation.

David W. Hood
Secretary

9810#053

RULE

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

Medicaid—Twelve-Month
Continuous Eligibility

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the

following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provision to provide continuous Medicaid eligibility for children under age 19 for 12 months from the date of determination as allowed under §4731 of the Balanced Budget Act of 1997 and directed by Act 128 §976.A.(4) of the First Extraordinary Session of 1998 of the Louisiana Legislature. However, 12 months of continuous Medicaid eligibility is not available to children who are eligible under the medically needy category.

David W. Hood
Secretary

9810#047

RULE

**Department of Labor
Plumbing Board**

Examination Integrity (LAC 46:LV.311)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Plumbing Board implements a new rule regarding the conduct of its examinations for licenses established by the Plumbing Law, R.S. 37:1361 et seq. this rule prohibits certain uses of resource materials by examinees and establishes appeal rights for examinees determined to have violated these prohibitions.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LV. Plumbers

Chapter 3. Licenses

§311. Integrity of Examination

The Board may reject an examination for any license or endorsement under this chapter, if it determined that the applicant completed any portion of any such examination with the assistance of any other person or unauthorized written materials secreted into the examination site. Examinees will be allowed to utilize resource or industry code materials approved by the Board or its examiners conducting the examination. Examinees determined to have violated the prohibitions of this section shall be notified in writing and, upon request by the examinee or at the direction of the Executive Director, an informal conference before the Executive Director or committee appointed by the Board will be conducted. An affected examinee may appeal the determination reached in the informal conference by filing a written appeal with the Board. Such appeal hearings shall comport with the provisions of R.S. 49:955(B). Based on the evidence adduced at any such hearing, the board may impose sanctions upon the examinee with respect to any subsequently administered examination and related licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 24:1948 (October 1998).

Don Traylor
Executive Director

9810#004

RULE

**Department of Labor
Plumbing Board**

Examination Requirements (LAC 46:LV.305)

The Louisiana State Plumbing Board ("Board"), pursuant to R.S. 37:1366(A) and (D) and 1377, has amended and restated Plumbing Regulation, LAC 46:LV.305.B, in accordance with the Administrative Procedure Act. This rule change notifies the public of the establishment of a centralized testing location for persons seeking licensing as a journeyman or master plumber. Since the applicable rule relating examinations for master plumber applicants, LAC 46:LV.306, states that such examinations are to be conducted in conjunction with examinations conducted pursuant to §305.B, there is no need to restate the former rule. LAC 46:LV.305.B is restated and/or amended as follows:

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LV. Plumbers

Chapter 3. Licenses

**§305. Requirements to Take Exam for Journeyman
Plumber's License**

* * *

B. Regular quarterly examinations will be held on the first Saturday of January, April, July and October in the City of Baton Rouge, or on such days specially set by the board. Regularly scheduled examinations are subject to postponement or relocation to accommodate legal holidays or other conditions beyond the control of the board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(A) and (D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended LR 14:440 (July 1988), LR 15:1088 (December 1989), repromulgated, as amended, by the Department of Employment and Training, Plumbing Board, LR 17:51 (January 1991), amended by the Department of Labor, Plumbing Board, LR 24:1948 (October 1998).

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Don Traylor
Executive Director

9810#002

RULE

Department of Revenue Office of Alcohol and Tobacco Control

Responsible Vendor Program (LAC 55:VII.501-509)

Under the authority of R.S. 26:933 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, has amended Chapter 5 of LAC 55:VII, pertaining to the Responsible Vendor Program.

Act 1054 of the 1997 Regular Session of the Louisiana Legislature enacted R.S. 26:931 et seq., to establish the Responsible Vendor Program to educate vendors, their employees and customers about selling, serving, and consuming alcoholic beverages in a responsible manner. LAC 55:VII.501, adopted April 1998, implemented assessment of an annual \$35 fee for all new and renewal permits for licensed establishments holding Class "A" General, Class "A" Restaurant, or a Class "B" Retail Alcoholic Beverage Control Permits issued under R.S. 26:71 or R.S. 26:271 to fund administration of the Responsible Vendor Program.

These amendments to §501 to move the fee provisions to §505.A.4 and add §§503 et seq., which establishes the program's purpose; defines terms; prescribes requirements for responsible vendor certification, server permitting, training provider and trainer approval, certification, and record retention; and specifies minimum course standards for server training classes.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 5. Responsible Vendor Program

§501. Purpose

The Responsible Vendor Program is intended to educate vendors and their employees and customers about selling, serving, and consuming beverage alcohol, tobacco, and tobacco products. Chapter 5 relates to the development, establishment, and maintenance of the Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:702 (April 1998), amended LR 24:1949 (October 1998).

§503. Definitions

For purposes of this Chapter, the following terms are defined:

Approved Provider—an individual, unincorporated association, partnership, or corporation approved by the program administrator to provide server training courses.

Commissioner—the commissioner of the state Office of Alcohol and Tobacco Control.

Program Administrator—a committee or board of nine persons that shall develop and administer the Responsible Vendor Program.

Responsible Vendor—any vendor who qualifies and maintains certification in the Responsible Vendor Program.

Responsible Vendor Handbook—the handbook that is

developed, published, and distributed by the program administrator and approved by the commissioner.

Server—any employee of a vendor who is authorized to sell or serve beverage alcohol in the normal course of his or her employment or deals with customers who purchase or consume beverage alcohol.

Server Permit—the permit issued to a server upon completion of a server training course and all refresher courses.

Trainer—an individual employed or authorized by an approved training provider to conduct an alcohol server education course wherein the successful completion of the course by the student will result in the issuance of a server permit.

Vendor—any holder of a state Class A—General, Class A—Restaurant, or Class B—Retail permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1949 (October 1998).

§505. Vendors

A. Certification and Enrollment as a Responsible Vendor

1. The vendor shall review and understand the vendor handbook.

2. The vendor shall provide the Office of Alcohol and Tobacco Control with a completed "vendor affidavit" for enrollment in the program.

3. The vendor shall require all "servers" to attend an approved server training course within 45 days of the first day of employment.

4. The vendor shall pay an annual fee of \$35 per licensed establishment holding a Class A—General, Class A—Restaurant, or Class B—Retail permit for the purpose of funding development and administration of the Responsible Vendor Program.

a. The fee shall be assessed on all new and renewal applications for retail permits to engage in the business of dealing in alcoholic beverages.

b. The fee shall not be assessed to those parties seeking a Special Event Permit under the provisions of R.S. 26:793(A).

B. Maintaining Certification

1. The vendor shall keep the vendor handbook current with all updates and periodic amendments distributed by the program administrator.

2. The vendor shall provide new employees already licensed under the Responsible Vendor Program with the rules and regulations applicable in the parish or municipality of the establishment's location.

3. The vendor shall maintain server training records, which include the name, date of birth, social security number, and date of hire for all servers. The records shall be kept on the licensed premises at all times for inspection by agents of the Office of Alcohol and Tobacco Control or other peace officers.

4. The vendor shall post signs on the licensed premises informing customers of the vendor's policy against selling alcoholic beverages or tobacco products to underage persons if required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1949 (October 1998).

§507. Servers

A. Server applicants with special needs, such as an inability to read or write in English, hearing impairment, etc., shall contact the approved training provider at least one week before the alcohol server training course to request specific assistance in completing the course. Notwithstanding any other provision of Chapter 5, the approved provider and the program administrator shall attempt to provide reasonable accommodation when requested in compliance with state and federal law.

B. Server Permit

1. Server permits shall be valid for two years from the completion of an approved alcohol training course.

2. Whenever a server is employed in the service of alcohol, their permit and one legal form of picture identification shall be available on the premises for inspection by agents of the Office of Alcohol and Tobacco Control or other peace officers.

3. A server's refusal or failure to make their permit available on the premises for immediate inspection by authorized agents or peace officers shall be evidence of a violation of this Section.

C. Server Permit Verification. The Office of Alcohol and Tobacco Control shall maintain a list of currently certified servers by name, permit number, and date of birth, so that vendors can verify the validity of the servers' permits.

D. Permit Expiration, Renewal, and Lost Permits

1. Every server permit shall expire on the last day of the month, two years after the month that the server successfully completed the alcohol server education course.

2. To be eligible for renewal of a server permit, the server shall again attend and successfully pass an alcohol server's education course and examination given by an approved provider.

3. Lost permits shall be canceled and a replacement issued by the Office of Alcohol and Tobacco Control after the server submits an affidavit of lost permit and a \$5 fee.

E. Illegal Possession of a Permit. Any person who falsifies, keeps, or possesses a server permit contrary to the provisions of this Chapter shall be guilty of a violation of this Chapter.

F. Server Liability; Penalties, Fines, Suspension, or Revocation of Server Permit. Notwithstanding any criminal actions taken, the commissioner may issue administrative violation notices to any holder of a server permit for noncompliance with this Chapter or for any violation, attributable to the server, of Title 26 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1950 (October 1998).

§509. Training; Providers and Trainers

A. Trainer Certification. Approved providers shall only contract with trainers that have any combination of a minimum of two years of:

1. verified full-time employment in the fields of training, education, law, law enforcement, substance abuse rehabilitation, the hospitality or retail industry that involved the sale or service of alcohol; or

2. post-secondary education in the fields of training, education, law, law enforcement, substance abuse rehabilitation, or the hospitality or retail industry that involved the sale or service of alcohol.

B. Provider Certification

1. A person or business entity that applies to become an approved provider for alcohol server education shall submit the following to the program administrator:

a. a completed application form provided by the program administrator;

b. a copy of the lesson plans, audio, visual, and printed materials provided as part of the alcohol server training course;

c. a copy of the examinations;

d. the names, dates of birth, social security numbers, addresses and phone numbers, and educational and employment backgrounds of all trainers to be used in teaching the course; and

e. notification of any changes within 30 days of hiring, contracting with, or termination of any trainers.

2. After the program content or method of presentation has been approved by the program administrator, the provider shall notify and obtain approval of any changes from the program administrator.

C. The alcohol server permits issued by the program providers to students who successfully complete the server training programs shall be obtained from the Office of Alcohol and Tobacco Control.

D. Denial or Recision of Program Approval

1. The program administrator may deny or rescind approval of any program if any of the following is found:

a. the program does not meet the minimum course standards set out in Chapter 5;

b. the Application for Program Certification is not correct or complete;

c. any trainer has been convicted of a felony or of a misdemeanor related to theft, fraud, or misrepresentation and it has been less than three years since the discharge of the sentence imposed as a result of the conviction; or

d. any trainer has been convicted of operating a vehicle while intoxicated at the time they were employed as a trainer and it has been less than one year since the discharge of the sentence imposed as a result of the conviction.

2. Within 10 days after receipt of the notice that the program approval has been denied or rescinded, the applicant has the right to request a hearing before the program administrator.

3. If the applicant fails to request a hearing, the right to a hearing is waived and the program administrator's decision is final.

4. The notice that the program approval has been denied or rescinded shall be served by either certified mail or personal service at the applicant's main office to any adult agent or employee or to its registered agent.

E. Provider and Trainer Records—Rights of Inspection

1. Within 10 days of any training course, the approved provider shall submit to the Office of Alcohol and Tobacco Control a copy of the server permit forms issued and a report of the server training that includes the following:

a. the name, social security number, permit number, address, telephone number, and date of birth of each student that completed the training course and passed the required examination;

b. the name of the trainer that conducted the course and the trainer's signature and verification that each student listed has successfully completed the approved course on the date indicated and any other facts as the program administrator or agents or employees of the Office of Alcohol and Tobacco Control may require.

2. Copies of the examinations and permits shall be kept for two years from the date of issue at the approved provider's place of business available for inspection and copying by agents or employees of the Office of Alcohol and Tobacco Control.

3. The approved provider shall maintain for two years from the date the class was conducted, the course information, which includes the class location, date, and time; trainer's name; and the student's names, Social Security Number, and permit number. These records shall be maintained at the approved provider's place of business available for inspection and copying by agents or employees of the Office of Alcohol and Tobacco Control.

F. Approved Provider Minimum Course Standards

1. To be certified to issue a server permit, the provider's course of instruction shall include the subject areas enumerated in R.S. 26:933(C), as well as the following:

a. introduction:

i. brief review of the law creating the Louisiana Responsible Vendor Program, which shall include when the program was enacted, who is required to participate and how, when it becomes mandatory, nature of permits issued to server, when server permits expire, obligation of server to attend a course every two years, and server renewal procedures;

ii. objectives of the Responsible Vendor Program, which shall include education of vendors, servers, and their customers about responsible sales, service, and consumption of alcohol and tobacco; and prevention of the misuse, illegal use, and abuse of alcohol;

b. classification of alcohol as a depressant and its effect on the human body, particularly on the ability to drive a motor vehicle:

i. alcohol is a depressant not a stimulant;

ii. how alcohol travels through the body, including how quickly it enters the bloodstream and reaches the brain;

iii. alcohol's effect on a person's ability to drive a motor vehicle, specifically reviewing alcohol's effect on a person's behavior, self-control, and judgment;

iv. outline of Louisiana's driving while intoxicated laws and penalties for violations;

c. effects of alcohol when taken with commonly used prescription and nonprescription drugs:

i. mixing alcohol with other drugs can produce dangerous side effects. It is especially dangerous to drive under the influence of alcohol and other drugs because of the increased impairment due to both;

ii. alcohol and other depressant drugs. Mixing alcohol with other depressants dangerously increases the depressant effect on the body;

iii. alcohol and stimulants. Stimulants do not cancel the intoxication and impairment due to alcohol;

iv. alone, many prescription and nonprescription drugs impair the ability to drive a motor vehicle;

v. the effects of commonly used prescription and nonprescription drugs;

vi. review of the effects of contemporary designer drugs such as GHB and Rohypnol;

d. absorption rate, as well as the rate at which the human body can dispose of alcohol and how food affects the absorption rate:

i. rate at which the human body absorbs alcohol;

ii. blood alcohol concentration (BAC) and how to estimate a person's BAC. Include drink equivalency guidelines;

iii. how the human body disposes of alcohol;

iv. the effect of food on the absorption rate;

v. time is the only real factor that reduces intoxication;

e. methods of identifying and dealing with underage and intoxicated persons, including strategies for delaying and denying sales and service to intoxicated and underage persons:

i. procedures and methods for detecting false identification;

ii. procedures and methods for denying service or entry to underage persons;

iii. procedures and methods for identifying intoxicated persons including behavioral warning signs and other signs of impairment;

iv. procedures and methods for preventing over intoxication;

v. procedures and methods for terminating service to intoxicated persons;

f. state laws and regulations regarding the sales and service of alcoholic beverages for consumption on or off premises:

i. legal forms of identification in Louisiana;

ii. legal age to purchase, possess, and consume alcohol and penalties for violation;

iii. legal age to enter licensed premises and penalties for violation;

iv. legal age to be employed by a vendor and penalties for violation;

v. acts prohibited on licensed premises and penalties for violation;

g. parish and municipal ordinances and regulations that affect the sale and service of alcoholic beverages for

consumption on or off the licensed premises. These provisions will depend on the jurisdiction of the servers attending the class and may vary according to the parish and municipality:

- i. legal hours of operation and Sunday sales;
- ii. noise, litter, and zoning;
- iii. leaving premises with alcohol;
- iv. preemption of parish and municipal server training courses;
- v. parish or municipal server licensing requirements;
- vi. other relevant regulations;
- h. state and federal laws and regulations related to the lawful age to purchase tobacco products and age verification requirements:
 - i. state and federal legal purchasing age;
 - ii. federal age verification requirements;
 - iii. state and federal laws and regulations related to vending machines;
 - iv. state laws related to sign posting requirements;
 - v. state laws related to minimum packaging requirements.

2. Each approved server training course shall include at least two hours of classroom instruction, exclusive of breaks and examination time, and shall be presented in a continuous block of instruction. Classes shall be limited to no more than one 10-minute break per hour.

3. The approved server training course shall be presented in its entirety to each student in a language approved by the program administrator.

4. Each server training course must include an examination approved by the program administrator, which is administered by the trainer immediately following the course presentation. Students shall take the examination in writing, unless special circumstances require an oral examination. With the approval of the program administrator, the test may be offered in a language best understood by the student, or bilingual trainers may, in response to direct inquiries, clarify test questions using another language. Each student shall correctly answer at least 70 percent of the examination questions. Students who receive failing scores may be retested once at a time and place to be determined by the trainer. Otherwise, students must repeat the full course for an additional fee.

5. All training facilities shall meet the requirements of the Americans with Disabilities Act (ADA) and shall have adequate lighting, seating, easily accessible restrooms, and comfortable room temperature.

6. At the beginning of each server training course, the trainer shall give each student:

- a. an enrollment agreement that clearly states the obligations of the trainer and student, refund policies, and procedures to terminate enrollment;
- b. a notice that a student must complete the course in order to take the examination;
- c. a server training workbook, approved by the program administrator, that is current, complete, and accurate. The workbook shall include an outline of the minimum course curriculum, table of contents, titles, subheadings, and page

numbers. Physical specifications must meet the following minimum standards:

- i. minimum dimensions of paper size must be 8½ by 11 inches;
- ii. paper stock, excluding front and back cover, shall be white or near white, and of a quality and weight suitable for reproduction and note-taking with no ink bleed through;
- iii. type must be a minimum of 11-point in a type style commonly used for textbooks and periodicals;
- iv. binding must firmly hold the pages together in correct order and be sufficient for use during the course and as a reference;
- v. professional printing and typesetting are not required, but reproductions must be clear, readable, and letter quality;
- vi. for ease of reading and adequate room for note-taking, white space must be a minimum of 30 percent per page with the print or copy to be no more than 70 percent of the page.

7. No server training class shall include more than 100 students and students that arrive more than 15 minutes after the class begins shall not be admitted.

8. The classroom presentation must be consistent with the approved program.

9. Discussions must be pertinent to responsible beverage alcohol or tobacco sales, service, and consumption.

10. The program administrator or their designee may attend any class to evaluate conformance with the program certified by the program administrator.

11. At least seven days in advance, the approved provider or their authorized trainers shall give written notice to the Office of Alcohol and Tobacco Control of the date, time, and location of all courses scheduled. The Office of Alcohol and Tobacco Control shall be notified by phone or fax of course cancellations prior to the course date except when cancellation cannot be anticipated, in which case notification shall be within three business days of the scheduled course date.

G. Approved Server Training Course Fees. Approved providers may charge fees for the cost of conducting the approved server training courses. The fees shall be approved by the program administrator and the commissioner and may not exceed \$25.

H. Sanctions Against Approved Providers and Trainers. Any approved provider or trainer who violates any of the provisions of Title 26 of the Louisiana Revised Statutes or any of the requirements of Chapter 5 shall:

1. for a first offense receive a notice of intended suspension or revocation of the program administrator's certification or authorization, with 30 days allowed to correct any violations. If the violation is rectified no further action will be taken;
2. if the violation is not rectified or a second violation by the provider or their trainer occurs, the program administrator or their designee shall suspend approval and certification of the provider or trainer for a period not to exceed six months. Before the suspension will be lifted, the provider or trainer shall correct all violations;

3. the program administrator or their designee may increase sanctions based on successive violations within a two-year period. Numerous violations within a two-year period may indicate disregard for the law or failure to provide an acceptable alcohol server education program so as to warrant cancellation of the certification of either the provider or their trainer;

I. Approved Provider Responsible for Acts of Trainers. The program administrator may hold a provider responsible for any act or omission of the provider's program, personnel, trainers, or representatives that violate any law or administrative rule pertaining to approved providers' privileges.

J. Prohibited Conduct. No approved provider or authorized trainer shall:

1. make any false or misleading statement to induce or prevent the program administrator's actions;

2. falsify, alter, or otherwise tamper with alcohol server permits or records;

3. permit a student to refer to any written material or have a discussion with another person during the exam unless the instructor authorizes the student to use an interpreter;

4. permit any student to drink alcoholic beverages or to be under the influence of intoxicants during the course presentation or examination, including breaks;

5. drink alcoholic beverages or be under the influence of intoxicants during the course presentation or examination, including breaks;

6. prohibit, interfere, or fail to assist the program administrator or their designee with scheduling or attendance of on-site observations.

K. Approved Provider and Trainer Advertising and Promotion Standards

1. Approved provider and trainer advertising related to the alcohol server training courses shall include:

a. the approved provider's or trainer's telephone number and cancellation policy;

b. the total amount of course time that includes instruction, examination and breaks;

c. a statement that students shall attend the entire course before taking the examination.

2. Advertising shall not suggest that the state of Louisiana, the program administrator, or any state agency endorses or recommends the approved provider's program to the exclusion of any other program.

3. Upon request, the approved provider or trainer shall give the program administrator copies of program publications, brochures, pamphlets, scripts, etc. or any other representation of advertising materials related to the program.

4. An approved training provider or trainer must have records available to support all advertising claims or representations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1950 (October 1998).

Murphy J. Painter
Commissioner

9810#006

RULE

Department of Social Services Office of Family Support

Individual and Family Grant (IFG) Program (LAC 67:III.4704)

The Department of Social Services, Office of Family Support, has adopted Title 67, Part III, Subpart 10, of the *Louisiana Administrative Code*, pertaining to the Individual and Family Grant (IFG) Program.

This rule specifies eligibility of non-citizens for IFG Program assistance. The Federal Emergency Management Agency (FEMA), which governs the IFG Program, promulgated this rule as a result of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996, Public Law 104-208. An emergency rule was necessary to effect this regulation subsequent to a federal disaster declaration.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 10. Individual and Family Grant Program Chapter 47. Application, Eligibility, and Furnishing Assistance

Subchapter A. Need and Amount of Assistance

§4704. Special Condition of Eligibility Effective September 23, 1998

Only U.S. citizens, U.S. non-citizen nationals and qualified aliens are eligible for IFG assistance. A qualified alien is defined as:

1. an alien admitted for permanent residence under the Immigration and Nationality Act (INA);

2. an alien granted asylum under §208 of the INA;

3. a refugee admitted to the U.S. under §207 of the INA;

4. an alien paroled into the U.S. under §212(d)(5) of the INA for at least one year;

5. an alien whose deportation is being withheld under §243(h) of the INA as in effect prior to April 1, 1997 or whose removal is being withheld under §241(b)(3) of the INA;

6. an alien granted conditional entry pursuant to §203(a)(7) of the INA as in effect prior to April 1, 1980;

7. an alien who is a Cuban or Haitian entrant, as defined in §501(e) of the Refugee Education Assistance Act of 1980; or

8. an alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the U.S. and otherwise satisfies the requirements of §431(c) of the Act.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 104-208.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1953 (October 1998).

Madlyn B. Bagneris
Secretary

9810#059

RULE

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

Support Enforcement Services
(LAC 67:III.2525)

The Department of Social Services, Office of Family Support has amended Title 67, Part III, Subpart 4, of the *Louisiana Administrative Code* pertaining to Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Public Law 105-33, the Balanced Budget Act of 1997, SES is now cooperating in automated administrative enforcement in interstate cases. Recent program review by the U.S. Department of Health and Human Services, Office of Child Support Enforcement (OCSE), prompted that agency to advise SES to incorporate defining language into LAC 67:III.2525.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter F. Cooperation with Other States

§2525. Automated Administrative Enforcement in Interstate Cases

A. SES shall use high-volume, automated administrative enforcement on interstate cases to the same extent as used for intrastate cases. This means the use of automatic data processing to search various state data bases, including license records, employment service data, and state new hire registries, to determine whether information is available regarding a parent who owes a child support obligation.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:958 (May 1998), amended LR 24:1954 (October 1998).

Madlyn B. Bagneris
Secretary

9810#060

RULE

**Department of Social Services
Office of Rehabilitation Services**

Community Rehabilitation
Program (LAC 67:VII.Chapter 2)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Social Services, Louisiana Rehabilitation Services adopts the following rule in LAC 67:VII. Rehabilitation Services, Community Rehabilitation Program, Program Standards.

The rule governing Louisiana Rehabilitation Services policy relative to Community Rehabilitation Programs is to establish standards for Community Rehabilitation Program vendors who provide services to clients of Louisiana Rehabilitation Services through the Vocational Rehabilitation Program.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 2. Community Rehabilitation Program

§201. Purpose

A. Principle. The Community Rehabilitation Program (CRP) shall establish its purpose and direct its activities toward accomplishment of that purpose.

B. The CRP shall state its goals and purposes clearly in appropriate publications for distribution to staff, those served, referral and payment sources, and the public.

C. The CRP shall describe the specific rehabilitation needs it is prepared to address as well as the programs and services available for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1954 (October 1998).

§203. Organization and Management

A. Licenses. All public and private community rehabilitation programs shall be licensed by the Department of Social Services, Bureau of Licensing or the Department of Health and Hospitals, if applicable, based on the standards developed and published according to state law.

B. General Requirements

1. The CRP shall allow representatives of Louisiana Rehabilitation Services (LRS) and the appropriate program office in the performance of their mandated duties to monitor all aspects of a program's functioning which impact on clients and to interview staff members and clients.

2. The CRP shall make any information which the program is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements available to LRS and the appropriate program office.

a. The client's rights shall not be considered abridged by this requirement.

b. A CRP shall promptly provide all necessary and needed information for review.

c. A CRP shall provide adequate space and privacy for the surveyor to review records uninterrupted.

C. A CRP shall have an administrative file including:

1. documents identifying the governing body and/or ownership of the agency;

2. list of members and officers of the governing body and their addresses and terms of membership, if applicable;

3. bylaws of the governing body and minutes of formal meetings, if applicable;

4. a written statement of the program's mission and philosophy;

5. documentation of the agency's incorporation in the state;

6. organizational chart of the agency;

7. all leases, contracts and purchase-of-service agreements to which the center is a party;
8. insurance policies;
9. annual budgets;
10. master list of all consultants used by the center.

D. Organization and Administration. The CRP should engage in short-range and long-range planning, and develop or modify its services according to identified community needs and other LRS identified needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1954 (October 1998).

§205. Governing Body

A. The membership of the governing body shall be representative of the community being served, and include person(s) with disabilities and/or families of person(s) with disabilities; or

B. A CRP has for-profit status, it shall have an advisory board which meets regularly and is representative of the community being served and include person(s) with disabilities and/or families of person(s) with disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

§207. Fiscal Accounting Systems and Record Keeping

A. The CRP must maintain adequate fiscal records and accountability so as to demonstrate, upon request, receipt and utilization of funds from LRS. Each CRP must have an annual external audit and management letter and include a single audit where indicated or required by law.

B. The CRP must have adequate insurance to protect persons served.

C. A CRP shall not permit funds to be paid, or committed to be paid, to any corporate person to which any of the members of the governing body, administrative personnel or members of the immediate families or members of the governing body or administrative personnel have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the CRP. The CRP shall have a written disclosure of any financial transaction with the agency in which a member of the governing body, administrative personnel or his/her immediate family is involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

§209. Personnel Administration and Staff Development

A. Providers of vocational rehabilitation services shall use qualified personnel, in accordance with any applicable national or state-approved or recognized certification, licensing, or registration requirements, or in the absence of these requirements, other comparable requirements (including state personnel requirements), that apply to the profession or

discipline in which that category of personnel is providing vocational rehabilitation services.

B. The CRP should encourage and support staff growth and development by providing opportunities for training, education and interaction with other persons in the rehabilitation field.

C. Providers of vocational rehabilitation services should take affirmative action to employ and advance in employment qualified individuals with disabilities.

D. The CRP will include among their personnel or make available personnel able to communicate in the native languages of individuals who have limited English proficiency if those native languages are spoken by substantial segments of the population of the state; and provide special modes of communication for individuals who rely on these special modes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

§211. Physical Plan and Accessibility

The CRP must comply with accessibility requirements as established in Section 504 of the Rehabilitation Act of 1973, as amended, and by the Uniform Federal Accessibility Standards and the Americans with Disabilities Act of 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

§213. Confidentiality and Case Records

A. General

1. All client information is confidential. All personal information in the possession of the CRP shall be used only for purposes directly connected with the administration of the program.

2. A CRP shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records and to whom records may be released. Records shall be the property of the center and the center, as custodian, shall secure records against loss, tampering or unauthorized use.

B. Notification to Clients. Individuals asked to supply the CRP with information concerning themselves shall be informed of the CRP's need to collect confidential information and the policies governing its use, release, and access including:

1. a Consent to Release Case Record Information form contained in case files which must document that individuals have been advised of the confidentiality of information pertinent to their case;

2. the principal purpose for which the CRP intends to use or release the requested data;

3. whether the individuals may refuse, or are legally required to supply the requested data;

4. any known consequence arising from not providing the requested information;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information. The case file must contain documentation concerning any information released with the individual's written consent.

D. No use shall be made of the name or picture of an individual served without the prior written consent of the individual, or his or her legal guardian.

E. Client Access to Data. When requested in writing by the involved individual or an authorized representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the CRP maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the individual's physical or mental health;

2. medical, psychological, or other information which the CRP determines harmful to the individual;

Note: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the individual's representative, or a physician or a licensed or certified psychologist;

3. personal information that has been obtained from another agency or organization. Such information may be released only by or under the conditions established by the other agency or organization.

F. Informed Consent. Informed consent means that the individual has signed an authorization to release information and such authorization is as follows:

1. in a language that the individual understands;
2. dated;
3. specific as to the nature of the information which may be released;
4. specifically designates the parties to whom the information may be released;
5. specific as to the purpose(s) for which the released information may be used;
6. specific as to the expiration date of the informed consent which must not exceed one year.

G. Release of Client Information Without Informed Consent

1. The CRP must have written authorization to release confidential client information except in the following instance:

a. the CRP can release personal information without informed written authorization to protect the client or others when the client poses a threat to his/her safety or to the safety of others;

b. the CRP can only release that information necessary to protect the client or others.

c. the CRP or employee providing the information must carefully record all the facts and circumstances in the client's case record.

2. Examples of Emergency Situations. Emergency situations that might require release of personal information without informed written authorization could possibly include the following:

- a. threats of murder and/or suicide;
- b. threats to the safety of the workplace;

c. national security violations.

H. Confidentiality—HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

I. Location of Records

1. The CRP shall keep on site the following records:

- a. all IPE's and Agency Service Plans;
- b. all client plan updates and progress notes;
- c. all client evaluations;
- d. a copy of the CRP's policy and procedure manual(s);
- e. a copy of the employee's criminal history check.

2. All other records shall be kept in the main office of the CRP, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

§215. Available Programs and Program Outcomes

A. Intake and Orientation. The CRP should make a reasonable effort to obtain necessary case file information before planning services for an individual, and make appropriate use of such information throughout the individual's program.

B. Assessment and Program Planning

1. The CRP should review referral information and, using appropriate appraisal and evaluation procedures, determine the individual's need for services.

2. The CRP's policies shall specify that the individual's plan for rehabilitation services will be established with his or her involvement and that it will focus on the individual's achievement of independent functioning in the community and/or achievement or maintenance of the individual's appropriate level of employment outcome or independent functioning.

C. Program Management, Treatment, and Training

1. The CRP shall develop a procedure to insure that services provided each individual are organized, coordinated and reviewed regularly by a program manager or service coordinator.

2. The individual's progress toward the planned goals shall be measured and recorded monthly and communicated to the individual, the referral source, LRS and any other authorized parties.

3. Individually scheduled conferences shall take place on a timely basis to review the progress of the individual served and to develop further plans, if necessary. The results shall be recorded in the case record and communicated to LRS and any other appropriate parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1956 (October 1998).

§217. Public Relations and Marketing

A. Principle. The CRP shall be actively involved in its community to create acceptance, understanding and support for its goals and services.

RULE

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

Disability Determinations
(LAC 58:I.Chapter 25)

B. The CRP should thoroughly investigate the employment and related needs of its current and future users, and organize its services to meet those needs.

C. The CRP should conduct its activities in a manner that encourages understanding, cooperation and support from the public, from other agencies and from other groups in the community.

D. The CRP should function in the community as an advocate for those it serves by promoting positive attitudes toward them, and developing awareness of their legal rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1956 (October 1998).

§219. Vocational Modules

A. A Vocational Evaluation/Assessment shall utilize professionally accepted methods based on client-specific needs to result in a suitable and appropriate employment goal.

B. A Community Based Situational Assessment shall be client-specific to result in a suitable and appropriate employment goal.

C. Employment Preparation (Job Club, Job Readiness, Job Retention Training, etc.)

1. The employment preparation should be provided according to the needs identified in the evaluation/assessment and IPE.

2. The employment preparation should be provided according to goals that are specific and individualized to meet the demands of the employment goal.

3. The employment preparation should result in skills required for successful placement of the individual into a job in the community based on the designated employment goal.

D. Job Development/Placement

1. Job development and placement of LRS clients should meet the employment goal cited in the IPE.

2. The CRP shall provide documentation of the job development efforts which are consistent with the employment goal on the client's IPE.

3. Client shall be placed into an integrated competitive employment position and be compensated at or above the minimum wage, but not less than the customary or usual wage paid by the employer for the same or similar work performed by individuals who are not disabled.

4. Individuals should be followed in their employment progress for at least 90 days and should be contacted at 6-month and 12-month intervals to ascertain progress.

5. The CRP shall have an 80 percent placement and retention rate of all individuals referred by LRS, for job development and placement.

6. The CRP shall maintain and disseminate client performance information regarding their employment to LRS staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1957 (October 1998).

Madlyn B. Bagneris
Secretary

9810#058

In accordance with R.S. 49:950 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) has amended and reenacted the following rules revising LAC Title 58, Part I, Chapter 25. These rules set forth the procedures for the administration of the disability program administered by the Board of Trustee of LASERS as established at R.S. 11:212 et seq. and 11:461 and 462.

These rules comply with the above cited statutory law and are enabled by R.S. 11:515. The purpose of the rules is to conform the rules to the current statutory requirements of the program; implement a recertification program for disability retirees as set forth in law; and to establish a rehabilitation and surveillance program for disability retirees.

Title 58

**Part I. Louisiana State Employees' Retirement System
Chapter 25. Disability Determinations**

§2501. Use of a Third-Party Administrator

Wherever in this chapter the term *LASERS* is used, it shall include any Third-Party Administrator (TPA) who, under contract with this system, manages any portion of the disability benefits administered by the Louisiana State Employees' Retirement System (LASERS). Claimants will be advised how to contact the TPA to fulfill their responsibility in supplying the requisite documentation to process their claim.

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1957 (October 1998).

§2503. Application for Disability Retirement

A. Applications for disability retirement shall be submitted in accordance with instructions provided to the applicant or applicant's employer by LASERS, and shall be reviewed as follows.

1. Upon receipt of a disability application, LASERS shall verify applicant's eligibility within two (2) business days of receipt of the application.

2. The application; Examining Physician's Report; the Disability Report by Immediate Supervisor; and Report by Applicant's Human Resource Administrator shall be reviewed for completeness.

3. If the application or any of the required forms are incomplete or missing, the applicant shall be notified in writing, and will have ten (10) business days to furnish the requested information. If the applicant fails to comply with this request, the application shall be rejected as ineligible.

B. Whether the applicant is determined to be eligible or ineligible to apply for disability, the applicant shall be notified

in writing by LASERS within ten (10) business days of the determination.

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:0000 (October 1998).

§2505. Disability Board Physician's Recommendation

A. LASERS shall determine the appropriate State Medical Disability Board physician to perform the initial medical examination, based on the area of medical specialty most closely related to applicant's disability.

B. If the State Medical Disability Board does not have a physician practicing in the requisite specialty, LASERS shall appoint a physician who practices in the requisite specialty to the Board or as an alternate physician to perform the initial medical examination.

C. If the applicant's condition may be terminal, LASERS shall forward applicant's medical records to the appropriate Board physician for review and recommendation.

D. If the applicant's condition is not potentially terminal, LASERS shall schedule an appointment with the appropriate Board physician. The applicant shall be notified of the appointment date and time in writing. The initial examination shall be completed within six (6) weeks of the date the completed disability application is received and eligibility is verified by LASERS.

E. LASERS shall pay the cost of the initial examination, including cost of laboratory tests, x-rays, and other direct examination procedures. If the applicant fails to appear for this examination and the physician charges a cancellation fee, the applicant shall be responsible for this fee.

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1957 (October 1998).

§2507. Final Determination

A.1. LASERS shall review the Disability Board physician's recommendation and based on that recommendation, either approve, or disapprove the application. An applicant shall be considered as certified totally disabled when the Board physician declares the applicant to be totally incapacitated for the further performance of the normal duties of the job and states that such incapacity is likely to be permanent. In all cases, the examining physician shall make a recommendation if the application should be approved or disapproved. If the physicians recommendation is unclear, the file shall be forwarded to the disability manager for review. The disability manager shall contact the Board physician for clarification of the recommendation.

2. If a correction officer, probation or parole officer, or security officer of the Department of Public Safety and Corrections, or an employee of the enforcement division in the Department of Wildlife and Fisheries is found to be permanently totally or partially disabled the applicant shall be

entitled to a disability retirement benefit in accordance with either R.S. 11:212 B. or 214, as applicable.

B. If the disability manager cannot make a clear determination, the file shall be sent to LASERS' Executive Director, who shall contact the Board examining physician for clarification, or another State Medical Board physician for consultation, or an appointed alternate physician shall be consulted when necessary.

C. Any unusual applications shall immediately be presented to the Executive Director for his review and determination on how it should best be handled.

D. When the final determination is made, the applicant shall be notified in writing and a copy shall be forwarded to applicant's agency.

E. A final determination shall be made within One Hundred and Twenty (120) days from the date the completed application is verified by LASERS.

F. Disability benefits shall accrue from the date the application was filed or from the day following exhaustion of all sick leave or annual leave claimed by applicant, whichever is later.

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:000 (October 1998).

§2509. Contesting Board Physician's Determination

A. If the certification of the examining physician is contested by either the applicant or LASERS, the contesting party shall have the right to a second medical examination if a written appeal is filed within thirty 30 days of notification of the initial determination.

B. The second examination shall be performed by a State Disability Board Physician, or appointed alternate physician. LASERS shall schedule the appointment and notify the applicant of the time and place of the second examination in writing.

C. The cost of the second examination shall be paid by the contesting party. If the applicant fails to appear for this examination and the physician charges a cancellation fee, the applicant shall be responsible for this fee.

D. If the second physician concurs in the findings and recommendations of the first physician, the original decision shall stand as final and binding on the parties.

E. If the second physician disagrees with the first physician's finding and recommendation, the two physicians shall select a third physician to conduct another examination. The findings and recommendations of the third physician shall be binding, and the cost of the third physician shall be paid by LASERS if the applicant is certified disabled, or by the applicant if the disability claim is denied. If the applicant fails to appear for this examination and the physician charges a cancellation fee, the applicant shall be responsible for this fee.

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998).

§2511. Judicial Appeal

The applicant has the right to appeal the decision that applicant is not entitled to a disability retirement to the Nineteenth Judicial District Court, Parish of East Baton Rouge. This appeal shall be filed within 30 days of the receipt of the final medical decision.

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998).

§2513. Certification of Continuing Eligibility

A. LASERS requires a disability retirees to undergo a medical examination once each year during the first five years following the disability retirement, and once in every three-year period thereafter until the retiree has reached the equivalent age of regular retirement, unless the medical evidence shows conclusively that the disability retiree cannot recover from the disability.

B. LASERS shall schedule the appointment with a State Medical Board or appointed alternate physician and notify the disability retiree of the appointment time and place in writing. The disability retiree must pay the cost of this examination. If the retiree fails to appear for this examination and the physician charges a cancellation fee, the retiree shall be responsible for this fee.

C. The disability retiree shall be notified in writing of the physician's determination.

D. If the physician does not recommend continuing disability, the disability retiree has the same appeal rights as the original applicant as set forth in §2509 herein.

E. If the disability retiree refuses to submit to the examination, his benefit shall be discontinued until he agrees to the examination. The benefit will be discontinued thirty (30) days after written notification to the disability retiree. If the refusal continues for one year, all of the retiree's rights in and to the disability benefit shall be revoked.

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998).

§2515. Limitation on Earnings

A. If a disability retiree is gainfully employed, the amounts of the retiree's earnings are limited; the total amount of earnings plus the disability benefit cannot exceed his final average compensation.

B. For purposes of computing this limitation, an annual cost-of-living adjustment to the final average compensation shall be made based on the Federal Consumer Price Index for the preceding calendar year.

C. The disability retiree must notify LASERS immediately if the retiree becomes employed and the retiree's earnings will exceed the limitation.

D. Each disability retiree shall submit a notarized annual statement of earned income for the previous calendar year. The statement must be submitted no later than May 1, of each calendar year, otherwise the benefit will be discontinued

effective June 1 of that calendar year, without retroactive reimbursement, until the statement is filed. If a disability retiree refuses to submit the statement for the remainder of the calendar year, all the retiree's rights in and to the disability retirement shall be revoked.

E. If the earnings limit is exceeded, future benefits shall be reduced to recover the amount of excess earnings. The disability retiree shall be notified in writing of the reduced amount at least 30 days prior to the reduction taking effect.

F. If it is determined that a disability retiree is engaged in gainful occupation which places the retiree over the earnings limit, then the amount of the disability benefit shall be reduced to an amount within the retiree's earnings limit. Should the retiree's earning capacity later change, the disability benefit may be further modified in accordance with R.S. 11:221.

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998).

§2517. Report to the Board of Trustees

A. The approved applicants' names shall be provided to the Board in addition to the monthly retirement supplement for the Board's ratification.

B. The Board shall receive a summary report of the number of applications received, the number approved, the number disapproved, a summary of the types of disabilities, the average age of approved applicants, the average number of years of state service, and the agencies of the applicants annually in March for the previous calendar year.

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998).

§2519. Appointment of Physicians to the State Medical Disability Board

Physicians may be appointed to the State Medical Disability Board or as an alternate physician by the Executive Director. Such appointments shall be subject to ratification by the Board of Trustees.

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 24:1959 (October 1998).

§2521. Rehabilitation

A. In accordance with R.S. 11:462, LASERS shall make a determination whether a disability retiree will benefit from rehabilitation, to the extent that the rehabilitation will permit the disability retiree to perform the normal duties required by the job from which the retiree is collecting disability benefits, in accordance with the following procedures.

1. A case manager shall meet with the disabled employee to assess the needs and disability status.

2. The evaluation shall include discussions with health care professionals to determine if this disability retiree would benefit from rehabilitation.

3. After all aspects of the disabled retiree's situation have been reviewed, the development of an individualized rehabilitation program shall be developed. This plan shall spell out the course of action intended to be taken to rehabilitate the disabled retiree.

4. When the rehabilitation plan has been developed, the plan shall be submitted to LASERS' Executive Director for approval.

5. Once the rehabilitation plan is approved the case manager will be responsible for monitoring, evaluating, and following through on the plan.

B. If it is determined that rehabilitation will benefit a disability retiree under §2521, participation in the rehabilitation program shall be mandatory.

C. Once the disabled retiree successfully completes the rehabilitation plan, the disability retiree shall be scheduled for a certification of continuing eligibility in accordance with §2513 herein.

D. LASERS cannot guarantee employment once rehabilitation is complete.

E. If a disability retiree participates in the rehabilitation program and cannot be rehabilitated to perform the normal duties of the retiree's job from which the retiree is disabled, but is rehabilitated to the extent that the retiree can perform certain gainful occupation and the disability retiree is employed in such an occupation, the wages earned by this disability retiree shall be subject to §2515 herein.

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 24:1959 (October 1998).

§2523. Surveillance

In order to insure that a disability retiree is entitled to the benefit the retiree is receiving, when reasonable suspicion exist that the disability retiree is not permanently disabled, LASERS may initiate surveillance of the disability retiree. If the surveillance indicates that the disability retiree is not currently disabled, LASERS shall require the disability retiree to undergo a certification of continuing eligibility in accordance with §2513 herein.

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 24:1960 (October 1998).

§2525. Termination of Benefits

A. Upon receipt of a final medical determination that a disability retiree is no longer disabled as a result of the failure to obtain a certification of continuing eligibility the retiree shall have the right to appeal the medical determination under §2509 herein.

B. The disability retiree has the right to appeal this decision to the Nineteenth Judicial District Court, Parish of East Baton Rouge. This appeal shall be filed within thirty (30) days of the receipt of the Board's decision.

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 24:1960 (October 1998).

§2527. Notices

All notices required to be given under Chapter 25 shall be given as follows:

1. If a disability retiree, the notice shall be given with the retiree's benefit check. If the retiree is receiving his benefit through an electronic fund transfer (EFT), the EFT shall be discontinued for the month notice is required and the retiree shall receive a paper check for that month; or

2. If no benefit is being paid by LASERS, the notice shall be by certified mail, return receipt requested.

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 24:1960 (October 1998).

§2529. Conversion to Regular Retirement

In accordance with R.S. 11:217, when a disability retiree vest in a regular retirement benefit under R.S. 11:441, except R.S. 11:441(4), the disability retiree shall be converted to a regular retiree upon attaining the normal vested retirement age and shall receive the full vested benefit. The retiree shall have the option to, but not be required, to select the regular retirement benefit under R.S. 11:441(4) in lieu of a disability retirement benefit if the retiree qualifies for the benefit under R.S. 11:441(4).

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 24:1960 (October 1998).

James O. Wood
Executive Director

9810#014

RULE

Department of the Treasury Bond Commission

Expedited Review Procedure for Movables
(LAC 71:III.1101, 1103, 1105, and 1107)

In accordance with the provisions of Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Bond Commission amends the commission's rules as originally adopted November 20, 1976.

Pursuant to the provisions of R.S. 39:1410.60(B), the State Bond Commission has adopted the following rule regarding expedited review of purchases of movables.

Title 71

TREASURY

Part III. Bond Commission

Chapter 11. Expedited Review of Financings of Movables

§1101. Purpose

The provisions of this rule on expedited review of financing purchases of movables shall be applicable to such purchases that meet the criteria set forth in LAC 71:III.1103.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.60(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Bond Commission, LR 24:1960 (October 1998).

§1103. Criteria

In order for the proposed financing to be eligible for the expedited review process, all of the following criteria must be met and certified in writing by an authorized agent of the governmental entity seeking approval under the expedited review process.

1. The movables must be specifically identified in the resolution and the funds must be used to acquire movable property necessary to provide essential governmental services such as those related to safety, sanitation, road and highway construction and repair, health services, communication, education, and transportation.

2. The governmental entity must have excess or sufficient revenues to cover annual debt service according to the provisions of R.S. 33:2921.

3. The total amount of the indebtedness cannot exceed the greater of \$100,000 or 10 percent of the governmental entity's annual revenues.

4. There must have been no default on any debt obligation within the previous five years.

5. The provisions of the public bid law, to the extent applicable, have been complied with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.60(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Bond Commission, LR 24:1961 (October 1998).

§1105. Documentation

The governmental entity shall submit the following documents for approval under this rule.

1. The resolution of the governmental entity authorizing the indebtedness.

2. A copy of the governmental entity's current budget, showing budgeted excess revenues pursuant to R.S. 33:2921.

3. A certification from the governmental entity in the form approved by the commission, attesting to compliance with all the requirements of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.60(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Bond Commission, LR 24:1961 (October 1998).

§1107. Procedures

A. On an as needed basis the staff of State Bond Commission shall mail to the commission members a notice of all such requests submitted to the commission staff that meet the criteria for approval under the rule, and that are scheduled for approval by the executive director. Each borrowing so submitted shall be approved by the executive director of the State Bond Commission 10 days following the mailing of the notice unless a member of the commission, prior to approval by the executive director, requests that the financing be placed on the agenda at the next Bond Commission meeting.

B. If any member of the commission requests that a financing submitted to the staff under the provisions of this rule be placed on the agenda, such financing shall be placed on the agenda for consideration at the next commission meeting in accordance with the commission's rules and regulations.

C.

CERTIFICATION OF COMPLIANCE WITH CRITERIA FOR APPROVAL OF FINANCING OF MOVABLES UNDER EXPEDITED PROCEDURE

Name of Entity: _____
Equipment to be Purchased: _____
Term of Financing: _____
Amount of Financing: _____
Interest Rate: _____
Maximum Annual Debt Service: _____

BEFORE ME, the undersigned authority, personally came and appeared _____ who declared that he/she is the _____ for the _____ and does hereby certify that:

The proposed financing is being entered into for the purpose of acquiring movable property necessary to provide essential governmental services, more specifically the following:

The borrower has sufficient revenues to repay the loan pursuant to the provisions of R.S. 33:2921.

The total amount of financing does not exceed the greater of \$100,000 or 10 percent of the borrower's annual revenues.

The provisions of the public bid law, to the extent applicable, have been complied with.

The borrower has not been in default on any debt obligation within the previous five years.

The following documents are attached:

- 1. the Resolution of the borrower.
- 2. a copy of the borrower's annual budget.

Public Official

Sworn to and subscribed before me, this _____ day of _____, at _____, Louisiana.

Notary Public

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.60(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Bond Commission, LR 24:1961 (October 1998).

Ken Duncan
State Treasurer and Chairman

9810#038

RULE

**Department of the Treasury
Deferred Compensation Commission**

**Comprehensive Rule Revisions
(LAC 71:VII.Chapters 1-17)**

The Louisiana Public Employees Deferred Compensation Plan (the "Plan") was adopted by the Louisiana Deferred Compensation Commission (the commission), effective September 15, 1982. The Plan was established in accordance with Louisiana R.S. 42:1301-1308, and §457 of the *Internal Revenue Code of 1986*, as amended, for the purpose of providing supplemental retirement income to employees and independent contractors by permitting such individuals to defer a portion of compensation to be invested and distributed in accordance with the terms of the Plan.

Effective January 1, 1999, the commission hereby repeals the Plan in its entirety and promulgates the following rules in *Louisiana Administrative Code* format. The restated Plan supersedes all plans and rules previously adopted in

connection with the Louisiana Public Employees Deferred Compensation Plan.

Title 71
TREASURY

Part VII. Public Employees Deferred Compensation
Chapter 1. Administration

§101. Definitions

Administrator or Plan Administrator—the person, persons or entity appointed by the Louisiana Deferred Compensation Commission to administer the Plan pursuant to LAC 71:VII.103, if any.

Beneficiary—the person, persons or entities designated by a participant pursuant to LAC 71:VII.301.A.4.

Commission—the Louisiana Deferred Compensation Commission, as established in accordance with R.S. 42:1302, which shall be comprised of the state treasurer, the commissioner of Administration, the commissioner of Insurance, the commissioner of Financial Institutions (or their designees), and three participant members (elected by the participants).

Compensation—all payments paid by the employer to an employee or independent contractor as remuneration for services rendered, including salaries and fees.

Custodial Account—the account established with a bank or trust company meeting the provisions of *Internal Revenue Code* (IRC) §401(f), that the commission has elected to satisfy the trust requirement of IRC §457(g) by setting aside plan assets in a custodial account.

Custodian—the bank or trust company selected by the commission to hold Plan assets pursuant to IRC §§457(g) and §401(f).

Deferred Compensation—the amount of compensation not yet earned, which the participant and the commission mutually agree, shall be deferred.

Employee—any individual, including an individual who is elected or appointed, providing personal services to the employer, provided, however, that an independent contractor shall not be treated as an employee.

Employer—the state of Louisiana. *Employer* shall also mean any political subdivision of the state and any agency or instrumentality of the state or of a political subdivision of the state that has selected this Plan as their eligible IRC §457 Deferred Compensation Plan.

Includible Compensation—(for purposes of the limitation set forth in LAC 71:VII.303) compensation for services performed for the employer that is currently includible in the participant's gross income for federal income tax purposes, determined without regard to any community property laws. *Includible compensation* thus does not include compensation excludable from the participant's gross income under IRC §457 as a result of deferrals under this Plan, or any other eligible deferred compensation plan described in IRC §457(b) maintained by the employer, or under any other provision (including, but not limited to, IRC §§125, 402(g)(3), 402(h)(1)(B), 403(b) and 911).

Independent Contractor—an individual (not a corporation, partnership, or other entity), who is receiving compensation for services rendered to or on behalf of the employer in

accordance with a contract between such individual and the employer.

Interest or Interest in Deferred Compensation—under the plan, the aggregate of:

1. a participant's deferred compensation for his or her entire period of participation in the Plan; and
2. the earnings or losses allocable to such amount. Such interest represents an accounting entry only and does not constitute an ownership interest, right or title in the assets so invested.

IRC—the *Internal Revenue Code of 1986*, as amended, or any future United States Internal Revenue law. References herein to specific section numbers shall be deemed to include Treasury regulations thereunder and to corresponding provisions of any future United States internal revenue law.

Investment Product—any form of investment designated by the commission for the purpose of receiving funds under the Plan.

Normal Retirement Age—

1. the age designated by a participant, which age shall be between:
 - a. the earliest date on which such participant is entitled to retire under the public retirement system of which that participant is a member without actuarial reduction in his or her benefit, and
 - b. age 70½, provided, however, that if a participant continues in the employ of the employer beyond 70½, *normal retirement age* means the age at which the participant separates from service.
2. If the participant is not a member of any public retirement system, the participant's *normal retirement age* may not be earlier than age 55.

Participant—an individual who is eligible to defer compensation under the Plan, and has executed an effective deferral authorization. *Participant* also includes an employee or independent contractor who has separated from service but has not received a complete distribution of his or her interest in deferred compensation under the Plan.

Participation Agreement—the agreement executed and filed by an individual who is eligible to defer compensation under the Plan, and has executed an effective deferral authorization.

Pay Period—a regular accounting period designated by the employer for the purpose of measuring and paying compensation earned by an employee or independent contractor.

Plan—the Louisiana Public Employees Deferred Compensation Plan established by this document and any applicable amendment.

Plan Year—the calendar year.

Separation from Service or Separates from Service—

1. with respect to an employee, the permanent severance of the employment relationship with the employer on account of such employee's:
 - a. retirement;
 - b. discharge by the employer;
 - c. resignation;
 - d. layoff; or
 - e. in the case of an employee who is an appointed or elected officer, the earlier of:

i. the taking of the oath of office of such officer's successor, or

ii. the cessation of the receipt of compensation.

2. If an employee incurs a break in service for a period of less than 30 days or transfers among various Louisiana governmental entities, such break or transfer shall not be considered a *separation from service*.

3. With respect to an independent contractor, *separation from service* means that the expiration of all contracts pursuant to services performed for or on behalf of the employer.

Total Amount Deferred—with respect to each participant, the sum of all compensation deferred under the Plan (plus investment gains and/or losses thereon, including amounts determined with reference to life insurance policies) calculated in accordance with the method designated in the participant's participation agreement(s) under which such compensation was deferred and any subsequent election(s) to change methods, less the amount of any expenses or distributions authorized by this Plan.

Trustee—the commission or such other person, persons or entity selected by the commission who agrees to act as *trustee*. This term also refers to the person holding the assets of any custodial account or holding any annuity contract described in LAC 71:VII.317.

Unforeseeable Emergency—severe financial hardship to a participant resulting from a sudden and unexpected illness or accident of the participant or of a dependent [as defined in IRC §152(a)] of the participant; loss of the participant's property due to casualty; or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant.

The need to send a participant's child to college or the desire to purchase a home shall not constitute an *unforeseeable emergency*. Whether a hardship constitutes an *unforeseeable emergency* under IRC §506 shall be determined in the sole discretion of the commission.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1962 (October 1998).

§103. Commission Authority

The commission shall have full power and authority to adopt rules or policies required to implement the Plan and to interpret, amend or repeal any such rule or policy. In addition, the commission shall have full power and authority to administer the Plan or to arrange for the administration of the Plan through appropriate contracts or agents in accordance with applicable state law. The power and authority of such agents shall be limited to the powers enumerated in the contractual agreements between the commission and such agents.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1963 (October 1998).

§105. Duties of Commission

The duties shall include:

1. appointing one (or more) attorney, accountant, actuary, custodian, record keeper or any other party needed to administer the Plan;

2. directing the trustee or custodian with respect to payments from assets held in the Plan;

3. communicating with employees regarding their participation and benefits under the Plan, including the administration of all claims procedures;

4. filing any returns and reports with the Internal Revenue Service or any other governmental agency;

5. reviewing and approving any financial reports, investment reviews, or other reports prepared by any party appointed under §105.A.1;

6. establishing a funding policy and investment objectives consistent with the purposes of the Plan;

7. construing and resolving any question of Plan interpretation. The commission's interpretation of Plan provisions (including eligibility and benefits under the Plan) is final;

8. appointing an emergency committee comprised of three individuals. Applications for a withdrawal of deferred compensation based on an unforeseeable emergency shall be approved or disapproved by such committee.

a. A participant shall furnish medical or other evidence to the emergency committee to establish and substantiate the existence of an unforeseeable emergency.

b. If an application for a withdrawal based on unforeseeable emergency is approved, the amount of the withdrawal shall be limited to the amount required to meet such emergency. Payment shall not be made to the extent such emergency is relieved:

i. through reimbursement or compensation by insurance or otherwise;

ii. by the liquidation of the participant's assets, provided the liquidation does not cause a financial hardship; or

iii. by the revocation of the participant's deferral authorization.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1963 (October 1998).

§107. Administrative Fees and Expenses

The commission may, in its sole discretion, use one or more of the following methods to meet the costs of administering the Plan. The commission may:

1. establish a reasonable monthly or annual administrative charge;

2. deduct an allocable portion of administrative costs from deferred compensation;

3. deduct an allocable portion of administrative costs from the income or earnings of investment products;

4. authorize any duly-appointed administrator to accept commissions from providers of investment products,

provided, however, that the amount of such commissions may not exceed the amount of similar commissions paid to unrelated third parties;

5. deduct administrative costs from funds on deposit in financial institutions; and/or

6. deduct any other reasonable fee or commission required to defray the costs of administering the Plan.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1963 (October 1998).

§109. Actions of Administrator

Every action taken by the commission shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon it. The commission shall be deemed to have exercised reasonable care, diligence and prudence and to have acted impartially as to all affected persons, unless the contrary is proven by affirmative evidence. No member, if a participant of the commission or a committee, shall make any determination (other than a policy decision which affects all participants) similarly situated with respect to his or her specific interest in deferred compensation under the Plan. The commission shall not be liable for amounts of compensation deferred by participants or for other amounts payable under the Plan.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998).

§111. Delegation

Subject to any applicable laws and any approvals required by the employer, the commission may delegate any or all of its powers and duties hereunder to another person, persons, or entity, and may pay reasonable compensation for such services as an administrative expense of the Plan, to the extent such compensation is not otherwise paid.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998).

Chapter 3. Plan Participation, Options and Requirements

§301. Enrollment in the Plan

The following rules apply to compensation deferred under the Plan.

1. A participant may not defer any compensation for a calendar month unless a deferral authorization providing for such deferral has been completed by the participant and accepted by the commission prior to the beginning of such month. With respect to a new employee, compensation will be deferred in the calendar month during which a participant first becomes an employee if a deferral authorization providing for such deferral is executed on or before the first day on which the participant becomes an employee.

2. In signing the Participation Agreement, the participant elects to participate in this Plan and consents to the deferral by the employer of the amount specified in the Participation Agreement from the participant's gross

compensation for each pay period. Such deferral shall continue in effect until modified, disallowed or revoked in accordance with the terms of this Plan.

3. The minimum amount of compensation deferred under a deferral authorization shall be no less than \$20 each month; provided, however, that such minimum deferral shall not apply to a participant whose deferral authorization (or similar form) in effect on October 1, 1984, permitted a smaller deferral, or to a participant who elects to defer not less than 7.5 percent of compensation (voluntary and/or involuntary contributions) in lieu of Social Security coverage (§11332 of the Social Security Act and IRC §3121). The employer retains the right to establish minimum deferral amounts per pay period and to limit the number and/or timing of enrollments into the Plan in the Participation Agreement.

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

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998).

§303. Deferral Limitations

A. Except as provided in LAC 71:VII.305, the maximum that may be deferred under the Plan for any taxable year of a participant shall not exceed the lesser of:

1. \$7,500, as adjusted for cost-of-living in accordance with IRC §457(e)(15) for taxable years beginning after December 31, 1996; or

2. 33a percent of the participant's includible compensation, each reduced by any amount specified in LAC 71:VII.303.B that taxable year.

B. The deferral limitation shall be reduced:

1. for a participant who also participates in a rural cooperative plan [as defined in IRC §401(k)(7)] and for taxable years of any other participant beginning before January 1, 1989, any amount excludable from the participant's gross income under IRC §403(b) on account of employer contributions; or

2. in all other cases, any amount excludable from the participant's gross income attributable to elective deferrals to another eligible deferred compensation plan described in IRC §457(b), elective deferrals or employer contributions to an annuity program described in IRC §403(b), elective deferral to a qualified cash or deferred arrangement described in IRC §401(k) or to any simplified employee pension plan described in IRC §408(k) or Simple Retirement Account described in IRC §408(p), or any amount contributed on behalf of the participant to an organization described in IRC §501(c)(18).

At the time of initial enrollment and at all times thereafter, the participant must notify the commission of any

amounts of income deferred under the plans listed in §303.B.1 and 2., or any subsequent changes in participation in any other such program.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998).

§305. Limited Catch-up

For one or more of the participant's last three taxable years ending before the taxable year in which normal retirement age under the Plan is attained, the maximum deferral shall be the lesser of:

1. \$15,000, reduced by any applicable amount specified in LAC 71:VII.303.B for that taxable year; or

2. the sum of:

a. the limitations established for purposes of §303 of these rules, for such taxable year (determined without regard to this §305), also

b. so much of the limitation established under §303 of the Plan or established in accordance with IRC §457(b)(2) and the regulations thereunder under an eligible deferred compensation plan sponsored by an entity other than the employer and located in the same state for prior taxable years (beginning after December 31, 1978 and during all or any portion of which the participant was eligible to participate in this Plan) and has not theretofore been used under §§303 or 305 hereof or under such other plan (taking into account the limitations under and participation in other eligible deferred compensation plans in accordance with the *Internal Revenue Code*); provided, however, that this §305 shall not apply with respect to any participant who has previously utilized, in whole or in part, the limited catch-up under this Plan or under any other eligible deferred compensation plan (within the meaning of IRC §457 and the regulations thereunder).

If a participant is not a member of a public retirement system, normal retirement age may not be earlier than age 55.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998).

§307. Participant Modification of Deferral

A participant shall be entitled to reduce the amount (or percentage) of deferred compensation once each calendar quarter. A participant shall be entitled to increase the amount (or percentage) of deferred compensation at any time during a calendar year, with respect to compensation payable no earlier than the calendar month after such modification is executed by the participant and accepted by the commission.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998).

§309. Employer Modification of Deferral

A. The commission shall have the right to modify or disallow the periodic deferral of compensation elected by the participant:

1. in excess of the limitations stated in LAC 71:VII.303 and 305;

2. in excess of the participant's net compensation for any pay period;

3. upon any change in the length of pay period utilized by employer. In such case the periodic deferral shall be adjusted so that approximately the same percentage of pay shall be deferred on an annual basis;

4. in order to round down periodic deferrals to the nearest whole cent amount;

5. to reduce the future deferrals in the event that the amount actually deferred for any pay period exceeds, for any reason whatsoever, the amount elected by the participant. In the alternative, such amount of excess deferral may be refunded to the participant. No adjustment in future deferrals shall be made if a periodic deferral is missed or is less than the amount elected, for any reason whatsoever; or

6. if the deferral elected for any pay period is less than the minimum amount specified in LAC 71:VII.301.A.3;

B. The employer and the commission shall have no liability to any participant or beneficiary with respect to the exercise of, or the failure to exercise, the authority provided in this §309.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998).

§311. Revocation

A. A participant may, at any time, revoke his or her deferral authorization by notifying the commission, in writing, on forms acceptable to the commission. Upon the acceptance of such notification, deferrals under the plan shall cease no later than the commencement of the first pay period beginning at least 30 days after acceptance; provided, however, that the commission shall not be responsible for any delay which occurs despite its good faith efforts. In no event shall the revocation of a participant's deferral authorization permit a distribution of deferred compensation, except as provided in Chapter 7 of these rules and shall be subject to the terms and provisions of the affected investment.

B. A participant's request for a distribution in the event of an unforeseeable emergency shall in addition be treated as a request for revocation of deferrals as of a date determined by the commission.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998).

§313. Re-enrollment

A. A participant who revokes the Participation Agreement as set forth in §311 above may execute a new Participation Agreement to defer compensation payable no earlier than the calendar month after such new Participation Agreement is executed by the participant and accepted by the commission.

B. A former participant who is rehired after retirement may rejoin the Plan as an active participant unless ineligible to participate under other Plan provisions. If the rehired participant has commenced receiving distribution, the distribution may not be suspended during the period of re-employment, nor may the amounts received in the distribution

be deferred again by reason of rejoining the Plan. If the rehired participant has not commenced receiving distribution, the irrevocable election shall be treated null and void.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998).

§315. Multiple Plans

Should a participant participate in more than one deferred compensation plan governed by IRC §457, the limitations set forth in LAC 71:VII.303 and 305 shall apply to all such plans considered together. For purposes of LAC 71:VII.303 and 305, compensation deferred shall be taken into account at its value in the later of the plan year in which deferred or the plan year in which such compensation is no longer subject to a substantial risk of forfeiture (within the meaning of IRC §457).

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1966 (October 1998).

§317. Custody of Plan Assets

All amounts of compensation deferred under the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property or rights shall be held for the exclusive benefit of participants and their beneficiaries. The trust requirement of IRC §457(g) shall be satisfied as Plan assets and shall be set aside as follows.

1. Plan assets shall be set aside in one or more annuity contracts described in IRC §401(f). The owner of the annuity contract is the "deemed trustee" of the assets invested under the contract for purposes of IRC §457(g).

2. Plan assets shall be set aside in one or more custodial accounts described in IRC §401(f). The bank or trust company shall be the custodian and "deemed trustee" for purposes of IRC §457(g) and shall accept such appointment by executing same. The commission and custodian must enter into a separate written custody agreement.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1966 (October 1998).

§319. Qualified Military Service

Notwithstanding any provision of this Plan to the contrary, contributions and benefits with respect to qualified military service shall be provided in accordance with IRC §414(u).

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1966 (October 1998).

Chapter 5. Investments

§501. Investment Options

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

event, it shall be the sole responsibility of the commission to ensure that all investment options offered under the Plan are appropriate and in compliance with any and all state laws pertaining to such investments.

B. The commission shall have the right to direct the trustee with respect to investments of the Plan assets, may appoint an investment manager to direct investments, or may give the trustee sole investment management responsibility. Any investment directive shall be made in writing by the commission or investment manager. In the absence of such written directive, the trustee shall automatically invest the available cash in its discretion in an appropriate interim investment until specific investment directions are received. Such instructions regarding the delegation of investment responsibility shall remain in force until revoked or amended in writing. The trustee shall not be responsible for the propriety of any directed investment made and shall not be required to consult with or advise the commission regarding the investment quality of any directed investment held hereunder.

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

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1966 (October 1998).

§503. Participant Investment Direction

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

B. Each participant shall designate on his or her Participation Agreement the investment that shall be used to determine the income to be accrued on amounts deferred. If the investment chosen by the participant experiences a gain, the participant's benefits under the Plan likewise shall reflect income for that period. If the investment chosen by a participant experiences a loss, or if charges are made under

such investment, the participant's benefits under the Plan likewise shall reflect such loss or charge for that period.

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

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1966 (October 1998).

§505. Participant Accounts

A. The commission shall maintain or cause to be maintained a deferred compensation ledger account or similar individual account for each participant. At regular intervals established by the commission, each participant's account shall be:

1. credited with the amount of any deferred compensation paid into the Plan;
2. debited with any applicable administrative or investment expense, allocated on a reasonable and consistent basis;
3. credited or debited with investment gain or loss, as appropriate; and
4. debited with the amount of any distribution.

B. At least once per calendar quarter, each participant shall be notified in writing of his/her total amount deferred.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998).

§507. Distributions from the Plan

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

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998).

Chapter 7. Distributions

§701. Conditions for Distributions

Payments from the Plan to the participant or beneficiary shall not be made, or made available, earlier than:

1. the participant's separation from service pursuant to LAC 71:VII.703 or death; or
2. the participant's account meets all of the requirements for an in-service *De Minimus* distribution pursuant to LAC 71:VII.709; or
3. the participant incurs an approved unforeseeable emergency pursuant to LAC 71:VII.711.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998).

§703. Separation from Service

Distributions to a participant shall commence no earlier than 61 days following the date in which the participant separates from service, in a form and manner determined pursuant to LAC 71:VII.715 and 717, unless a deferred commencement date is elected in accordance with §705 of these rules.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998).

§705. Deferred Commencement Date at Separation from Service

A. No later than 60 days following the date in which the participant separates from service, the participant shall elect a deferred commencement date for all or a portion of the participant's account balance. Except as specified in LAC 71:VII.707, such election shall be irrevocable. If the participant elects to defer the entire account balance, the future commencement date may not be later than April 1 of the calendar year following the calendar year in which the participant attains age 70½. If the participant elects to receive only a portion of the account, the future date elected to begin receiving the balance of the account may not be later than the end of the calendar year following the year a partial distribution was received. Any such election to defer the commencement of distributions shall be filed with the commission on or before the sixtieth day following the date in which the participant separates from service.

B. If the participant is an independent contractor:

1. in no event shall distributions commence prior to the conclusion of the 12-month period beginning on the date on which all such participant's contracts to provide services to or on behalf of the employer expire; and
2. in no event shall a distribution payable to such participant pursuant to Chapter 7 of these rules commence if, prior to the conclusion of the 12-month period, the participant performs services for the employer as an employee or independent contractor.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998).

§707. Commencement Date Referral

The participant may irrevocably postpone the original deferred distribution date elected in §705 above to a later date, but not later than April 1 of the calendar year following the calendar year the participant attains age 70½, provided that:

1. such election is made prior to the deferred commencement date elected in §705 above and before distributions have commenced; and
2. the participant may make only one such election.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998).

§709. In-Service De Minimus Accounts

The participant may elect to receive or the commission may distribute, without the consent of the participant, the participant's entire account in a lump sum if all of the following conditions are met:

1. the value of a participant's account does not exceed \$5,000, or the maximum amount permitted by the *Internal Revenue Code* or Internal Revenue Service regulations;
2. no amount has been deferred under the Plan with respect to the participant during the two-year period ending on the date of the distribution; and
3. there has been no prior distribution under the Plan to the participant pursuant to this §709.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998).

§711. Unforeseeable Emergency

If a participant has incurred a genuine unforeseeable emergency and no other resources of financial relief are available, the commission may grant, in its sole discretion, a participant's request for a payment from the participant's account. Any payment made under this provision shall be in a lump sum.

1. The commission shall have the right to request and review all pertinent information necessary to assure that hardship withdrawal requests are consistent with the provisions of IRC §457.

2. In no event, however, shall an unforeseeable emergency distribution be made if such hardship may be relieved:

- a. through reimbursement or compensation by insurance or otherwise;
- b. by liquidation of the participant's assets, to the extent the liquidation of the participant's assets would not itself cause a severe financial hardship; or
- c. by cessation of deferrals under this Plan.

3. The amount of any financial hardship benefit shall not exceed the lesser of:

- a. the amount reasonably necessary, as determined by the commission, to satisfy the hardship; or
- b. the amount of the participant's account.

4. Payment of a financial hardship distribution shall result in mandatory suspension of deferrals for a minimum of 12 months from the date of payment.

5. Currently, the following events are not considered unforeseeable emergencies under the Plan:

- a. enrollment of a child in college;
- b. purchase of a house;
- c. purchase or repair of an automobile;
- d. repayment of loans;
- e. payment of income taxes, back taxes, or fines associated with back taxes;
- f. unpaid expenses including rent, utility bills, mortgage payments, or medical bills;
- g. marital separation or divorce; or
- h. bankruptcy (except when bankruptcy resulted

directly and solely from illness or casualty loss).

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998).

§713. Death Benefits

A. If the participant dies after the commencement of distributions to the participant, the participant's remaining account shall be distributed to the beneficiary at least as rapidly as under the method of distribution in effect on the date of the participant's death.

B. If the participant dies prior to the commencement of distributions to the participant, and:

1. if the beneficiary is the participant's surviving spouse:
 - a. the commencement date shall be no later than the last day of the calendar year in which the participant would have attained age 70½ (or, if later, the calendar year immediately following the year of the participant's death); and
 - b. distribution shall be made to the beneficiary over a period that does not exceed the life expectancy of the beneficiary.

2. if the beneficiary is not the participant's surviving spouse:

- a. the entire account balance shall be distributed no later than the last day of the calendar year which includes the fifth anniversary of the participant's death; or

- b. if distributions to the beneficiary commence by the last day of the calendar year immediately following the year of the participant's death, the entire account balance shall be distributed over a period not exceeding 15 years or, if earlier, the beneficiary's life expectancy;

- c. subject to the limitations set forth above, distributions shall be made to the beneficiary commencing on the sixty-first day after the commission receives satisfactory proof of the participant's death, unless prior to such date the beneficiary irrevocably elects a deferred commencement date consistent with this §713;

- d. distribution shall be made in a form and manner determined under LAC 71:VII.715 and 717 that is consistent with the limitations set forth above.

C. If there are two or more beneficiaries, the provisions of this Subsection and LAC 71:VII.719 shall be applied to each beneficiary separately with respect to each beneficiary's share in the participant's account.

D. If the beneficiary dies after beginning to receive benefits but before the entire account balance has been distributed, the remaining account balance shall be paid to the estate of the beneficiary in a lump sum.

E. Under no circumstances shall the commission be liable to the beneficiary for the amount of any payment made in the name of the participant before the commission receives satisfactory proof of the participant's death.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998).

§715. Payment Options

A. A participant's or beneficiary's election of a payment option must be made at least 30 days prior to the date that the payment of benefits is to commence. If a timely election of a payment option is not made, benefits shall be paid in accordance with LAC 71:VII.717. Subject to applicable law and the other provisions of this Plan, distributions may be made in accordance with one of the following payment options:

1. a single lump-sum payment;
2. substantially nonincreasing installment payments for a period of years (payable on a monthly, quarterly, semiannual, or annual basis) which extends no longer than the life expectancy of the participant or such longer period as permitted under §713 of these rules;
3. substantially nonincreasing installment payments for a period of years (payable on a monthly, quarterly, semiannual, or annual basis) automatically adjusted for cost-of-living increases based on the rise in the *Consumer Price Index for All Urban Consumers* (CPI-U) from the third quarter of the last year in which a cost-of-living increase was provided to the third quarter of the current year. Any increase shall be made in periodic payment checks beginning the following January;
4. partial lump-sum payment of a designated amount, with the balance payable in substantially nonincreasing installment payments for a period of years, as described in Paragraph 2 of this Subsection, as long as such installment payments begin prior to the end of the calendar year following the year the partial lump-sum payment was made;
5. annuity payments (payable on a monthly, quarterly, or annual basis) for the lifetime of the participant or for the lifetime of the participant and beneficiary;
6. such other forms of substantially nonincreasing installment payments as may be approved by the commission consistent with the limitations of LAC 71:VII.713.

Once payments have commenced, the form of payment option may not be changed.

B. If a participant has Plan assets with more than one investment provider under the employer's deferred compensation plan, funds from each investment provider must be coordinated and distributed in a manner that does not violate the "substantially nonincreasing amount" provision in IRC §457(d) as amended from time to time.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998).

§717. Default Distribution Option

If the participant fails to make a timely election of one of the payment options (described in LAC 71:VII.715 for distributions pursuant to LAC 71:VII.702) payments shall be made in a lump sum. If a beneficiary fails to make a timely election of one of the payment options described in LAC 71:VII.715 for distributions pursuant to §713 of these rules, distribution shall be made in a lump sum.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998).

§719. Limitations on Distribution Options

A. No distribution option may be selected by a participant or beneficiary under this Chapter 7 unless it satisfies the requirements of IRC §§401(a)(9) and 457(d), including the requirement that installment payments be made in substantially nonincreasing amounts and that payments commencing before the death of the participant satisfy the incidental death benefits requirement. A cost-of-living increase included as part of a payment option is intended to comply with written IRS guidance such that the substantially nonincreasing amount rule shall not be violated.

B. Unless otherwise elected by the participant (or spouse, in the cases of certain distributions described in LAC 71:VII.713), life expectancies of the participant and/or spouse shall be recalculated annually in determining the required minimum distribution amount under IRC §401(a)(9).

C. An election of nonrecalculation must be made as part of the election of a payment option under LAC 71:VII.715, and shall be irrevocable as to the participant (or spouse, if applicable) for all subsequent years. The life expectancy of a non-spouse beneficiary may not be recalculated. The terms of this Chapter 7 shall be construed in accordance with all applicable IRC sections and the regulations thereunder.

D. If installment payments are designated as the method of distribution, the minimum distribution shall be no less than \$100 per check, and the payments made annually must be no less than \$600.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998).

§721. Taxation of Distributions

To the extent required by law, income and other taxes shall be withheld from each benefit payment, and payments shall be reported to the appropriate governmental agency or agencies.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998).

§723. Transfers

A. Transfers to the Plan. If the participant was formerly a participant in an eligible deferred compensation plan maintained by another employer, and if such plan permits the direct transfer of the participant's interest therein to the Plan, then the Plan shall accept assets representing the value of such interest; provided, however, that the participant has separated from service with that employer and become an employee of employer. Such amounts shall be held, accounted for, administered and otherwise treated in the same manner as compensation deferred by the participant except that such amounts shall not be considered compensation deferred under the Plan in the taxable year of such transfer in determining the maximum deferral under LAC 71:VII.303. The commission may require such documentation from the predecessor plan as it deems necessary to confirm that such plan is an eligible

deferred compensation plan within the meaning of IRC §457, and to assure that transfers are provided under such plan. The commission may refuse to accept a transfer in the form of assets other than cash, unless the commission agrees to hold such other assets under the Plan.

B. Transfers from the Plan. If a participant separates from service prior to his or her required beginning date, and becomes a participant in an eligible deferred compensation plan of another employer, and provided that payments under this Plan have not begun, such participant may request a transfer of his or her account to the eligible deferred compensation plan of the other employer. Requests for such transfers must be made in writing to the commission and shall be granted in the sole discretion of the commission. If an amount is to be transferred pursuant to this provision, the commission shall transfer such amount directly to the eligible deferred compensation plan of the other employer. Amounts transferred to another eligible deferred compensation plan shall be treated as distributed from this Plan and this Plan shall have no further responsibility to the participant or any beneficiary with respect to the amount transferred.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998).

§725. Elections

Elections under this Chapter shall be made in such form and manner as the commission may specify from time to time.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998).

Chapter 9. Leave of Absence

§901. Paid and Unpaid Leave of Absence

A. Paid Leave of Absence. If a participant is on an approved leave of absence from the employer with compensation, or on approved leave of absence without compensation that does not constitute a separation from service within the meaning of IRC §402(d)(4)(A)(iii) which under the employer's current practices is generally a leave of absence without compensation for a period of one year or less, said participant's participation in the Plan may continue.

B. Unpaid Leave of Absence. If a participant is on an approved leave of absence without compensation and such leave of absence continues to such an extent that it becomes a separation from service within the meaning of IRC §402(e)(4)(A)(iii), said participant shall have separated from service with the employer for purposes of this Plan; provided, however, that pursuant to LAC 71:VII.705, said participant may elect to postpone commencement of benefit payments until a future date. Upon termination of leave without pay and return to active status, the participant may execute a new Participation Agreement to be effective when permitted by §301 of the Plan.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998).

Chapter 11. Plan Amendment or Termination

§1101. Termination

A. The commission may at any time terminate this Plan; provided, however, that no termination shall affect the amount of benefits which at the time of such termination shall have accrued for participants or beneficiaries. Such accrued benefits shall include any compensation deferred before the time of the termination and income thereon accrued to the date of the termination.

B. Upon such termination, each participant in the Plan shall be deemed to have revoked his agreement to defer future compensation as provided in LAC 71:VII.311 as of the date of such termination. Each participant's full compensation on a nondeferred basis shall be restored.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998).

§1103. Amendment

A. The commission may also amend the provisions of this Plan at any time; provided, however, that no amendment shall affect the amount of benefits which at the time of such amendment shall have accrued for participants or beneficiaries, to the extent of compensation deferred before the time of the amendment and income thereon accrued to the date of the amendment, calculated in accordance with LAC 71:VII.705 and the terms and conditions of the investment options hereunder; and provided further, that no amendment shall affect the duties and responsibilities of the trustee unless executed by the trustee.

B. Copies of Amendments. The administrator shall provide a copy of any plan amendment to any trustee or custodian and to the issuers of any investment options.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998).

Chapter 13. Taxes, Nonassignability and Disclaimer

§1301. Tax Treatment of Amounts Deferred

It is intended that pursuant to IRC §457, the amount of deferred compensation shall not be considered current compensation for purposes of federal and state income taxation. Such amounts shall, however, be included as compensation to the extent required under the Federal Insurance Contributions Act (FICA).

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998).

§1303. Nonassignability

A. Nonassignability. It is agreed that neither the participant, nor any beneficiary, nor any other designee shall have any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments hereunder, which payments and right thereto are expressly declared to be nonassignable and nontransferable; and in the event of attempt to assign or transfer, the commission shall have no further liability hereunder, nor shall any unpaid amounts be subject to

attachment, garnishment or execution, or be transferable by operation of law in event of bankruptcy, or insolvency, except to the extent otherwise required by law.

B. Conforming Equitable Distribution Orders. Domestic relations orders approved by the commission shall be administered as follows.

1. To the extent required under a final judgment, decree, or order made pursuant to a state domestic relations law, herein referred to as a Conforming Equitable Distribution Order (CEDO), which is duly filed upon the commission, any portion of a participant's account may be paid or set aside for payment to an alternate payee.

(Note: For purposes for this Section, an alternate payee is a person or persons designated by a domestic relations order who may be a spouse, former spouse, or a child of the participant.)

Where necessary to carry out the terms of such a CEDO, a separate account shall be established with respect to the alternate payee, and such person(s) shall be entitled to make investment selections with respect thereto in the same manner as the participant. All costs and charges incurred in carrying out the investment selection shall be deducted from the account created for the alternate payee making the investment selection.

2. Any amounts so set aside for an alternate payee shall be paid out in a lump sum at the earliest date that benefits may be paid to the participant, unless the CEDO directs a different form of payment or later payment date. In no event is the alternate payee entitled to receive a distribution from the Plan prior to the time that the participant separates from service with the employer or becomes age 70½. Nothing in this §1303 shall be construed to authorize any amounts to be distributed under the employer's plan at a time or in a form that is not permitted under §457 of the *Internal Revenue Code*. Any payment made to a person other than the participant pursuant to this §1303 shall be reduced by required income tax withholding. The fact that payment is made to a person other than the participant may not prevent such payment from being includible in the gross income of the participant for withholding and income tax reporting purposes. Such withholding and income tax reporting shall be done under the terms of the *Internal Revenue Code* as amended from time to time.

3. The commission's liability to pay benefits to a participant shall be reduced to the extent that amounts have been paid or set aside for payment to an alternate payee pursuant to this §1303. No amount shall be paid or set aside unless the commission, or its agents or assigns, has been provided with satisfactory evidence releasing them from any further claim by the participant with respect to these amounts. The participant shall be deemed to have released the commission from any claim with respect to such amounts in any case in which the commission has been notified of or otherwise joined in a proceeding relating to a CEDO, which sets aside a portion of the participant's account for an alternate payee, and the participant fails to obtain an order of the court in the proceeding relieving the employer from the obligation to comply with the CEDO.

4. The commission shall not be obligated to comply with any judgment, decree or order which attempts to require

the Plan to violate any plan provision or any provision of §457 of the *Internal Revenue Code*. Neither the commission nor its agents or assigns shall be obligated to defend against or set aside any judgment, decree, or order described herein or any legal order relating to the division of a participant's benefits under the plan unless the full expense of such legal action is borne by the participant. In the event that the participant's action (or inaction) nonetheless causes the commission, its agents or assigns to incur such expense, the amount of the expense may be charged against the participant's account and thereby reduce the commission's obligation to pay benefits to the participant. In the course of any proceeding relating to divorce, separation, or child support, the commission, its agents and assigns shall be authorized to disclose information relating to the participant's individual account to the participant's spouse, former spouse or child (including the legal representatives of the alternate payee), or to a court.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:000 (October 1998).

§1305. Disclaimer

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

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

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1971 (October 1998).

Chapter 15. Employer Participation

§1501. Additional Compensation Deferred

Notwithstanding any other provisions of this Plan, the employer may add to the amounts payable to any participant under the Plan additional deferred compensation for services to be rendered by the participant to the employer during a calendar month, provided:

1. the participant has elected to have such additional compensation deferred, invested, and distributed pursuant to this Plan, prior to the calendar month in which the compensation is earned; and
2. such additional compensation deferred, when added to all other compensation deferred under the Plan, does not exceed the maximum deferral permitted by Chapter 3.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1971 (October 1998).

Chapter 17. Applicable Terms

§1701. Interpretation

A. Governing Law. This Plan shall be construed under the laws of the state of Louisiana.

B. Section 457. This Plan is intended to be an eligible deferred compensation plan within the meaning of §457 of the *Internal Revenue Code*, and shall be interpreted so as to be consistent with such section and all regulations promulgated thereunder.

C. Employment Rights. Nothing contained in this Plan shall be deemed to constitute an employment agreement between any participant and the employer and nothing contained herein shall be deemed to give a participant any right to be retained in the employ of the employer.

D. Days and Dates. Whenever time is expressed in terms of a number of days, the days shall be consecutive calendar days, including weekends and holidays, provided, however, that if the last day of a period occurs on a Saturday, Sunday or other holiday recognized by the employer, the last day of the period shall be deemed to be the following business day.

E. Word Usage. Words used herein in the singular shall include the plural and the plural the singular where applicable, and one gender shall include the other genders where appropriate.

F. Headings. The headings of articles, sections or other subdivisions hereof are included solely for convenience of reference, and if there is any conflict between such headings and the text of the Plan, the text shall control.

G. Entire Agreement. This Plan Document shall constitute the total agreement or contract between the commission and the participant regarding the Plan. No oral statement regarding the Plan may be relied upon by the participant. This Plan and any properly adopted amendment, shall be binding on the parties hereto and their respective heirs, administrators, trustees, successors, and assigns and on all designated beneficiaries of the participant.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1972 (October 1998).

Emery Bares
Chairman

9810#021

RULE

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

**Reef Fish—Daily Take and Size Limits
(LAC 76:VII.335)**

The Wildlife and Fisheries Commission does hereby amend LAC 76:VII.335, modifying the recreational bag limit for red snapper, which is part of the existing rule for daily take, possession, and size limits for reef fishes set by the Commission. Authority for amending this Rule is included in R.S. 56:6(25)(a), 56:326.1 and 56:325.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

**§335. Reef Fish—Daily Take, Possession and Size Limits
Set by Commission**

A. The Louisiana Wildlife and Fisheries Commission does hereby adopt the following rules and regulations regarding the harvest of triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies within and without Louisiana's territorial waters:

Species	Recreational Bag Limits
1. Red Snapper	4 fish per person per day
	* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:326.1 and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998).

James H. Jenkins, Jr.
Secretary

9810#019

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Minimum Specifications of Termite Control Work (LAC 7:XXV.121 and 141)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, proposes to amend regulations regarding the completion of the wood destroying insect report and the minimum specifications for termite control work.

The Department of Agriculture and Forestry deems the continuation of these rules and regulations necessary to insure the safety of individuals who might come in contact with termiticides if an operator left a pre-treatment of a slab prior to completion of a job. These rules and regulations will also give instructions as to completing WDIR form LPCA - 142. It is also necessary to provide the requirement that pest control operators must call certain information into the Department's closest District office prior to making a pre-treatment of a slab application. These rules comply with and are enabled by LSA R.S. 3:3203.

No preamble concerning the proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§121. Wood Infestation Report

A. - B.2. ...

C. Regulations for completing wood destroying insect reports (LPCA-142). The following numbered sections correspond to the numbered sections on WDIR form LPCA-142, and shall be completed as follows:

1. - 9C.

9D. Treatment was or will be performed by inspection company? YES or Number If Yes, explain as follows:

a. Inspecting company with a current treatment contract on the structure(s) inspected: list the original treatment date for all structures treated and contract type.

b. Inspecting company without a current treatment contract on the structure(s) inspected: list the structure(s) to be treated and the type of treatment and contract.

10. Additional comments (If necessary, continue on reverse side).

11. Do not mark in this section.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May

1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:856 (July 1997), LR 25:

§141. Minimum Specifications for Termite Control Work

A. - D.3.c. ...

E. Pre-treatment of Slabs

1. Treat as required by label and labeling.

2. Within 12 months after initial treatment of the outside of the foundation, the perimeter wall will be trenched and treated as required by label and labeling. The licensee shall report the completion of the application to the outside of the foundation, to the Louisiana Department of Agriculture and Forestry on the Termite Perimeter application form. Rodding will be acceptable where trenching may damage flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

3. If, during the treatment of any area which will be beneath a slab foundation, the operator must leave the site for any reason prior to the completion of the application as specified in §141.E.1. above, the operator must prominently display a poster, to be furnished by the Louisiana Department of Agriculture and Forestry, which states that the treatment of the area under the slab is not complete.

4. All pre-treatment of slabs must be called or faxed in to the Department of Agriculture and Forestry District Office nearest the pre-treatment property, a minimum of one (1) hour prior to beginning the application of termiticides. The information provided shall include a street address, city, directions to the property being pre-treated, and time of beginning the application of termiticides to the property. All pest control operators must keep a log of all pretreats including the information noted. The following is a list of parishes in which the seven Department of Agriculture and Forestry Districts operate. Pre-treatments in those parishes shall be called into the corresponding District Office.

a. Shreveport District—Caddo, Bossier, Webster, Claiborne, Bienville, Red River, and Desoto.

b. Monroe District—Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln, Jackson, Winn, Caldwell, Franklin, Tensas, Concordia, and Catahoula.

c. Alexandria District—Sabine, Natchitoches, Grant, LaSalle, Avoyelles, Rapides, and Vernon.

d. Crowley District—Beauregard, Allen, Acadia, Jefferson Davis, Cameron, Calcasieu.

e. Opelousas District—Evangeline, St. Landry, St. Martin, Iberia, St. Mary, Vermillion, and Lafayette.

f. Baton Rouge District—Point Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, St. James, Lafourche, Terrebonne, Assumption, Ascension, Iberville, West Baton Rouge, and East Baton Rouge.

g. New Orleans District—St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 25:

A public hearing will be held on these rules on November 30, 1998 at 9:30 a.m. at 5825 Florida Blvd, Baton Rouge, Louisiana 70806.. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Minimum Specifications of
Termite Control Work**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The Louisiana Registry inadvertently omitted these regulations from the Rules and Regulations. There will be no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no additional costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

Skip Rhorer Robert E. Hosse
Assistant Commissioner General Government Section Director
9810#016 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Marketing
Market Commission**

Certification of Poultry, Poultry Products, and Shell Eggs
(LAC 7:V.911)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, State Market Commission, proposes to amend regulations regarding the cost of all examination and certification services on all eggs and poultry requiring a federal grade certificate to be written by a Louisiana Department of Agriculture and Forestry employee.

No preamble concerning these rules and regulations is available.

Title 7

AGRICULTURE AND ANIMALS

**Part V. Advertising, Marketing and Processing
Chapter 9. Market Commission—Poultry and Eggs
Subchapter A. Certification of Official State Grades of
Poultry, Poultry Products and Shell Eggs**

§911. Contractor's Obligations

A. - B. ...

C. The cost of all examination and certification services on all eggs and poultry requiring a federal grade certificate to be written by a Louisiana Department of Agriculture and Forestry employee shall be paid by the vendor at the current U.S.D.A. rate for each hour required to conduct the examination, provided that no specific charge shall be made for certification of product when inspection is simultaneously performed. The cost of all examination and certification services on all eggs and poultry that does not require a federal grade certificate to be written by a Louisiana Department of Agriculture and Forestry employee shall be charged at a rate of .025 cents per pound for each hour required to conduct the examination, provided that no specific charge shall be made for certification of product when inspection is simultaneously performed.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:412 and R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:272 (June 1982), amended LR 9:411 (June 1983), amended by the Department of Agriculture and Forestry, Market Commission, LR 19:1121 (September 1993), LR 25:

All interested persons should submit written comments on the proposed amendments by the end of business on November 25, 1998 to Mr. James Pruitt, Louisiana Department of Agriculture and Forestry at 5825 Florida Blvd., Baton Rouge, LA 70806.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Certification of Poultry, Poultry
Products, and Shell Eggs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no implementation costs to state or local governmental units, as existing personnel will be utilized to administer these rules. It is anticipated that there could be savings to local school and state institutions in food cost because improvement of quality should result in less loss.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that there will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Vendors will be charged \$.025 per pound for grading and certification of poultry and poultry products, and \$.025 per dozen for grading and certification of shell eggs. These grading

and certification costs will be imposed when there are violations of the standards and requirements and the product must be used.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment. These rules will apply to all producers of poultry and poultry products in the state.

Skip Rhorer
Assistant Commissioner
9810#015

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Appointment of Eligibles from Certificates

The State Civil Service Commission will hold a public hearing on Wednesday, November 10, 1998 to consider these proposed changes to Civil Service Rules. The hearing will be at 9:00 a.m. in the Commission Hearing Room in the DOTD Annex Building at 1201 Capitol Access Road, Baton Rouge, Louisiana. Consideration will be given to the following:

Reenact Rule 8.9

8.9 Appointment of Eligibles from Certificates

(a) In the filling of a single vacancy from a certificate of eligibles, the appointment must be made from one of the top five grade groups.

(b) A grade group shall be considered as a final grade with at least one available candidate. If a final grade does not have at least one available candidate, it shall not be considered a grade group.

(c) In the filling of multiple vacancies from a single certificate, appointments shall be made singly in succession. The first appointment shall be made from the top five grade groups. In the filling of each successive vacancy, an appointing authority may add one more grade group to the grade groups considered for the previous vacancy. When an appointment exhausts the eligibles from one of the grade groups, an appointing authority may add one additional grade group for consideration in the next appointment in addition to that previously authorized by this section.

(d) An appointing authority may consider as not available for appointment an individual who is a former permanent status classified employee who was been previously dismissed or who resigned to avoid dismissal.

(e) An appointing authority shall determine the effective date of the appointment, but in no case shall the effective date be prior to the time the appointee was eligible for appointment under this rule or prior to the time the appointee began work. An effective date later than four weeks following the expiration date of the certificate must be approved by the Director.

Explanation

This proposal makes three significant changes to the rule of five.

1. For a grade to be considered a grade group, it must have at least one available candidate with that grade. This will

usually provide agencies with a few more eligible candidates to select from. This will also eliminate the most common misinterpretation of the current rules.

2. If you exhaust a grade group, you may proceed to an additional grade group with at least one available candidates to replace the depleted grade. This will usually provide agencies with a few more eligible candidates to select from.

3. For each additional vacancy you fill, you may proceed to an additional grade group with at least one available candidate. The current rule does not add enough additional useful in filling multiple vacancies.

This combination will give agencies a small increase in eligible candidates for the first vacancy. The most significant contribution is that it makes it more likely that agencies can use certificates for multiple vacancies.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of State Civil Service at Post Office Box 94111, Baton Rouge, Louisiana 70804-9111.

If any accommodations are needed, please notify us prior to this meeting.

Allen H. Reynolds
Director

9810#026

NOTICE OF INTENT

Department of Economic Development Used Motor Vehicles and Parts Commission

Licensing Requirements and Hearing Procedures (LAC 46:V.Chapters 29-33 and Chapter 47)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Department of Economic Development, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission intends to amend sections of existing rules and regulations regarding licensing requirements, propose rules regarding hearing procedures and repeal §2909 which pertains to sign requirements.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 29. Used Motor Vehicle Dealer

§2905. Qualifications and Eligibility for Licensure

A. ...

1. The ability of the applicant to establish an adequate place of business properly zoned in the municipality, provide a suitable office, have a permanently affixed sign, clearly visible from the street or roadway at a minimum of 16 square feet and subject to local zoning laws, in front of the establishment which denotes that vehicles are offered for sale at the location to which the sign is affixed. Existing signs prior to adoption of this rule will not have to meet the new

requirements. If two or more dealers share a location, each dealer must display his own sign. Applicant must have an installed telephone listed in the business name at the place of business, the number of which should be listed on the application for license. Each dealer must have their own listed business telephone. No cellular telephones will be allowed in lieu of an installed business telephone. The commission must be notified of any change in the telephone number.

2. All dealers are required to furnish and keep in force the minimum required liability insurance coverage on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of this state. For those dealers who, in addition to selling vehicles, conduct the business of daily vehicle rentals, a separate renter's policy must be in effect.

3. ...

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Part Commission, LR 15:258 (April 1989), amended LR 15:375 (May 1989), LR 24:

§2909. Sign Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 2:119 (April 1976), repealed by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

Chapter 31. License for Salesman

§3101. Qualifications and Eligibility for Licensure

A. - A.1. ...

2. A license for a salesman will not be issued, renewed or endorsed until the employing dealer is licensed and has certified that the applicant for said license is in his employ and applicant is listed on the insurance statement and covered under the dealer's liability insurance policy. It is not intended that the dealer pay for licenses for its salesmen. However, for convenience, the dealer may do so on a reimbursable basis or any other plan satisfactory to its organization. All salesman licenses will be sent to the dealer for distribution to the respective applicants, and the dealer will determine that all its personnel required to obtain licenses have done so.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 24:

Chapter 33. Automotive Dismantler and Recycler

§3303. Qualifications and Eligibility for Licensure

A. ...

1. The ability of the applicant to establish an adequate place of business, properly zoned in the municipality, provide a suitable office, have a permanently affixed sign, clearly

visible from the street or roadway at a minimum of 16 square feet and subject to local zoning laws, in front of the establishment. Existing signs prior to adoption of this rule will not have to meet the new requirements. Applicant must have an installed telephone listed in the business name at the place of business, the number of which should be listed on the application for license. No cellular telephones will be allowed in lieu of an installed business telephone. The commission must be notified of any change in the telephone number.

2. ...

B. - D. ...

E. At least one salesman's license shall be issued for each business. License fees charged and received by the commission shall be the same as for all other salesmen licensed by the commission as is described in R.S. 32:754.

F. No person, firm, or corporation may advertise, sell or display for sale used parts without first obtaining a used parts dealer's license to do business in this state. All these types license numbers will be prefixed by UP, followed by a four digit number then the current year of license.

1. Used parts are broadly described as those parts necessary for operation of a vehicle and have been removed from a vehicle for resale. They include, but not limited to, the following: motors, wheels, generators, alternators, water pumps, glass, radiators, spark plugs, fuel tanks, etc.

2. License fees charged and received by the commission for licenses issued on dealers above shall be the same as for all other dealers licensed by this agency as is described in R.S. 32:754.

3. At least one salesman's license shall be issued for each business. License fee charged and received by the commission shall be the same as for all other salesmen licensed by the commission as is described in R.S. 32:754.

4. A surety bond will not be required for dealers whose principal business is selling used parts.

G. An out of state parts dealer may open a parts business this state. License for an out of state parts dealer to open a used parts business is \$500 per location.

H. Dealers whose only business is selling rebuilt or remanufactured parts, used batteries, tires and/or wheel covers are not included herein. Service stations are also specifically excluded from the above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:752, 32:753, 32:754, 32:755 and 32:756, 32:772(E), and R.S. 32:773(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:535 (May 1994), repromulgated LR 20:645 (June 1994), amended LR 24:

Chapter 47. Hearing Procedures

§4701. Hearing Officer

A. A hearing may be conducted by a hearing officer designated by the Chairman.

B. The hearing officer shall have all the powers of the Commission in connection with the hearing and shall have authority to issue subpoenas, order the taking of depositions, administer oaths, hear testimony, admit evidence, make rulings on objections and motions, and prepare a proposed order

consisting of findings of fact and conclusions of law and submit the proposed order to the commission for its consideration.

C. Any party who feels that he cannot receive a fair and impartial hearing from the hearing officer shall make a motion either orally at the time of the hearing or in writing requesting that such hearing officer withdraw from the case. That request must set forth the specific grounds in accordance with LSA C.C.P. art. 151. The hearing officer may withdraw without further proceedings and immediately refer the matter to the chairman for reassignment; otherwise, the request shall be heard before the commission sitting at a regular monthly meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4703. Time for Hearing

A. The time set for a hearing, specified in the notice, shall not be less than 15 days after the date the notice is completed.

B. Any request for a continuance of a hearing shall be made in writing in a reasonable time prior to the hearing and shall state the reasons for the request. The hearing officer is authorized to rule on the motion for continuance. The hearing may be continued from time to time as announced openly before the hearing is recessed without further notice or otherwise by giving reasonable notice less than 15 days before the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4705. Subpoenas

A. Subpoenas for the attendance of witnesses, and/or for the furnishing of information required by the commission, and/or for the production of evidence of records of any kind shall be issued by the hearing officer. Subpoenas shall be served and a return made in any manner prescribed by general civil law.

B. Any party to a hearing desiring the attendance of witnesses upon his behalf shall have the right to seek compulsory attendance of such witnesses and the production of relevant documents provided said party shall file a list of names and addresses of such witnesses with the hearing officer at least 10 days before the date set for the hearing.

C. Upon the failure of any person to obey a subpoena, upon the refusal of any witness to be sworn or make an affirmation, or to answer a lawful question put to him in the course of the hearing, the hearing officer may institute appropriate judicial proceedings under the laws of the state for an order to compel compliance with the subpoena or the giving of testimony, as the case may be. The hearing shall proceed, so far as it is possible, but the hearing officer or the commission, in its discretion, at any time may continue the proceeding for the purpose of taking the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4707. Rights of the Parties

Any party whose rights may be affected at any hearing shall have the right to appear personally and by counsel, to cross-examine adverse witnesses, to produce evidence and witnesses in their own behalf and to provide arguments on all issues involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4709. Evidence

The commission shall not be bound by the technical rules of evidence and may admit material and relevant evidence. The principles underlying the *Louisiana Code of Evidence* shall serve as a guide to the admissibility of evidence in hearings before the commission. The specific exclusionary rules and other provisions shall be applied only to the extent that they tend to promote the purposes of proceedings before the commission, in the discretion of the chair or the presiding member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4711. Record of the Hearing

A. The record in every individual proceeding shall include the following:

1. all pleadings, motions, and intermediate rulings;
2. evidence received and considered;
3. a statement of matters officially noticed;
4. questions and offers of proof, objections and rulings thereon;
5. the proposed order;
6. any decision, opinion, or report by the person(s) presiding at the hearing;
7. all staff memorandum or data submitted to the hearing officer of the commission in connection with their consideration; and
8. the minutes from the commission meeting in which action was taken on the proposed order.

B. A recording and a transcript of the hearing will be performed by a certified court reporter. The record and the file containing the pleadings will be maintained in a place designated by the hearing officer. Any party requesting a transcript of the hearing will pay a fee according to a schedule established by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4713. Rulings

A. When a hearing officer is used and a majority of the commissioners have not heard the case or read the record, any

decision adverse to any party other than the commission shall be postponed until a copy of the proposed order is served upon all parties and each is given an opportunity to reply, either orally or in writing. The proposed order shall be prepared by the person(s) who conducted the hearing. A statement of the reasons for the order and each issue of fact or law necessary to the order shall accompany the proposed order. This requirement may be waived by the written stipulation of all parties, or where there is no contest (as in the failure of a party to appear after due notice), the commission may eliminate compliance therewith.

B. Any party affected by the proposed order may prepare a written brief which must be filed with the commission within 10 days from receipt of the proposed order, or the affected party may present an oral response at the next monthly meeting of the commission.

C. During its regular monthly meetings (or upon a special meeting as called by the chairman and upon reasonable notice to all parties), the commission shall make the final decision based on the record and the proposed order.

D. A final decision or order adverse to a party in an adjudication proceeding shall be in writing. A final decision shall include findings of fact and conclusions of law. Parties shall be notified either personally or by mail of any decision or order along with their attorney of record, if any. The parties by written stipulation may waive, and the commission in the event there is no contest may eliminate, compliance with this paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4715. Rehearings

No rehearing shall be permitted from any ruling of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

John M. Torrance
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Licensing Requirements and Hearing Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs anticipated from the proposed amendments and adoption of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Independent used motor vehicle dealers will be required to have a telephone installed in the business name. The used motor vehicle dealer will incur the cost of a business phone as opposed to the cost of a residential phone. There will be a minimal cost for signs on a shared dealer lot. Salesmen are covered under the dealer's insurance policy; they are being required to list the individual names on the certificate of insurance. This rule explicitly requires that a salesman for an Automotive Dismantler have a license. This is already required under state law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

All licensees will be incurring the same costs and operating under the same laws and rules, thereby, eliminating any unfair competition.

John M. Torrance
Executive Director
9810#028

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—Adult and Evening Instructional Programs
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedures Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, a revision to Standard 1.124.03 of *Bulletin 741, Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901A. The proposed amendment will no longer require individuals 19 years of age and above to take a pretest (California Achievement Test or the Test of Adult Basic Education) and score a 12.9 on all parts of the pretest in order to qualify for the GED Test. The revision further requires individuals 17 or 18 years of age or 16 years of age with an approved age waiver to take the Official Half-Length GED Practice Test and score a minimum of 40 on each part with an average score of 45 to qualify for the GED at state approved sites of instruction.

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—Louisiana Handbook for School
Administrators

* * *

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

17:22 (2), (6); R.S. 17:151.1; R.S. 17:151.3; R.S. 17:176; R.S. 17.232; R.S. 17:191.11; R.S. 17:1941; R.S. 17:2007; R.S. 17:2050; R.S. 17:2501-2507; P.L. 94-142; R.S. 17:154(l); R.S. 17:402.

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

Louisiana Handbook for School Administrators, Bulletin 741
* * *

Adult and Evening Instructional Programs

To qualify for the General Educational Development (GED) Test, an individual shall be 19 years of age or above. Individuals between 17-18 years of age or 16 years of age with an approved age waiver may qualify for the General Educational Development (GED) Test by taking the Official Half-Length GED Practice Test and scoring a minimum of 40 on each part with an average score of 45. Qualifying scores on the Official Half-Length GED Practice Test shall be certified by State-approved adult education sites of instruction.

* * *

Interested persons may submit written comments until 4:30 p.m., December 8, 1998, to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

We estimate that there will be a cost to the State Adult Education Administration of \$32,264 to implement this policy change. (Approximately \$22,264 for leasing additional GED test booklets and \$10,000 for a public awareness campaign.)

There will be a cost to the locals for Test Administrators and Proctors as a result of more persons taking the GED Test. We assume that the amount of the fee assessed (between \$10-\$35 per person) to take the test will be the same as the amount of the additional costs associated with the administration, which is approximately \$62,325.

With this policy change, BESE no longer mandates a *pretest* for the GED for individuals 19 years of age and above. The required pretest for individuals 17-18 year olds and 16 year olds with an approved age waiver may now be administered by state approved adult education sites of instruction rather than limited to Local Education Agencies, which will eliminate duplication of pretesting to qualify for the GED Test. Savings on pretest costs may be reinvested into adult education instruction by the reallocation of resources within the adult education program.

BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$160. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection for the state with the adoption of this bulletin amendment. However, local revenue

collection will increase proportionally to the number of persons taking the GED. Most local GED test centers charge from \$10.00 to \$35.00 per person to cover test administration expenses. We anticipate an increase of approximately 2,770 individuals taking the GED test in 1999-2000. This equates to approximately \$62,325 revenue collected from GED test takers.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule change may increase the number of students who receive GEDs and can go on to further education and training. Those persons who pass the test could also be eligible for the job market sooner.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

We estimate an increase in the number of GEDs issued as a result of this policy change, and research shows that persons with GED equivalency diplomas have a better chance of being employed than persons without GED equivalency diplomas.

Marlyn Langley
Deputy Superintendent
Management and Finance
9810#050

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—School Accountability System (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The proposed amendment adds the School Accountability System as a part of Bulletin 741.

**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

* * *

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

Bulletin 741—Louisiana Handbook for School Administrators

I. Preface

A. The Louisiana Public Education Accountability System is intended to drive fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The system is designed to encourage and support school improvement by:

1. clearly establishing the state's goals for schools and students;
2. creating an easy way to communicate to schools and the public how well a school is performing;
3. recognizing schools for their effectiveness in demonstrating growth in student achievement; and
4. focusing attention, energy, and resources on those schools that need help improving student achievement.

B. The accountability system is based on the concept of continuous growth. Every school can improve. Every school is expected to show academic growth. Every school is compared to itself.

1. The underlying beliefs of the accountability system are:
 - a. all students can and must learn at significantly higher levels;
 - b. the need to improve student achievement is urgent;
 - c. continuous growth in student achievement must occur in all schools;
 - d. the focus must be on measurable student achievement results;
 - e. poverty impacts student learning; however, it does not prevent students from achieving;
 - f. low-performing schools must receive technical assistance and necessary resources to improve;
 - g. rewards and corrective actions can motivate educators, communities, and students to improve student learning;
 - h. parents, educators, and community members should be involved in the ongoing development and revision of school and district improvement plans;
 - i. districts and school sites must have the flexibility to improve learning in schools;
 - j. the general public must be kept involved in and informed about the accountability process;
 - k. it is essential that all stakeholders (i.e., students, parents, educators, and community) work together to reach the state education goals;
 - l. the accountability system must be kept simple;
 - m. the State must provide adequate funding to support the accountability system and not back down on funding or standards once instituted.

2.006.00 The school shall participate in a school accountability system based on student achievement and minimum standards as approved by the State Board of Elementary and Secondary Education.

Refer to R.S. 17:10.1

10/20-Year Goals

2.006.01 The State Board of Elementary and Secondary Education shall determine the ten- and twenty-year goals based on the four indicators of student achievement: Criterion Referenced Tests, Norm Referenced Tests, Student Attendance, and Dropout Rates (grades 7 - 12 only).

Measures of Student Achievement

2.006.02 A school's newest performance shall be measured using four indicators of student achievement: Criterion Referenced Tests, Norm Referenced Tests, student attendance, and dropout rates (grades 7 - 12 only). Measurement of academic achievement for special education students shall be determined by the State Board of Elementary and Secondary Education (SBESE).

School Performance Scores

2.006.03 A School Performance Score shall be calculated for each school. These scores shall range from 0 to beyond 100, with a score of 100 indicating a school has reached the Ten-Year Goal and a score beyond 100 indicating a school is striving to reach the Twenty-Year Goal.

Each indicator shall be given a weight as follows:
 Criterion Referenced Tests: 60 percent Grades K-12
 Norm Referenced Tests: 30 percent Grades K-12
 Student Attendance: 10 percent Grades K-6; 5 percent Grades 7-12
 Dropout Rate: 5 percent Grades 7-12

School Performance Scores shall be calculated in Spring, 1999 for Grades K-8 and in Spring, 2001 for Grades 9-12. K-8 schools determined to be Academically Unacceptable shall begin Level I Corrective Actions during Fall, 1999. The first time Monetary Rewards may be given is Spring, 2001 for K-8 and Spring, 2003 for Grades 9-12.

Growth Targets

2.006.04 A school's Growth Target shall be calculated by subtracting its School Performance Score from 100 (i.e., the Ten-Year Goal) and dividing this difference by the number of two-year intervals remaining in the ten-year cycle. Growth Targets shall be recalculated every two years using a school's newest School Performance Score.

All schools shall receive a label based upon the school's success in reaching its Growth Target.

Growth Labels
 A school exceeding its Growth Target by a percentage determined by SBESE shall receive a label of Exemplary Academic Growth.

A school meeting its Growth Target or exceeding it by a percentage determined by SBESE shall receive a label of Recognized Academic Growth.

A school improving, but not meeting its Growth Target shall receive a label of Minimal Academic Growth.

A school with flat or declining School Performance Scores shall receive a label of School in Decline.

When the Ten-Year Goal is reached, schools shall begin working toward the state's Twenty-Year Goal. These schools shall be designated as Academically Distinguished Schools. Academically Distinguished Schools shall not receive Corrective Actions as long as their School Performance Scores are above 100 (i.e., the Ten-Year Goal), but they shall be required to show each cycle to receive rewards.

The State Board of Elementary and Secondary Education (SBESE) shall set a minimum level of performance for schools called the Minimum Score. Schools with a School Performance Score below the Minimum Score shall be identified as Academically Unacceptable Schools. These schools immediately receive Level I Corrective Actions. Academically Unacceptable Schools shall receive Level I Corrective Actions in 1999-2000 for K-8 and 2001-2002 for Grades 9-12. SBESE shall determine the appropriate score for the Minimum Score. The Minimum Score shall be "fixed" and not raised over time.

Rewards

2.006.05 Schools shall receive rewards when they meet or surpass their Growth Targets and show growth in the performance of students who are classified as high poverty.

The rewards shall be granted to the school, and school personnel shall decide how monies will be spent; however, monetary rewards shall not be used for salary stipends.

Other forms of recognition shall also be provided for schools that meet or exceed their Growth Targets.

Corrective Actions

2.006.06 A school that does not meet its Growth Target shall receive Corrective Actions. A school that enters Corrective Actions shall receive additional support and assistance, with the expectation that extensive efforts shall be made by students, parents, teachers, principals, administrators, and the school board to improve student achievement at the school. There shall be three levels of Corrective Actions.

In Level I Corrective Actions, the state shall utilize a diagnostic process to identify needs, develop and implement consolidated improvement plan including an integrated budget. The process must include opportunities for significant parent and community involvement.

In Level II Corrective Actions, the district shall work with advisory Distinguished Educators, teachers, parents, and others to implement revised School Improvement Plan and assist principals in developing capacity to change.

In Level III Corrective Actions, the Distinguished Educator shall continue to assist with improvement efforts and with design of reconstitution plan.

A school shall enter Corrective Actions:

If it has a School Performance Score below the Minimum Score (Academically Unacceptable School); or

If it fails to attain its Growth Target in any two-year interval, unless it is a school of Academic Distinction.

Upon parental request, districts shall transfer the child to the nearest acceptable school prior to the October 1 student membership count. Parents may move their child to another school district if the parents provide the transportation to the school.

Schools shall move into more intensive levels of Corrective Actions if they fail to demonstrate adequate growths during each two-year cycle.

An Academically Unacceptable School shall move to the next level of Corrective Action if its two-year growth does not place it above the Minimum Score and it does not meet its Growth Target.

An Academically Distinguished School shall not receive Corrective Actions.

All other schools have School Performance Scores in the mid-range. These schools shall be addressed in the following manner:

If a school in the mid-performance range attains its Growth Target, it shall exit Corrective Actions;

If it attains a score less than 25 percent of its Growth Target, it shall move to the next level of Corrective Actions;

If it fails to attain more than 25 percent of its Growth Target, it shall stay in Level I for two cycles;

If it has already been in Level I for two cycles, it shall move to Level II. It shall stay in Level II until it either:

Reaches its Growth Target and exits Corrective Actions; or

Attains 25 percent of its Growth Target in any cycle. If it fails to attain this Growth Target, it shall move to Level III.

2.006.07 Districts shall develop and submit a Reconstitution Plan to the State Board of Elementary and Secondary Education (SBESE) for any school in Level III. A Reconstitution Plan indicates how the district shall remedy the school's inadequate growth in student achievement. The plan shall specify how and what reorganization shall occur. The State Board of Elementary and Secondary Education (SBESE) shall monitor the implementation of the Reconstitution Plan.

1.006.07 If in Level III Corrective Action, the school and district will cooperatively develop a Reconstitution Plan and submit to the State Board of Elementary and Secondary Education (SBESE).

Exit Corrective Actions

2.006.08 A school shall exit Corrective Actions if an Academically Unacceptable School moves above the Minimum Score and achieves its Growth Target or if any other school in the mid-range achieves its Growth Target.

Transfer Policy

2.006.09 Parents shall have the right to transfer their child to another public school when an Academically Unacceptable School begins Level II Corrective Actions or any other school begins Level III Corrective Actions.

Transfers shall not be made to Academically Unacceptable Schools or schools undergoing Level I, II, or Level III Corrective Actions.

If no academically acceptable school in the district is available, the student may transfer to a neighboring district. Parents shall provide the transportation to the school. State dollars shall follow the child when such a transfer occurs.

Schools and districts may refuse to accept a student if there is insufficient space, a desegregation order prevents such a transfer, or if the student has been subjected to disciplinary actions for behavioral problems.

2.006.10 The State Department of Education shall provide support to the school through District Assistance Teams, Distinguished Educators, a School Improvement Fund, and a Best Practices Resource Guide.

District and other personnel, as appropriate, shall be trained to become members of District Assistance Teams.

Distinguished Educators shall be highly effective educators selected and trained by the State Department of Education to take two or more years of leaves-of-absence to help schools in Level II and Level III Corrective Actions.

Distinguished Educators may include assisting schools in the development of improvement plans, facilitating the development of a school curriculum that aligns with state tests, working with the school to involve parents and community members, and assisting with the professional development of school personnel.

The selection of outstanding teachers, principals, and administrators from local districts to serve as Distinguished Educators shall be based upon the assumption that they will be specially selected, trained and shall possess a more authentic understanding of problems being faced by the schools. Additionally, Distinguished Educators shall be allowed to return to their districts/universities with special capabilities that would be of value to their schools and districts.

The State Department of Education shall identify best school improvement practices and disseminate the information to schools and districts through a published report.

2.006.11 The Board of Elementary and Secondary Education shall report annually on the state's progress in reaching its individual School Report Cards to provide information on every school's performance. The School Report Cards shall include the following information: School Performance Scores, school progress in reaching Growth Targets; school performance when compared to similar (like) schools; and subgroup performances.

Appeals Procedures

2.006.12 An appeals process shall be established that shall enable schools and districts to appeal various issues to the State Board of Elementary and Secondary Education (SBESE).

Data Collection

2.006.13 A test score shall be entered for all eligible students within a given school. For any eligible students who does not take the test (including those who are absent), a score of "0" shall be entered. To assist schools in dealing with absent students, the State Department of Education shall provide an

extended testing period for test administration. Schools may appeal their School Performance Scores if students were sick on a long-term bases and their absences resulting a school's receiving a lower score.

2.006.14 Only those enrolled in schools as of October 1 each year shall be used in the calculation of a school's School Performance Score. However, the scores of all students shall be included when calculating a District's score.

2.006.15 Schools that serve only students in K-2 shall be paired with schools in the district that receive their students. Schools with only K-2 students shall then be judged based upon the performance of paired schools. Local school boards shall determine how schools will be paired.

2.006.16 Special Purpose Schools (Alternative Schools, Schools in Correctional Facilities, Adult Education Facilities, shall have an alternative accountability system to be implemented no later than 2001. The establishment of new alternative schools shall be closely monitored by the State Department of Education to ensure that students are not placed within alternative schools to avoid testing in regular school environments.

2.006.17 The District Accountability System shall be determined by The State Board of Elementary and Secondary Education (SBESE).

The accountability system shall be monitored and refined as necessary. However, major changes shall not be made to the system until Year 2009 (Grades K-8) and 2011 (Grades 9-12).

The accountability system shall be reviewed by the Louisiana LEARN Commission or its successor, and recommendations for changes shall be made to BESE.

Interested persons may submit written comments until 4:30 p.m., December 10, 1998, to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—School Accountability System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation costs to state governmental units will be \$10,590,682 (see Department of Education Budget Spread). Local school systems may also incur additional costs for the following items: costs not funded by the state for teacher staff development and in service training; collection and analysis of data for the state's diagnostic process; personnel assigned to the District Assistance Teams; development and implementation of consolidated improvement plans, and transportation costs for students that chose to attend another school within the district as part of Level II or Level III corrective action. The state may fund some or all of these local costs. To the extent the state funds such costs, local costs will be reduced accordingly.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

School and District Accountability Plan is based on the concept of continuous growth; every school can improve and is expected to show academic growth. Economic benefits may be realized by K-12 students by acquisition of knowledge and skills to become more productive citizens in the workforce. Parents who choose to send their children to a school in another district as part of Level II or III corrective actions may incur additional transportation costs for such students since the rule specifies that such transportation costs are the responsibility of parents.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

More rigorous academic standards and higher student performance may improve school districts ability to recruit and retain qualified teachers. School districts may have to improve compensation and/or working conditions to recruit qualified teachers if the diagnostic process concludes that poor teaching quality is negatively affecting student performance. School districts will need to find qualified replacements for personnel who take temporary positions as Distinguished Educators. Schools in corrective actions may find it more difficult to recruit and retain teachers. As such, school districts may have to improve teacher compensation and/or working conditions to recruit and retain qualified teachers for such schools.

Marlyn Langley
Deputy Superintendent
Management and Finance
9810#045

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division**

**Exemption of Methyl Acetate as a VOC
(LAC 33:III.2117)(AQ182)**

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 Division regulations, LAC 33:III.2117 (Log Number AQ182).

Methyl acetate will be added to the list of compounds that are exempt from the requirements of LAC 33:III.Chapter 21. As of May 11, 1998, EPA will no longer give SIP (State Implementation Plan) credit for controls on methyl acetate emissions. This compound has a negligible contribution to tropospheric ozone formation and has potential for use in paints, inks, and adhesives. The basis and rationale for this proposed rule are to mirror the federal regulations.

This proposed 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 III. Air

**Chapter 21. Control of Emission of Organic
Compounds**

§2117. Exemptions

A. The following compounds are considered exempt from the control requirements of this Chapter: methane; ethane; 1, 1, 1 trichloroethane (methyl chloroform); methylene chloride (dichloromethane); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); 1,1,2-trichloro 1,2,2-trifluoroethane (CFC-113); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); acetone; parachlorobenzotrifluoride (PCBTF); perchloroethylene (tetrachloroethylene); cyclic, branched, or linear completely methylated siloxanes; 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC-43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OCH₃); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OC₂H₅); and methyl acetate. The following classes of perfluorocarbons are also considered exempt from the control requirements of this Chapter: cyclic, branched, or linear, completely fluorinated alkanes; cyclic, branched, or linear, completely fluorinated ethers with no unsaturations; cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:289 (March 1994), LR 21:681 (July 1995), LR 21:1330 (December 1995), repromulgated LR 22:14 (January 1996), amended LR 22:703 (August 1996), LR 23:1661 (December 1997), LR 24:22 (January 1998), LR 25:

A public hearing will be held on November 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ182. Such comments must be received no later than December 1, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (225) 765-0486. 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/olae/irdd/olaeregs.htm>.

Gus Von Bodungen
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Exemption of Methyl Acetate as a VOC**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs or savings to state or local governmental units from this proposal.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as a result of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no significant economic impact on directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposal will not have any known effect on competition or employment.

Hale Bohlinger
Deputy Secretary
9810#049

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary**

Civil Penalty Assessment
(LAC 33:I.Chapter 7)(OS026)

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 Office of the Secretary regulations, LAC 33:I.Chapter 7(OS026).

This proposed rule will establish a consistent department-wide approach for the assessment of civil penalties. Included in this assessment is the consideration of multiple violations, gravity of any violation committed, and that economic incentives for noncompliance are eliminated. This regulation is designed to promote the goals of deterrence, as well as, to provide fair and equitable treatment of the regulated community. The Louisiana Environmental Quality Act, R.S. 30:2050.3, requires the secretary to establish criteria for the assessment of consistent department-wide penalties based upon the nine factors found in R.S. 30:2025(E). The basis and rationale for this rule are to comply with R.S. 30:2050.3.

This proposed 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 1. Office of the Secretary**

**Subpart 1. Departmental Administrative Procedures
Chapter 7. Penalties
§701. Scope**

A. The intent of this Chapter is to assure that, after the department has determined a penalty is to be assessed for one or more violations, each penalty is assessed in a fair and equitable manner; that penalties are appropriate for the gravity of the violation committed; that economic incentives for noncompliance are eliminated; that penalties are sufficient to deter persons from committing future violations; and that compliance is expeditiously achieved and maintained.

B. After considering the nine factors in R.S. 30:2025(E)(3)(a), the department realizes there may be numerous circumstances where violations have occurred that are not significant enough to warrant a penalty action.

C. This Chapter is to be utilized by the department only after it has determined that a penalty is to be assessed for a specific violation unless otherwise specified by rule or regulation. Nothing in this Chapter applies to the determination of whether to assess a penalty, or to the compromise or settlement of a penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

§703. Definitions

For purposes of this Chapter, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise:

Nine Factors—the factors listed in R.S. 30:2025(E)(3)(a) and considered by the department in determining whether or not a civil penalty is to be assessed and in determining the amount agreed upon in compromise.

Penalty Event—any violation [as defined in R.S. 30:2004(21)] for which the administrative authority, after consideration of the factors listed in R.S. 30:2025(E)(3)(a), determines a penalty is warranted.

Violation Specific Factor— the two of the nine factors considered when plotting a violation on the penalty matrix. Each factor is weighed consistently without regard to the violator, and no special circumstances or violator-specific factors are considered when plotting the violation on the penalty matrix. These factors include:

- a. the nature and gravity of the violation; and
- b. the degree of risk to human health or property caused by the violation.

Violator-Specific Factor—the five of the nine factors considered when adjusting the difference between the minimum and maximum penalty range within a particular cell on the penalty matrix. The degree of adjustment in a particular penalty range on the penalty matrix will vary depending upon the specific and unique circumstances of these five factors. These factors include:

- a. the history of previous violations or repeated noncompliance;
- b. the gross revenues generated by the respondent;
- c. the degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
- d. whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by his noncompliance or violation; and
- e. whether the noncompliance or violation and the surrounding circumstances were immediately reported to the department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.

Response Costs—the costs to the state of any response action made necessary by a penalty event that are not voluntarily paid by the violator. These costs shall include, but are not limited to, the costs of surveillance staff activities and the costs of bringing and prosecuting an enforcement action, such as staff time, equipment use, hearing records, and expert assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

§705. Penalty Determination Methodology

A. A penalty range for each penalty event is calculated based on the two violation-specific factors. The two violation-specific factors are plotted on the penalty matrix to determine a penalty range for a particular penalty event (see Table 1). The various penalty ranges for a penalty event are found inside each cell of the penalty matrix.

1. **Penalty Matrix—Degree of Risk to Human Health or Property.** The first stage of the penalty calculation involves the categorization of each penalty event as major, moderate, or minor with regard to its degree of risk to human health or property. The following criteria are used to categorize each penalty event with regard to its degree of risk to human health or property:

- a. **Major.** Refers to a violation in which actual harm or substantial risk of harm to the environment or public health occurs. The noncompliance results in, or may result in, the temporary or permanent loss of a use of the environmental resource. A violation of major impact and hazard may be one characterized by high volume and/or frequent occurrence and/or high pollutant concentration. Such violations may have a detrimental impact on sensitive environments or include the discharge of toxic pollutants;
- b. **Moderate.** Refers to a violation that has the potential for measurable detrimental impact on the environment or public health. A violation of moderate impact and hazard may be one characterized by occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain conditions; and
- c. **Minor.** Refers to a violation that does not directly present actual harm or substantial risk of harm to the environment or public health. Violations that are isolated single incidences and that cause no measurable detrimental effect to the environment or public health may be considered minor. Violations that are administrative in nature may also be considered minor.

2. **Penalty Matrix—Nature and Gravity of the Violation.** The second stage of the penalty calculation involves the categorization of each penalty event as major, moderate, or minor with regard to its nature and gravity. The following criteria are used to categorize each penalty event with regard to its nature and gravity:

- a. **Major.** Refers to violations of applicable statutes, regulations, orders, permit limits, or permit requirements that result in negating the intent of the requirement. The respondent deviates significantly from the requirements of the statutes, regulations, or permit to such an extent that little or no implementation of requirements occurs;
- b. **Moderate.** Refers to violations of applicable statutes, regulations, orders, permit limits, or permit requirements that result in substantially negating the intent of the requirement. The respondent deviates from the requirements of the statutes, regulations, or permit, but some implementation of the requirements occurred; and
- c. **Minor.** Refers to violations of applicable statutes, regulations, orders, permit limits, or permit requirements that result in some deviation from the intent of the requirement. The respondent deviates somewhat from the requirements of the statutes, regulations, or permit; however, substantial implementation of the requirements occurred.

B. Once a penalty event has been categorized as major, moderate, or minor for both its degree of risk to human health or property and its nature and gravity, a penalty range is obtained by plotting these two categorizations with the corresponding cell of the penalty matrix.

Degree of Risk/Impact to Human Health or Property	Nature and Gravity of the Violation			
		Major	Moderate	Minor
Major		\$25,000 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
Moderate		\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
Minor		\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

C. Violator-Specific Factors (Adjustment Factors) Per Event. The next stage of the penalty calculation involves the adjustment of the penalty using the following violator-specific factors:

1. the history of previous violations or repeated noncompliance;
2. the gross revenues generated by the respondent;
3. the degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
4. whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the noncompliance or violation; and
5. whether the noncompliance or violation and the surrounding circumstances were immediately reported to the department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.

D. The five violator-specific factors are used to adjust the penalty amount for each penalty event. Each violator-specific factor is assigned a percentage adjustment on a case by case basis. The upward or downward percentage adjustment for each violator-specific factor shall be no more than 100 percent of the difference between the minimum and maximum penalty amount for the chosen matrix cell. The five percentages are added together to calculate a total percentage adjustment for the penalty range for the penalty event. The total upward or downward percentage adjustment is also limited to 100 percent. The total percentage adjustment is multiplied by the difference between the minimum and maximum penalty amount for the chosen matrix cell. The product is then added to, or subtracted from, the minimum penalty amount in the chosen matrix cell.

E. The information obtained from the violation-specific and violator-specific factors can be entered into one of the following formula(s) to obtain a penalty amount (P_n) for each penalty event:

$$P_n = A_n + (B_n \times [C_n - A_n])$$

$$P_n = 2(A_n + [B_n \times (C_n - A_n)]) *$$

where:

P_n = penalty amount for a given penalty event.

A_n = the minimum value of the penalty range for the cell located on the penalty matrix for a given penalty event.

B_n = the sum of percentage adjustments calculated for a given penalty event, where 100 percent B_n - 100 percent.

C_n = the maximum value of the penalty range for the cell located on the penalty matrix for a given penalty event.

* *Note:* The statutory maximum is double in circumstances where the penalty event constitutes a violation of a previous enforcement action as stated in R.S. 30:2025 (E)(2).

F. The values for each penalty amount (P_n) are added to determine a penalty subtotal (P_s):

$$P_s = P_1 + P_2 + P_3 \dots$$

G. The department shall consider the monetary benefits realized through noncompliance. Any monetary benefits calculated may be added to the penalty subtotal. However, the amount calculated may not cause the penalty subtotal to exceed the maximum penalty amount allowed by law.

H. Response costs (R_c) are then added to the penalty subtotal (P_s) to determine the total penalty amount (P_t):

$$P_t = P_s + R_c$$

I. In accordance with R.S. 30:2025 (E)(1)(a), the department reserves the right to assess an additional penalty of not more than \$1,000,000 for any penalty event that is done intentionally, willfully, or knowingly, or results in a discharge or disposal that causes irreparable or severe damage to the environment or if the substance discharged is one which endangers human life or health.

J. In circumstances where the respondent has provided, or has agreed to provide, a grant, donation, or other form of assistance with respect to a designated pollution source, as provided in R.S. 30:2031, the penalty amount may be reduced by the monetary value of such grant, donation, or other form of assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

A public hearing will be held on November 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS026. Such comments must be received no later than December 8, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of OS026.

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/ola/irdd/olaereg.htm>.

Dale Givens
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Civil Penalty Assessment**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant implementation costs or savings to state or local governmental units are expected as a result of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant increase or decrease in revenues is expected with the promulgation of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant economic costs or benefits to directly affected persons are expected as a result of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is expected as a result of this rule.

J. Dale Givens
Secretary
9810#030

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Certification for Substance Abuse Counselors
(LAC 46:LXXX.101, 105, 301, 701, 703, 707, 711, 901, 905, 1101, 1103, 1105, 1303, 1505, 1509, 1511, 1701)

Under the Authority of R.S. 37:3372-3384, the Louisiana State Board of Certification for Substance Abuse Counselors hereby gives notice of its intent to amend rules and regulations relative to certification and regulating certified substance abuse counselors, certified compulsive gambling counselors, and certified prevention counselors.

Chapter 1. General Provisions

§101. Scope

The rules of LAC 46:LXXX are relative to and govern the Louisiana State Board of Certification for Substance Abuse Counselors (the board) within the Department of Health and Hospitals, the certification for substance abuse counselors, compulsive gambling counselors, prevention counselors and the practice of substance abuse counseling, compulsive gambling counseling and prevention counseling.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:627 (May 1993), LR 25:

§105. Definitions

* * *

Compulsive Gambling—the persistent and recurrent maladaptive gambling behavior that disrupts personal, family, community, or vocational pursuits.

Compulsive Gambling Counselor—any substance abuse counselor who, by means of his special knowledge acquired through formal education and practical experience is qualified to provide gambling addictive behavior counseling to compulsive gamblers who have gambling addictive behaviors and other gambling problems behavior and who is certified as such by the board. The board shall consider any person

providing such services as purporting to be a compulsive gambling counselor.

* * *

Counselor in Training—any person who has not yet met the qualifications to become certified in a particular field but has made an application to be certified in a particular field and is registered as such by the board.

Performance Domains—for prevention counseling are: program coordination, education and training, community organization, public policy, planning and education, and professional responsibility.

Prevention Counselor—any person who, by means of his special knowledge acquired through formal education and practical experience, is qualified to provide prevention intervention services and is certified as such by the board. The board shall consider any person providing such services as purporting to be a prevention counselor.

Prevention Intervention Services—the provision of prevention services and intervention to those at risk of abuse of alcohol, tobacco, and other drugs.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:628 (May 1993), LR 25:

Chapter 3. Practice

§301. Scope of Practice

A. The practice of substance abuse counseling within the meaning and intent of these rules and regulations shall consist of the rendering of professional guidance to abusers of drugs or alcohol to assist them in gaining an understanding of the nature of their disorder and maintaining a responsible lifestyle free of substance abuse. The scope of practice shall include making appropriate referrals to qualified professionals, providing counseling to family members when appropriate, and utilizing the core functions of substance abuse counseling.

B. The practice of compulsive gambling counseling within the meaning and intent of these rules and regulations shall consist of the rendering of professional guidance to compulsive gamblers to assist them in gaining an understanding of the nature of their disorder and developing and maintaining a responsible lifestyle free of compulsive gambling. The scope of the practice shall include making appropriate referrals to qualified professionals, providing counseling to family members when appropriate, and utilizing the core functions of counseling.

C. The practice of prevention counseling within the meaning and intent of these rules and regulations shall consist of the rendering of professional guidance to those at risk of alcohol, tobacco and other drugs and to assist them in gaining an understanding of the nature of their disorder and developing and maintaining a responsible lifestyle free of abuse and no longer in need of prevention intervention services. The scope of the practice shall include making appropriate referrals to qualified professionals, providing counseling to family members when appropriate, and utilizing the performance domains of prevention counseling.

D. Nothing in these rules and regulations shall be construed to authorize a substance abuse counselor, compulsive gambling counselor, or prevention counselor to practice medicine, social work, or psychology, or to provide counseling for disorders other than substance abuse, gambling or prevention. A substance abuse counselor, compulsive gambling counselor or prevention counselor shall not order, administer, or interpret psychological tests or utilize psychometric procedures.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:628 (May 1993), LR 25:

Chapter 7. Certification

§701. Requirements

- A. ...
 - 1. - 5. ...
 - 6. provides evidence of having earned educational credit sufficient to satisfy the requirements for counselor certification which include:
 - a. ...
 - b. possess a bachelor's degree from an accredited institution of higher education in one of the following areas:
 - i. social work;
 - ii. social welfare;
 - iii. sociology;
 - iv. substance abuse;
 - v. psychology;
 - vi. mental health counseling;
 - vii. education counseling, or
 - viii. family, child, and consumer science;
 - 7. provides evidence of having successfully completed the experiential requirements for substance abuse counselor certification which include:
 - a. two years of full-time clinical training in board approved institutions in the actual performance of each of the core functions with clients while under the supervision of a qualified professional, with a minimum of one contact hour per week;
 - b. - c. ...
 - 8. - 12. ...
 - 13. holds a valid and current certificate as a substance abuse counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers, Inc. prior to August 31, 1999, and seeks certification as a substance abuse counselor.
- B. - C. ...
- D. Initial Certification
 - 1. The board shall issue a certification as a Board Certified Compulsive Gambling Counselor to each candidate who:
 - a. is at least 21 years of age and has earned a High School diploma or its equivalent;
 - b. is a citizen of the United States;
 - c. is not in violation of any ethical standards subscribed to by the board;

d. is not and has not been an abuser of alcohol or other drugs and not a compulsive gambler during the previous two year;

e. has not been convicted of a felony. However, the board in its discretion may waive this requirement upon review of the individuals' circumstance;

f. possess and maintain a board certification for substance abuse counseling;

g. holds a valid and current certificate as a gambling counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers, Inc. prior to August 31, 1999;

h. successfully completes thirty clock hours of gambling addiction courses from a board-certified education program;

i. demonstrates professional competency in gambling counseling by passing a written and oral examination prescribed by the board;

j. makes application and pays the fees prescribed by the board;

k. it is the candidate's responsibility to assure himself that his educational preparation has provided comprehensive coverage of the subjects and topics necessary to allow him to develop a sufficient knowledge base and to adequately prepare him to be able to demonstrate professional competency in compulsive gambling counseling;

l. it is the candidate's responsibility to assure himself that his clinical experience has provided comprehensive training sufficient to adequately prepare him to be able to demonstrate professional competency in gambling counseling;

m. credit received for practicum, internship, or other experiential education may be claimed for education or experience, but not both.

E. Certification by Transition from LASACT, Inc.

1. The board shall issue a certificate to any person who:

- a. submits an application and pays the fees equivalent to those required for the initial application and examination;
- b. meet the requirements in §701.A.1, 2, 3, 4, 5, and

7;

- c. holds a valid and current certificate as a compulsive gambling counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers (LASACT), Inc.

F. Certification by Reciprocity from Other States

1. The board may issue a certificate, without examination in this state, to any person who:

a. submits an application and pays the fees equivalent to those required for the initial application and examination;

b. possesses a valid certificate to practice as compulsive gambling counselor in any other state of the United States;

c. can satisfy the board that the certificate from the other state is based upon an examination and other requirements substantially equivalent to the requirements of §701.D.

G. Initial Certification

1. The board shall issue a certification as a Board Certified Prevention Counselor to each candidate who:

- a. is at least 21 years of age and has earned a High School diploma or its equivalent;
- b. is a citizen of the United States;
- c. is not in violation of any ethical standards subscribed to by the board;
- d. is not and has not been an abuser of alcohol or other drugs and not a compulsive gamblers during the previous two years;
- e. has not been convicted of a felony. However, the board in its discretion may waive this requirement upon review of the individuals' circumstance;
- f. holds a valid and current certificate as a prevention counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers, Inc. prior to August 31, 1999;
- g. successfully completes thirty semester hours of prevention related courses approved by the board. Equivalency may be met by board-approved educational programs at the rate of fifteen contact hours per one semester hour;
- h. posses a bachelor's degree from an accredited institution of higher education in one of the following areas:
 - i. social work;
 - ii. social welfare;
 - iii. sociology;
 - iv. substance abuse;
 - v. psychology;
 - vi. mental health counseling;
 - vii. education;
 - viii. education counseling; or
 - ix. family, child and consumer science;
- i. complete experiential requirements prescribed by the board, including the following:
 - i. two years of full-time prevention experience in board-approved institutions related to alcohol, tobacco and other drugs;
 - ii. one hundred twenty-clock hours in the performance domains, with a minimum of ten hours in each performance domain while under the supervision of a qualified professional, with a minimum of one contact hour per week. The performance domains are:
 - (a). program coordination;
 - (b). education and training;
 - (c). community organization;
 - (d). public policy;
 - (e). planning and evaluation; and
 - (f). professional responsibility;
- j. demonstrates professional competency in prevention counseling by passing a written and oral examination prescribed by the board;
- k. makes application and pays the fees prescribed by the board;
 - 1. it is the candidate's responsibility to assure himself that his educational preparation has provided comprehensive coverage of the subjects and topics necessary to allow him to develop a sufficient knowledge base and to adequately prepare him to be able to demonstrate professional competency in prevention counseling;
 - m. it is the candidate's responsibility to assure himself that his clinical experience has provided comprehensive

- training sufficient to adequately prepare him to be able to demonstrate professional competency in prevention counseling;
 - n. credit received for practicum, internship, or other experiential education may be claimed for education or experience, but not both.
 - G. Certification by Transition from LASACT, Inc.
 - 1. The board shall issue a certificate to any person who:
 - a. submits an application and pays the fees equivalent to those required for the initial application and examination;
 - b. meet the requirements in §701.A.1, 2, 3, 4, and 5;
 - c. holds a valid and current certificate as a prevention counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers (LASACT), Inc.
 - H. Certification by Reciprocity from Other States
 - 1. The board may issue a certificate, without examination in this state, to any person who:
 - a. submits an application and pays the fees equivalent to those required for the initial application examination;
 - b. possess a valid certificate to practice as a prevention counselor in any other state of the United States;
 - c. can satisfy the board that the certificate from the other state is based upon an examination and other requirements substantially equivalent to the requirements of §701.F.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).
- HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:631(May 1993), LR 25:
- §703. Application and Examination**
- A. Request for Application
 - 1. Persons desiring information regarding certification as a Board Certified Substance Abuse Counselor, Board Certified Compulsive Gambling Counselor or Board Certified Prevention Counselor shall be sent an information brochure and a request for application for.
 - 2. - 4. ...
 - B. - D. ...
 - E. Approval and Issue
 - 1. ...
 - 2. Upon receipt of the certification fee, the board shall examine the application and recommendations from the Certification Committee. The board shall issue certification as a BCSAC, BCCGC, or BCPC to the candidate upon a formal affirmative vote of the majority of the board present and voting provided there is a quorum present.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).
- HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:632 (May 1993), LR 25:
- §707. Continuing Professional Education**
- A. Within the two years prior to application for certification renewal, all board certified substance abuse counselors, board certified compulsive gambling counselors, and board certified prevention counselors must have completed at least 48 clock hours of education directly

applicable to substance abuse counseling, gambling counseling or prevention counseling whichever is applicable.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:633 (May 1993), LR 25:

§711. Lapsed Certificate; Reinstatement; Surrender

A. - B. ...

C. Non-Payment of Fees; Surrender of Certificate

1. A former board certified substance abuse counselor, board certified compulsive gambling counselor or board certified prevention counselor who does not renew his certificate shall surrender the certificate by returning it to the office of the LSBCSAC.

2. A former board certified substance abuse counselor, board certified compulsive gambling counselor, or board certified prevention counselor who desires to exercise the option of the Grace Period to reactivate the certificate or to apply for reinstatement within one year may retain the certificate provided an acknowledgment is made, in writing, that the certificate is not valid during the period in which it is inactive or lapsed.

3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:634 (May 1993), LR 25:

Chapter 9. Denial, Suspension, Revocation of Certification: Appeal

§901. Authority

A. The board shall have the power to deny, revoke, or suspend its certification of any person upon proof that such person:

1. - 4. ...

5. is impaired in delivery of professional services because of alcohol or drug abuse, compulsive gambling, or because of medical or psychiatric disability;

6. ...

7. allows his certificate to be used by another person to illegally represent himself as a certified substance abuse counselor, certified compulsive gambling counselor or certified prevention counselor;

8. - 13. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:634 (May 1993), LR 25:

§905. Suspension of Certification

A. The board shall suspend the certification of any BCSAC, BCCGC, or BCPC who voluntarily surrenders his

certificate. The suspension shall be for a defined period of time or until specific conditions required by the board are satisfied.

B. The board shall suspend the certification of any BCSAC, BCCGC, or BCPC against whom there is a complaint containing allegations which reasonably suggest that a violation of the act or rules and regulations of the board of a most serious nature may have occurred pending an outcome of investigation and/or a formal hearing.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:635 (May 1993), LR 25:

Chapter 11. Complaints

§1101. Complaint Procedure

A. The board shall develop policies and procedures to receive, review, investigate, and act upon complaints.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:635 (May 1993), LR 25:

§1103. Filing a Complaint

A. Any person desiring to report a complaint or alleged violation against a board certified substance abuse counselor, board certified compulsive gambling counselor, or board certified prevention counselor or other person shall notify the LSBCSAC office. This initial contact notification of a complaint may be in person, by phone, or in writing. The person reporting the complaint or alleged violation may request a complaint form directly or may request that a member of the Ethics Committee contact him.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:635 (May 1993), LR 25:

§1105. Investigation

A. If the allegations in the complaint reasonably suggest a violation of the act or rules and regulations of the board, the Ethics Committee shall initiate an investigation. The Ethics Committee shall notify the subject that a complaint has been filed and provide a copy of the official complaint form. The board certified substance abuse counselor, board certified compulsive gambling counselor, or board certified prevention counselor or other person who is the subject of the complaint shall be required to provide a signed and notarized response within 15 days of being notified of the complaint.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance

Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:636 (May 1993), LR 25:

Chapter 13. Impaired Counselors

§1303. Identification

A. - B. ...

C. The board may appoint or designate an examining committee of board certified substance abuse counselors, board certified compulsive gambling counselors, board certified prevention counselors, physicians, and/or other health care professionals to conduct a physical and/or mental examination, including requiring a urine drug screen, blood, breath, and other tests as deemed appropriate and allowed by law; and to otherwise inquire into a counselor's fitness and ability to practice this profession with reasonable skill and safety to clients.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:636 (May 1993), LR 25:

Chapter 15. Code of Ethics

§1505. Counselors and the Board

A. Irrespective of any training other than training in counseling which a person may have completed, or any other certification which a person may possess, or any other professional title or label which a person may claim, any person certified as a substance abuse counselor, compulsive gambling counselor or prevention counselor is bound by the provisions of the Substance Abuse Counselor Certification Act and the rules and regulations of the board in rendering counseling services.

B. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:637 (May 1993), LR 25:

§1509. Affirmation

A. Every BCSAC, BCCGC and BCPC must agree to affirm:

1. - 12. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:638 (May 1993), LR 25:

§1511. Confidentiality

A. No substance abuse counselor, gambling counselor or prevention counselor may disclose any information he may have acquired from persons consulting him in his professional capacity that was necessary to enable him to render services to those persons except:

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:638 (May 1993), LR 25:

Chapter 17. Registrations and Board Approved Programs

§1701. Counselor in Training

A. - B. ...

C. ...

1. - 3. ...

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

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:638 (May 1993), LR 25:

Interested persons may submit written comments through November 30, 1998, to Michael Hollingsworth, Chairman, Louisiana State Board of Certification for Substance Abuse Counselors, 4637 Jamestown Avenue, Suite A, Baton Rouge, Louisiana 70808.

Michael Hollingsworth
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Certification for Substance Abuse Counselors

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of the proposed rule will increase operating expenditures by approximately \$1,500 for FY 98/99, \$447 for FY 99/00, and \$1,500 for FY 00/01 to certify applicants for compulsive gambling counseling and prevention counseling. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will allow the LA State Board of Certification for Substance Abuse Counselors (LSBSCAC) to charge applicants \$100 to become certified. They will be recertified every two years. It is estimated that 235 individuals will request certification in FY 98/99 and 70 individuals in FY 99/00. The increase in revenues for FY 98/99 would be \$23,500 and \$7,000 for FY 99/00. The revenues for FY 00/01 would be \$23,500 with the need to recertify.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individuals requesting certification would be required to pay the \$100 certification fee every two years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule would have no impact on competition and employment in the public and private sectors.

Michael Hollingsworth
Chairman
9810#039

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Continuing Education—Nursing Practice
(LAC 46:XLVII.Chapter 33)

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, pursuant to the authority vested in the board by R.S. 37:918 and R.S. 37:920, intends to amend Title 46:XLVII pertaining to continuing education/nursing practice requirements of the board for registered nurse licensure. The proposed amendments are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

Subchapter C. Registration and Licensure

§3335. Continuing Education—Nursing Practice

A. Authority of the Louisiana State Board of Nursing (Board). The Board derives its authority to establish the requirement for evidence of activities which contribute to continued competence for relicensure to practice as a registered nurse from R.S. 37:911, R.S. 37:918(4) and (12) and R.S. 37:920.E (1), (2), and (4).

B. Definitions for the Purposes of §3335.

Accredited Post Secondary Institution—a degree granting institution that conducts a program preparing registered nurses and awards degrees at any or all of the following levels: associates, bachelors, masters, and doctoral, and which is accredited by a nationally recognized accrediting body.

Approved Offering—a continuing education offering provided by an approved provider.

Approved Provider—individual, partnership, corporation, association, organization, organized health care system, educational institution, or governmental agency which has been approved by the Board, accredited by the American Nurses Credentialing Center's Commission on Accreditation (ANCC), or approved to provide nursing continuing education by an ANCC accredited approver.

Board Approved Contact Hours—contact hours which have been approved by the Board or through the ANCC.

Clinical Competence—the possession and use of professional knowledge and skills in relation to direct patient/client care.

Certifying Body—an agency qualified to evaluate an individual, an institution, or an educational program and

attesting that certain predetermined standards for safe and ethical practice of the profession or service are met.

Competence—the possession of professional knowledge and skills necessary to practice or function at the legally qualified level.

Contact Hour—a unit of measurement that describes 50 minutes of participation in an educational activity which meets the Board's continuing education criteria.

Continued Competence—the possession and maintenance of current professional knowledge and skills.

Continuing Education—a planned educational activity designed to update the knowledge and skills of the participant, beyond the entry level, or to prepare for practice in a different area of nursing.

Continuing Education Activities—

a. *Course*—an intense, planned educational activity, presented over time, which includes content related to a specific subject for which academic credit or contact hours are awarded.

b. *Offering*—a continuing education activity of short duration for which a minimum of one contact hour is awarded.

c. *Program*—a series of offerings with a common theme and common overall goals. Offerings may occur consecutively or concurrently.

Criterion—a standard, rule, or test by which something can be judged, measured, or valued.

Current—occurring in the present time; contemporary.

Documentation of Nursing Practice—the presence of written evidence of nursing practice.

Examination—an exercise designed to evaluate progress, qualifications, or knowledge.

Full-Time Nursing Practice—a minimum of 2080 hours, per year, of employment as a registered nurse or full-time equivalency requirements set forth by the employer.

For self-employed, home health, and contract nurses, a minimum of 1,600 documented nursing practice hours, exclusive of travel, per calendar year, is accepted as full-time employment. Documentation of practice hours shall include paycheck stubs and a log record of actual hours worked.

Inactive Licensure Status—is recorded when the RN requests inactive licensure status rather than renew a current RN license.

Lapsed License—delinquent licensure status due to failure to renew or to request inactive licensure status.

National Council Licensure Examination for Registered Nurses (NCLEX-RN)—the examination approved by the Board and administered to measure competency for initial licensure as a registered nurse.

Nursing Practice—the performance, with or without compensation, by an individual licensed by the Board as a registered nurse, of functions requiring specialized knowledge and skill derived from the biological, physical, and behavioral sciences [Nurse Practice Act, R.S. 37:913 (13) and (14)], which includes, but is not limited to, direct patient care, supervision, teaching, administration, and other positions which require use of nursing knowledge, judgment, and skill.

Part-Time Nursing Practice—a minimum of 160 hours employment as a registered nurse, but less than full-time employment within the one-year audit period.

Practice Hour—sixty minutes of nursing practice.

Refresher Course—instruction designed to up-date professional knowledge and skills to the legally qualified level.

Requirement—something needed or demanded by virtue of a law, regulation, etc.

C. Continuing Education/Nursing Practice Requirements. Registered Nurses are required to meet the continuing education nursing practice requirements for relicensure and to certify compliance on the application for relicensure. The following options are available to fulfill these requirements.

1. License Renewal. For licensure renewal the applicant shall be in compliance with one of the following:

- a. a minimum of 5 Board approved contact hours of continuing education and full-time practice as a registered nurse during the previous calendar year; or
- b. a minimum of 10 Board approved contact hours of continuing education and a minimum of 160 hours of practice as a registered nurse during the previous calendar year; or
- c. a minimum of 15 Board approved contact hours of continuing education during the previous calendar year; or
- d. initial licensure by examination or by endorsement during the previous calendar year; or
- e. current certification in a specialty area of nursing by a certifying body whose requirements have been approved by the Board as being equivalent to or exceeding the above requirements.

2. Exceptions. A licensee may request an exemption, on the license renewal application, supported with documentation, from the continuing education/nursing practice requirements, or for an extension of time within which to fulfill the requirements, for one of the following reasons.

- a. The licensee is requesting inactive status for the license. In this case, the requirements apply when the licensee seeks to reactivate the license.
- b. The licensee served on active duty in the armed forces for a minimum of six months during the licensure period.
- c. The licensee has been unable to work due to a physical or mental disability for 2/3 of the most recent audit period and submits medical evidence of readiness or ability to return to work.
- d. The individual is currently enrolled as a bonafide student in a Board approved refresher course.
- e. The individual presents evidence of an emergency or extenuating circumstances. At the time of filing an application for relicensure based on an exception, the licensee shall attach documentation of the exception.

3. Penalty for Non-Compliance

a. Failure to comply with these requirements shall prohibit license renewal and result in the licensee being placed on a delinquent/lapsed licensure status. Upon presentation of evidence of meeting the continuing education/nursing practice requirements, the license may be reinstated with a potential for disciplinary action.

b. Falsification of data on the renewal or audit forms may result in disciplinary action.

D. Reinstatement of License

1. For reinstatement of a license which has lapsed, been suspended, has been inactive, or has been retired, for less than 4 years, the applicant shall provide documentation of a minimum of 15 Board approved contact hours of continuing education for each year of inactive licensure status, or current licensure in another state and compliance with §3335.C.1.

2. For reinstatement of a license which has lapsed, been suspended, or has been inactive for four years or more, the applicant shall provide documentation of one of the following:

- a. completion of a Board approved refresher course consisting of a minimum of 160 hours of instructor planned, supervised instruction, including theory and clinical practice; or
- b. enrollment and completion of a bonafide nursing course in an approved school, which consists of 160 hours of instructor planned, supervised instruction, including theory and clinical practice, in lieu of a refresher course; or
- c. individualized remediation including an assessment of needs, a program of study designed to meet these needs, and an evaluation of the learning outcomes of the program. Such program shall be sponsored by an approved provider in an accredited post-secondary educational institution whose faculty hold masters degrees in nursing; or
- d. a minimum of 60 Board approved contact hours of continuing education within the previous 4 years; or
- e. successful completion of the NCLEX-RN examination during the previous calendar year (Licensees who choose the option of taking the NCLEX-RN shall complete the required application, pay the established fee, and follow the current process for testing.); or
- f. current licensure in another state, and compliance with §3335.C.1.

E. Continuing Education Activities. Continuing education course credit may be given for the following continuing education activities. Contact hours may be awarded for the following:

1. continuing education activities that meet the criteria for content of continuing education as specified in §3335.F. and which are offered by approved providers as specified in §3335.G or H;

2. academic courses in an accredited post secondary institution which are related to specific knowledge and/or technical skills required for the practice of nursing as specified in §3335.F and, §4507, A.3 and E.2, or which lead to an advanced degree in nursing or to a certificate in advanced nursing practice, with continuing education credit calculated as follows:

a. academic credits leading to a Bachelor of Science Degree in Nursing (BSN), acquired post licensure as a registered nurse, shall be applicable toward meeting the continuing education requirements for relicensure for a maximum of four consecutive years;

b. academic courses recorded as an audit, credit examination, or registration for thesis or dissertation shall not apply toward meeting the continuing education requirements or relicensure;

c. contact hours shall be calculated from credit hours as follows:

- i. quarter hours. One credit hour equals 10 contact hours;
- ii. trimester hours. One credit hour equals 12 contact hours;
- iii. semester hours. One credit hour equals 15 contact hours.

3. program, courses or independent study offerings which have been approved for voluntary or mandatory continuing education by other boards of nursing, the ANCC approval process, or specialty nursing organizations which have equivalent approval criteria;

4. review courses for initial certification in an approved area, such as ACLS, PALS, or advanced IV therapy, etc, provided they meet the criteria for approved offerings (Review courses for recertification do not meet the continuing education requirements for relicensure.); and

5. other continuing education activities as approved or accepted by the Board at its sole discretion;

6. presenting a total continuing education activity shall not be considered continuing education for the presenter. Instructors who present part of a continuing education activity may receive a certificate and credit if the total activity is attended;

7. there is no limit on the number of contact hours that may be earned through independent study.

F. Content of Continuing Education Activities. The following areas are acceptable subject matter to fulfill continuing education requirements for relicensure in Louisiana:

1. nursing practice topics related to counseling, teaching, or care of clients in any setting;

2. sciences upon which nursing practice, nursing education, and nursing research are based, e.g., nursing theories; biological, physical, and behavioral sciences; and advanced nursing in general or specialty areas;

3. professional, social, economic, spiritual, and ethical/legal aspects of nursing; and

4. nursing management, nursing administration, or nursing education.

G. Criteria for Approved Providers. Continuing education providers may be designated by the Board as *Approved Providers* upon showing evidence of meeting the following criteria:

1. have a consistent, identifiable authority, who has the overall responsibility for the operation of the Nursing Continuing Education Provider Unit;

2. have a Continuing Education Nurse Planner with a BSN or higher degree and an active RN license who:

a. has the overall responsibility for planning, implementing, and evaluating the continuing education activity; and

b. accepts full responsibility to ensure that all nursing continuing education activities meet the Board's criteria specified in §3335.H, and including, but not limited to: determining content specified in '3335 F., selecting faculty presenters with expertise in the content area, advertising, issuing certificates, and keeping records.

3. document registered nurse, including RN consumer, participation in the planning and implementation of nursing continuing education activities for which nursing contact hours are awarded. The Nursing Continuing Education Planning Committee shall include, at a minimum, the Nurse Planner and at least one other registered nurse;

4. utilize a program plan which includes a statement of purpose, measurable educational objectives, outline of content, teaching methodology, contact time for each objective, and an evaluation of the attainment of the objectives and of the overall effectiveness of the offering.

5. develop an overall provider unit annual evaluation plan;

6. participate in a Board site visit to validate compliance with provider criteria;

7. maintain participant and program records for a minimum of five years. The record storage system assures confidentiality and allows for retrieval of essential information for each offering including:

a. title of offering;

b. names and addresses of participants and number of contact hours awarded to each;

c. names and titles of planning committee members;

d. name, title, and curriculum vita for each faculty member;

e. starting and ending dates;

f. name and address of facility where offering is held;

g. program plan as specified in §3335.G.4;

h. description of target audience;

i. number of contact hours awarded for the offering;

j. summary of participants' evaluation; and

k. copy of any co-providership agreement, if applicable.

8. provide notification of the availability of each continuing education activity as specified in §3335.H.1.d. The Board Approved Provider number shall be included on all advertising materials and certificates. A copy of each brochure/flyer shall be mailed to the Board prior to implementation of the continuing education activity.

9. evidence of accreditation/approval as a provider unit through the ANCC may be submitted in lieu of evidence of meeting the above criteria. Providers approved through the ANCC are recognized by the Board as approved providers of nursing continuing education;

10. initial application for Continuing Education Provider Approval:

a. an application, on a form supplied by the Board, shall be filed, with the required fee, at least six months in advance of the intent to implement the approved provider mode of operation;

b. present evidence of having implemented three approved continuing education activities within the previous one and one half years, or submit applications for three proposed approved continuing education activities;

c. fees payable upon submission of an application for total provider unit review are \$500 for two years, with \$100 being non-refundable.

11. application for Continuing Education Provider Reapproval:

a. an application, on a form supplied by the Board, shall be filed with the Board, at least 90 calendar days prior to the expiration of approval;

b. should an approved provider status expire, no contact hours shall be awarded for nursing continuing education during the interim period of the expiration date and the date of reapproval of the Board Approved Provider Status;

c. fees payable upon submission of an application for total provider unit review are \$500 for two years, with \$100 being non-refundable;

H. Individual Continuing Education Activities

1. Agencies or individuals that intend to seek provider approval shall file a preliminary application for Board approved provider status and submit the required fee. Individual offerings will only be approved as a pre-requisite for provider status. Upon showing evidence of meeting the following criteria, the continuing education activity may be approved by the Board, for a period of one year:

a. have a consistent, identifiable authority who has the overall responsibility for the execution of educational offerings;

b. have a Continuing Education Nurse Planner with a BSN or higher degree and an active RN license who:

i. has the overall responsibility for planning, implementing, and evaluating the nursing continuing education activity;

ii. accepts full responsibility for the continuing education activity, including, but not limited to:

(a). determining content as specified in §3335.F,

(b). selecting faculty presenters with expertise in the content area,

(c). advertising,

(d). issuing certificates, and

(e). keeping records;

iii. have a nursing continuing education planning committee, including at a minimum, the Nurse Planner and at least one other registered nurse;

iv. the continuing education activity utilizes principles of adult education that includes:

(a). a philosophy of continuing education;

(b). a statement of purpose;

(c). selection of a teaching faculty with expertise in the subject matter that includes registered nurses and/or others with expertise in the nursing related subject matter;

(d). measurable educational objectives;

(e). topical outline of content;

(f). teaching methodology;

(g). contact time appropriate for the content and the objective; and

(h). an evaluation form that includes: attainment of each objective, effectiveness of the speaker(s) and methodology, appropriateness of facilities, relevance of the content to the objectives, and the overall effectiveness of the continuing education activity.

c. maintain participant and program records for a minimum of five years. The record storage system shall

maintain confidentiality and allow for retrieval of essential information for the continuing education activity including:

i. the completed application form;

ii. the continuing education activity approval letter;

iii. names and addresses of participants and number of contact hours awarded to each; and

iv. participant summary evaluation report.

d.i. the following content shall be included on the brochure/flyer and submitted with the Application for Continuing Education Activity Approval:

(a). date;

(b). time;

(c). location;

(d). target audience;

(e). registration fee;

(f). items covered by the fee;

(g). refund policy;

(h). objectives;

(i). agenda;

(j). speaker credentials;

(k). contact hours to be awarded;

(l). the continuing education activity approval statement; and

(m). a statement indicating compliance with the Americans with Disabilities Act (ADA);

ii. a final copy of the brochure/flyer shall be mailed to the Board prior to implementation of the continuing education activity.

2. Application Process

a. The Application for Continuing Education Activity Approval shall be submitted to the Board at least 90 calendar days prior to implementation of the continuing education activity.

b. Fees payable upon submission of an application for review of an offering are \$25 (non-refundable) plus \$5 for each contact hour of instruction, up to a maximum of \$700. A fee of 25 percent of the original fee, with a minimum of \$30, is payable for an extension of the approved status.

c. The provider shall submit to the Board immediate written notification of any change in an approved continuing education activity.

d. A continuing education activity approved through the ANCC is recognized by the Board as meeting the continuing education requirements for relicensure.

I. Monitoring System. Fulfillment of the requirements for continuing education/nursing practice for relicensure shall be ascertained as follows.

1. Verification of Continuing Education/Nursing Practice. On the application for relicensure, licensees shall sign a statement certifying compliance and agreeing to supply supporting documents upon request. Maintaining documentation of continuing education for at least five years is the responsibility of each individual. Falsification of the renewal application may result in disciplinary action.

2. Audit of Licensees. The Board shall randomly select no less than 3 percent of the licensees for audit of compliance with the requirements for relicensure. Additionally, the Board has the right to audit any questionable documentation of activities. Such shall be governed by the following.

a. The licensee shall submit verification of compliance with continuing education requirements or exceptions for the period being audited. Verification includes legible copies of certificates of attendance, and/or transcripts/grade reports, or documentation of compliance with exceptions as provided in §3335.C.2.

b. Licensees who use the nursing practice option as partial evidence of continued competence shall document nursing practice on the audit form provided by the Board. Said documentation shall be signed by an individual who has practiced in a supervisory, collaborative or peer relationship. The staff of the Board will evaluate exceptions to the standard form of documentation on an individual basis.

c. Verification shall be submitted within 30 calendar days of the mailing date of the audit notification letter.

d. Failure to complete the audit satisfactorily by the specified date or falsification of information will result in the licensure being rescinded to become invalid and may result in disciplinary action against the licensee in accord with the process and procedures provided in LAC 46:XLVII.3407.

e. Failure to notify the Board of a current mailing address will not absolve the licensee from the audit requirement.

3. Audit of Approved Providers. The Board reserves the right to audit Approved Providers to ascertain compliance with the criteria for approval. Upon a finding of a deviation from the criteria for approval, after a hearing before the Board, approval status may be withdrawn or the provider may be placed on probation for a specified period of time. Approval status may be restored upon submission of evidence that the provider satisfactorily fulfills the criterion/criteria in question.

4.a. Appeal. A licensee or a provider who wishes to request reconsideration shall do so within 20 calendar days from the date of receipt of notification of the action of the Board. The appellant shall submit a statement which shows cause why action should not have been taken by the Board. This statement shall be acted upon by the Board within 20 calendar days.

b. A final decision of the Board may be appealed in the 19th Judicial District Court within 30 calendar days of the receipt of the decision.

J. Refresher Course. To be approved by the Board, a refresher course shall meet the following criteria.

1. The sponsoring institution shall have access to adequate facilities, resources and qualified educational staff to implement both the required theoretical and clinical components of the refresher course.

2. The course shall be based on clearly stated objectives which are realistic for the time allotted in the course and appropriate for the course content.

3. The course content shall provide a review of basic nursing care concepts, principles, and skills related to patients across the life cycle.

4. The sponsoring institution shall submit the course syllabus for approval at least 90 calendar days prior to implementation of the course, or submit evidence of approval of the course by another board of nursing or by the ANCC at least 20 days prior to the beginning of the course.

5. Fees payable upon submission of a refresher course for approval are \$250 with \$50 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), LR 25:

Inquiries concerning the proposed amendments may be directed, in writing, to Barbara L. Morvant, Executive Director, Board of Nursing, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed Rules, in writing, to the Board of Nursing, 3510 N. Causeway Boulevard, Suite 501, Metairie, LA 70002. Written comments must be submitted to and received by the board no later than 4:30 p.m. on November 25, 1998.

Barbara L. Morvant
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Continuing Education—Nursing Practice**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The \$500 one-time increase in operational expenses represents the cost of reprinting the revised rule and distributing copies to interested parties, mostly the providers of nursing continuing education. Licensees can be notified of the revisions via the Board's newsletter, *The Examiner*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collection is anticipated as a result of these rule revisions. The Board of Nursing generates revenues from the review and approval of continuing education providers, program offerings and refresher courses. These revenues are incorporated into the operating budget of the Board and the \$500 will be provided for through the operating budget.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The providers of nursing continuing education will be directly, but minimally, affected by the proposed rule revisions because of the changes in the review and approval of individual offerings. Louisiana registered nurses will not be directly affected since no change is made in the amount of continuing education required for relicensure.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated negative effect on competition regarding the employment of registered nurses. Minimal competition among providers of continuing education may result from these rule revisions; however, the competition should increase the quality of continuing education.

Barbara L. Morvant
Executive Director
9810#023

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Veterinary Medicine

Dental Operations (LAC 46:LXXXV.710)

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.710 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, La. R.S. 37:1518 et seq.

The proposed amendments to §710 define the tasks and procedures within veterinary dentistry which may be performed by properly trained laypeople and registered veterinary technicians while under the direct supervision of a licensed veterinarian. The amendments also provide specific definitions within the practice of equine dentistry and livestock dentistry. The amendments make clear that dental operations which are not defined as permissible for performance by properly trained laypeople and registered veterinary technicians under the direct supervision of a licensed veterinarian must be performed by a licensed veterinarian.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§710. Dental Operations

A. - B. ...

C. In branches of veterinary medicine other than equine dentistry and livestock dentistry, with proper training and under the direct supervision of a licensed veterinarian, laypeople and registered veterinary technicians employed by a licensed veterinarian may perform supragingival scaling and polishing of teeth, making and developing dental radiographs, taking impressions, production of dental models, and the charting of dental pathology. All other dental operations must be performed by a licensed veterinarian.

D. In the branch of veterinary medicine dealing with equine dentistry, with proper training and under the direct supervision of a licensed veterinarian, laypeople and registered veterinary technicians employed by a licensed veterinarian may perform the rasping (floating) of molar, premolar, and canine teeth, and the removal of deciduous incisor and premolar teeth (caps). All other dental operations, including but not limited to the extraction of teeth, amputation of large molar, incisor, or canine teeth, the extraction of first premolar teeth (wolf teeth) and repair of damaged or diseased teeth must be performed by a licensed veterinarian.

E. In the branch of veterinary medicine dealing with livestock dentistry, with proper training and under the direct supervision of a licensed veterinarian, laypeople and registered veterinary technicians employed by a licensed veterinarian may perform rasping (floating) of premolar and molar teeth, and the removal of deciduous incisor teeth (caps). All other dental operations, including but not limited to the extraction of teeth, amputation of incisors, premolars, and molar teeth, and repair

of damaged or diseased teeth must be performed by a licensed veterinarian.

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 19:1330 (October 1993), amended LR 25:

Interested parties may submit written comments to Charles B. Mann, executive 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 November 24, 1998.

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 November 24, 1998, at 9:00 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801.

Charles B. Mann
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Dental Operations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendments (estimated \$100). 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)

There will be no effect on revenue collections of state or local governmental units. There will be no revenue impact as no increase in fees will result from these amendments.

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 nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on employment and competition.

Charles B. Mann
Executive Director
9810#009

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Sanitary Code—Commercial Seafood Inspection Program (Chapter IX)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health

and Hospitals, Office of Public Health intends to amend Chapter IX of the State Sanitary Code.

The proposed rule changes are needed in order to clarify existing record keeping requirements for shellfish harvesters and dealers and to better define existing boat sanitation requirements.

Chapter IX. Seafood

9:006. Construction and Cleanliness of Shellfish Boats

All boats utilized for the harvesting or transporting of shellfish shall be provided with a false deck or bottom to prevent the contamination of shellfish with bilge water. For the purpose of this regulation, bilge water may be defined as any water that collects in the lowest inner part of a boat's hull. Decks, holds or bins used for storage of shellfish shall be washed daily with either potable water, or water drawn from an approved growing area. Unless otherwise exempted, in writing, by the Department of Health and Hospitals, a suspended awning shall be provided on harvest boats to protect shellfish from direct exposure to sun, birds and other adverse conditions. *The suspended awning shall be a minimum of 12 inches above the shellfish with a maximum height of 7 feet. The suspended awning shall be of such width and length so as to extend to the outer edges of the harvesting or transporting vessel. The provisions of this rule shall apply to all types of harvesting and transporting vessels.* Small children in diapers, dogs, cats or other forms of wildlife shall not be permitted on board harvesting vessels while shellfish are being fished or transported. Violation of any of the requirements in this Section shall result in one of the following penalties:

A. seizure and destruction of shellfish at violator's expense;

B. bedding of shellfish on a Department of Wildlife and Fisheries managed seed reservation at violator's expense.

9:052-3. General Provisions

A. - D. ...

E. *Log Sheet Instructions: A Harvester-Dealer Time/Temperature Log Sheet (see table 1) shall be completed by both the harvester and first certified dealer to document compliance with time to refrigeration requirements during the April through October time period. Prior to the taking of oysters the harvester shall make the following legible entries:*

1. *boat name/number;*
2. *harvester name/license number;*
3. *harvester signature and date;*
4. *harvesting area/lease number (note: if there is a change relating to harvesting area/lease number, the changes must be documented on log sheet);*
5. *time harvesting begins;*
6. *harvester shall declare whether oysters will be bedded, shucked, relayed or other (explain).*

Upon completion of the taking of oysters and prior to the leaving of the harvesting site, the harvester shall record the time harvesting ended and the total number of sacks harvested.

If the harvester declares sacks of oysters for both shucking and half-shell, those oysters shall be distinguished by placing the appropriate tag on the sack prior to leaving the harvesting area.

The certified dealer information shall be completed as follows.

1. *The certified dealer/agent shall legibly document in the appropriate place on the harvester dealer time/temperature log sheet the temperature of the cooler where oysters are being stored at the time unloading of the harvesting vessel begins.*

2. *The certified dealer/agent shall legibly document in the appropriate place the time when the last sack or container of oysters taken from the harvest vessel is placed in the cooler. This entry must be made immediately upon removal of the last sack or container of shellfish from the vessel.*

3. *The certified dealer/agent shall legibly document in the appropriate place the temperature of the cooler immediately upon removal of the last sack or container of oysters from the harvesting vessel and placement of same under refrigeration.*

4. *The certified dealer/agent shall immediately sign and date the log sheet in the appropriate place.*

Alternate designs for the Harvester-Dealer Time/Temperature Log Sheet depicted in Table 1 may be submitted for consideration and approval to the Office Of Public Health.

* * *

The effective date of these amendments is January 20, 1998. Interested persons may submit questions or written comments to the following address: Charles C. Conrad, Administrator, Commercial Seafood Inspection Program, P.O. Box 60630, New Orleans, La. 70160. He is the person responding to inquiries regarding these proposed rule changes. All question or comments must be received by November 20, 1998.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Commercial Seafood Inspection Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The rule changes are being made for clarification purposes only. There will be no savings or costs to local units. In FY 98/99 the Agency will incur a one-time fee of approximately \$240.00 for publication in the *Louisiana Register*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of State or local governmental units. The rule changes are being made for clarification purposes only.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to those directly affected. The rule changes are being made for clarification purposes only.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Jimmy Guidry, M.D.
Assistant Secretary
9810#031

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Sanitary Code—Mechanical Wastewater Treatment Plants for Individual Homes—Acceptable Units (Chapter XIII)

In accordance with the laws of the State of Louisiana, R.S. 40:4, 40:5, and the provisions of Chapter XIII of the Louisiana Sanitary Code, the State Health Officer is proposing that the following amendments to the listing entitled "Mechanical Wastewater Treatment Plants for Individual Homes—Acceptable Units" be made:

1. Amend the listing to include an additional manufacturer and associated plant (model/series), specified as follows:

Manufacturer	Plant Designation	Rated Capacity
Aqua Klear, Inc.	AK500S90	500 gpd
870 N. Bierdeman Road	AK600S90	600 gpd
Pearl, Mississippi 39208	AK750S90	750 gpd
(601) 936-7711	AK1000S90	1000 gpd
	AK1500S90	1500 gpd

The specified changes are in compliance with the requirements set forth in Sections 6.4 through 6.6.2 of Appendix A of Chapter XIII of the Louisiana *Sanitary Code*.

Comments regarding the proposed rule should be addressed to Mr. Bobby G. Savoie, Executive Director, Division of Environmental Health Services, Office of Public Health, Department of Health and Hospitals, 6867 Bluebonnet, Box 1, Baton Rouge, LA 70810.

A public review hearing will be held on November 24, 1998 at 10:00 a.m. at the Division of Environmental Health, 6867 Bluebonnet, Room 230, Baton Rouge, LA to hear comments on the proposed rule.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Mechanical Wastewater Treatment Plans for Individual Homes—Acceptable Units

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The only implementation costs would be the publication cost of approximately \$40.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The consumer will be afforded a wider selection of products—thus enhancing competition and possibly resulting in reduced costs for the related products and services to the consumer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition will be stimulated by the presence of the new products. Effect on employment cannot be estimated.

Jimmy Guidry, M.D.
Assistant Secretary
9810#051

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Private Hospital Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on June 20, 1994 which established the prospective reimbursement methodology for private hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology provides for the application of an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The Department has determined that it is necessary to amend the reimbursement methodology for private hospitals contained in the June 20, 1994 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of the inflationary adjustment to the reimbursement rates for private hospitals shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill. Notwithstanding the elimination of the inflation adjustment for fiscal year 1999, the Department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private hospital care and services under the state plan are available at least to the extent that they are available to the general population in the state. This action is necessary to avoid a budget deficit because the Louisiana Legislature did not include a budget allocation for an inflationary adjustment

to the reimbursement rates for private hospitals in the 1998-99 Appropriation Bill. Public notice of this action was provided by statewide newspaper publication prior to July 1, 1998.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for private hospitals contained in the June 20, 1994 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of the inflationary adjustment to the reimbursement rates for private hospitals shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, November 24, 1998 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Private Hospital Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will decrease state program costs by approximately (\$2,520,183) for SFY 1998-99, (\$2,595,789) for SFY 1999-2000, and (2,673,663) for SFY 2000-2001. However, \$80 will be incurred in SFY 1998-99 for the state's administrative expense of promulgating this proposed rule as well as the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated effect on federal revenue collections are approximately (\$5,962,427) for SFY 1998-99, (\$6,141,299) for SFY 1999-2000, and (\$6,325,538) for SFY 2000-2001. However, \$80 will be incurred in SFY 1998-99 for the federal share of promulgating this proposed rule as well as the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Hospitals will experience reimbursement rates less than had inflation been funded by approximately (\$8,482,610) for SFY 1998-99, (\$8,737,088) for SFY 1999-2000, and (\$8,999,201) for SFY 2000-2001 with the implementation of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that private hospital care and services under the state plan are available at least to the extent that they are available to the general population in the state.

Thomas D. Collins
Director
9810#035

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Private Intermediate Care Facilities for the Mentally Retarded—Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on October 20, 1989, which established the reimbursement methodology for private intermediate care facilities for the mentally retarded (*Louisiana Register*, Volume 15, Number 10). The current reimbursement methodology provides for the application of an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The Department has determined that it is necessary to amend the reimbursement methodology contained in the October 20, 1989 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of an inflationary adjustment to the reimbursement rates for private intermediate facilities for the mentally retarded shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill. Notwithstanding the elimination of the inflation adjustment for fiscal year 1999, the Department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that private intermediate care facilities care and services for the mentally retarded, under the state plan are available at least to the extent that they are available to the general population in the state. This action is necessary to avoid a budget deficit because the Louisiana Legislature did not include a budget allocation for an inflationary adjustment to the reimbursement rates for private intermediate facilities

for the mentally retarded in the 1998-99 Appropriation Bill. Public notice of this action was provided by statewide newspaper publication prior to July 1, 1998.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology contained in the October 20, 1989 rule for private intermediate care facilities for the mentally retarded to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. Subsequent application of an inflationary adjustment to the reimbursement rates for private intermediate facilities for the mentally retarded shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, November 24, 1998 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Private Intermediate Care Facilities for the Mentally Retarded—Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will decrease state program costs by approximately (\$815,395) for SFY 1998-99; (\$839,856) for SFY 1999-2000, and (\$865,052) for SFY 2000-2001. However, \$80 will be incurred in SFY 1998-99 for the state's administrative expense of promulgating this proposed rule as well as the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated effect on federal revenue collections are approximately (\$1,929,117) for SFY 1998-99, (\$1,986,991) for SFY 1999-2000, and (\$2,046,600) for SFY 2000-2001. However, \$80 will be incurred in SFY 1998-99 for the federal share of promulgating this proposed rule as well as the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Private Intermediate Care Facilities for the Mentally Retarded will experience reimbursement rates less than had inflation been funded by approximately (\$2,744,512) for SFY 1998-99, (\$2,826,847) for SFY 1999-2000, and (\$2,911,652) for SFY 2000-2001 with the implementation of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private hospital care and services under the state plan are available at least to the extent that they are available to the general population in the state.

Thomas D. Collins
Director
9810#032

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Private Nursing Facilities—Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend the following rule in the Medical Assistance Program as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on June 20, 1984 which established the reimbursement methodology for private nursing facilities (*Louisiana Register* Volume 10, Number 6). The reimbursement methodology provides for the application of an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The Department has determined that it is necessary to amend the reimbursement methodology for private nursing facilities contained in the June 20, 1984 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of an inflationary adjustment to the reimbursement rates for private nursing facilities shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill. Notwithstanding the elimination of the inflation adjustment for fiscal year 1999, the Department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that private nursing facility care and services under the state plan are available at least to the extent that they are available to the general population in the state. This action is necessary to avoid a budget deficit because the Louisiana Legislature did not include a budget allocation for an inflationary adjustment to the reimbursement rates for private nursing facilities in the 1998-99 Appropriation Bill. Public notice of this action was provided by statewide newspaper publication prior to July 1, 1998.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the

reimbursement methodology for private nursing facilities contained in the June 20, 1984 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of an inflationary adjustment to the reimbursement rates for private nursing facilities shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, November 24, 1998 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Private Nursing Facilities
Reimbursement Methodology**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will decrease state program costs by approximately (\$4,176,598) for SFY 1998-99; (\$4,301,896) for SFY 1999-2000, and (\$4,430,953) for SFY 2000-2001. However, \$80 will be incurred in SFY 1998-99 for the state's administrative expense of promulgating this proposed rule as well as the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated effect on federal revenue collections are approximately (\$9,881,289) for SFY 1998-99, (\$10,177,728) for SFY 1999-2000, and (\$10,483,060) for SFY 2000-2001. However, \$80 will be incurred in SFY 1998-99 for the federal share of promulgating this proposed rule as well as the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The private nursing facilities will experience reimbursement rates less than had inflation been funded by approximately (\$14,057,887) for SFY 1998-99, (\$14,479,624) for SFY 1999-2000, and (\$14,914,013) for SFY 2000-2001 with the implementation of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private nursing facility care and services under the state

plan are available at least to the extent that they are available to the general population in the state.

Thomas D. Collins
Director
9810#033

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Licensing and Insurance Compliance—Regulation 66
(LAC 37:XIII.Chapter 51)

In accordance with LSA-R.S. 49:950 et seq., the Administrative Procedure Act, and as authorized by L.R.S. Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B, notice is hereby given that the Commissioner of Insurance intends to adopt the following regulation to require that persons designated as directors, presidents, vice-presidents, or any other person who performs as such in the articles of incorporation of domestic regulated entities will be required to file biographical information with the Commissioner of Insurance for review.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 51. Regulation 66—Requirements for
Officers, Directors, and Trustees of
Domestic Regulated Entities**

§5101. Purpose

A. The purpose of this regulation is to require that officers, directors and trustees of domestic regulated entities, as defined herein, file biographical information with the Commissioner of Insurance for review. The purpose of this review is to determine whether a domestic regulated entity continues to meet minimum licensing standards upon a change in officers, directors or trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5103. Definitions

A. For the purpose of this Regulation the following definitions shall be applicable:

Director—persons designated in the articles of incorporation, by-laws or other organizational documents as such, and persons designated, elected or appointed by any other name or title to act as directors, and their successors.

Domestic Regulated Entity—any Louisiana domiciled entity which is required to obtain a license or certificate of authority from or register with the Commissioner. This definition shall specifically include, but is not limited to, stock

and mutual insurers, domestic service insurers, non-profit funeral service associations, reciprocal insurers, Lloyd's plans, fraternal benefit societies, automobile service clubs, vehicle mechanical breakdown insurers, property residual value insurers, animal insurers, health maintenance organizations, non-profit beneficiary organizations and risk indemnification trusts, third party administrators, interlocal risk management agencies or any plan of self insurance providing health and accident or workers compensation coverage to employees of two or more employers.

This term shall not include insurance agents, agencies, managing general agents, viatical settlement brokers or reinsurance intermediary brokers.

Officer—a president, vice-president, treasurer, actuary, secretary, controller, partner and any other person who performs for the domestic regulated entity functions corresponding to those performed by the foregoing officers. *Officer* shall also include the administrator of a plan of self-insurance providing health and accident or worker compensation coverage to employees of two or more employers.

Trustee—the trustee of a trust, which provides health and accident or workers compensation coverage to employees of two or more employers.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5105. Review of Officers, Directors and Trustees by Commissioner Required

A. No person shall serve as an officer, director or trustee of a domestic insurer who has not first submitted the information required by §5107 to the Commissioner or to whom, after review of the information required by §5107, the Commissioner has refused to issue a letter of no objection.

B. No domestic regulated entity may elect, appoint or otherwise accept an officer, director or trustee an individual who has failed to submit the information required by §5107 to the Commissioner or to whom, after review of the information required by §5107, the Commissioner has refused to issue a letter of no objection.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5107. Procedure for Requesting Letter of No Objection from Commissioner

A. Each person elected, appointed or who otherwise becomes as an officer, director or trustee of a domestic regulated entity shall, within thirty days of being elected, appointed or otherwise chosen, submit to the Commissioner a request for a letter of no objection regarding his service in that capacity. The request shall be made, in writing, on forms provided by the Commissioner.

B. Each request for a letter of no objection shall include:

1. such biographical information as the Commissioner shall reasonably require to determine compliance with this regulation and the applicable statutes;

2. a statement from the domestic regulated entity indicating the position for which the individual has been elected, appointed or otherwise chosen;

3. a sworn statement from the individual confirming that he has no conflict of interest which would interfere with his service in the position;

4. a copy of the acceptance of trust, oath of office or other such document signed by the individual. The form of this document will be provided by the Commissioner and shall include a statement that the individual agrees to abide by and direct the activities of the domestic insurer in compliance with all applicable provisions of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5109. Conditions for Refusal of Letter of No Objection

A. The Commissioner may refuse to issue a letter of no objection if he finds that:

1. the competence, experience and integrity of the individual is such that it would not be in the best interest of policyholders, members or clients of the domestic regulated entity or of the public to allow the person to serve in the proposed position;

2. the individual has been convicted of or has pled nolo contendere to or participated in a pretrial diversion program pursuant to any charge of any felony or misdemeanor involving moral turpitude or public corruption;

3. the individual knowingly makes a materially false statement or omission of material information in the request for a letter of no objection;

4. for any other reason now or hereinafter as the law may provide.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5111. Waiver of Submission of Biographical Information

A. The Commissioner may waive the requirement that an individual submit biographical information under the following conditions:

1. the individual has served as an officer, director or trustee of a domestic regulated entity for a period of five consecutive years;

2. the individual has received a letter of no objection from the Commissioner within one year of being elected, appointed or otherwise chosen as an officer, director or trustee and no material change has occurred in the biographical information submitted in support of that request;

3. individuals who qualify for a waiver of the submission of the biographical information must submit the document required by §5107.B.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5113. Scope and Limitations

A. On its effective date, this regulation shall apply to all individuals serving as an officer, director or trustee of a domestic regulated entity and to all individuals nominated or otherwise suggested for such positions.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

A public hearing on this proposed regulation will be held on Monday, November 30, 1998 in the Plaza Hearing Room of the Insurance Building located at 950 North Fifth Street, Baton Rouge, Louisiana, at 9 a.m. All interested persons will be afforded an opportunity to make comments.

Interested persons may obtain a copy of this proposed regulation from, and may submit oral or written comments to John B. Fontenot, Staff Attorney, Department of Insurance, 950 North Fifth Street, Baton Rouge, Louisiana 70804-9214, telephone (225) 342-4673. Comments will be accepted through the close of business at 4:30 p.m., Monday, November 30, 1998.

James H. "Jim" Brown
Commissioner of Insurance

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Licensing and Insurance
Compliance—Regulation 66**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the costs, if any, to implement Regulation 66 will be minimal to none. The costs associated with this rule, primarily postage costs, will be absorbed by the Department of Insurance's existing budget. There are approximately 500 domestic entities that would be subject to the proposed regulation. Insufficient data are available to determine how many new officers, trustees and directors are appointed, named or elected by those entities in any given year. There will be no effect on local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No fees would be charged in connection with Regulation 66; therefore, there would be no effect on revenue collections by local or state governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is not anticipated that Regulation 66 would result in any significant costs or economic benefits to directly affected persons. There are approximately 500 entities that would be

subject to the proposed regulation. There will be minimal costs to these entities associated with providing the necessary biographical information when warranted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that Regulation 66 would have any effect on competition and employment.

Donald J. McLean, Jr. Robert E. Hosse
Assistant Commissioner General Government Section Director
Management and Finance Legislative Fiscal Office
9810#024

NOTICE OF INTENT

**Department of Labor
Office of Workers' Compensation**

Hearing Rules (LAC 40:I.Chapter 55)

Notice is hereby given, in accordance with R.S. 49:950, et seq., that the Louisiana Department of Labor, Office of Workers' Compensation, pursuant to authority vested in the Director of the Office of Workers' Compensation by R.S. 23:1310.1 and in accordance with applicable provisions of the Administrative Procedure Act, proposes to repeal in their entirety LAC 40:I.2101 through 2173 and enact rules governing the procedure before the workers' compensation court, LAC 40, Part I, Subpart 2, Chapter 55, to provide for the procedural rules for the workers' compensation court. The proposed rules can be viewed in their entirety at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802 and also at the Office of Workers' Compensation Office at the address listed below.

Inquiries concerning the proposed repeal and enactment may be directed to: Dan Boudreaux, Assistant Secretary, Office of Workers' Compensation Administration, Louisiana Department of Labor, P.O. Box 94094, Baton Rouge, Louisiana 70804-9094.

Interested persons may submit data, views, arguments, information or comments on the proposed repeal and enactment in writing, to the Louisiana Department of Labor, P.O. Box 94094, Baton Rouge, Louisiana 70804-9094, Attention: Dan Boudreaux, Assistant Secretary, Office of Workers' Compensation Administration. Written comments must be submitted and received by the Department within 10 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Department within 20 days of the date of this notice.

Garey Forster
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Hearing Rules**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not result in any implementation costs (or savings) to the state or local governmental units other than

those costs directly associated with the publication of these rules. The rules are a recodification of existing procedures and practices, which have not been rewritten since 1990; and will allow for a set of complete and consistent procedures for use by all offices. There is no anticipated impact on local governmental units before the Hearings Section for resolution of disputed w.c. claims.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no direct effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no cost or economic benefits to directly affected persons or nongovernmental groups. This is simply a recodification of the existing procedures and practices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule(s) should not affect compensation among the participants in the workers' compensation system. However, a more accountable and accessible resolution process for disputed workers' compensation claims would create a more productive and cost effective workplace, whether public or private for the increased safety of employees throughout the state.

Garey Forster
Secretary of Labor
9810#041

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Amusement Ride Safety
(LAC 55:V.Chapter 25)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1484.3, relative to the authority of the Office of the State Fire Marshal to promulgate and enforce rules and regulations, notice is hereby given that the Office of the State Fire Marshal intends to adopt the following rules.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 25. Amusement Attractions and Rides

§2501. Definition of Terms

Amusement Inspection—the official inspection by the Mechanical Safety Manager, or his designee, of a ride or device.

A.N.S.I.—the American National Standards Institute.

Approved—acceptable to the assistant secretary. Any product certified or classified, or labeled, or listed by a nationally recognized testing agency may be deemed to be acceptable, unless specifically banned by order of the assistant secretary.

A.S.T.M.—the American Society of Testing Materials.

Barrier—a physical obstruction designed and constructed to safely bring a kart to a full stop or guide the kart safely back on the track.

Child—a person 12 years of age and under.

Cone—a tapered cylinder used for marking the apex of the curves.

Containing Device—a strap, belt, bar, gate or other safety device designed to prevent accidental or inadvertent dislodgement of a passenger from a ride which does not actually provide physical support.

Course/Route/Defined Area—the designed path the kart will follow.

Existing Kart Tracks Kart—tracks in business prior to January 1, 1997.

Governor—a speed limiting device.

Guardian—a person 18 years of age and over.

Guardian Restriction—a condition placed on an amusement ride or attraction where a passenger must be accompanied on the ride by a guardian.

Guards—a device to protect the public from coming in contact with any rotating chains, belts, hot engines or muffler parts.

Helmet—a covering approved by the Department of Transportation (D.O.T.) to protect the head from impact and injury.

Kart—any mechanically powered vehicle, other than those regulated by the Consumer Products Safety Commission.

Kart Ride—shall include but not be limited to karts, kart track, refueling areas, spectator areas and other areas used in any manner of the kart operation.

MPH—the number of miles the kart may travel in one (1) hour.

New Construction—any new kart tracks which are constructed after January 1, 1997.

Pinching Hazard—any configuration of components that would pinch or entrap the fingers or toes of a child or adult.

Pit Area—the designated area where patrons are loaded and unloaded from karts.

Primary Structural Members—any part of the flume or pool structure that carries or retains any static loads or stress caused by water pressure or structure weight.

Puncture Hazard—any surface or protrusion that would puncture a child's or an adult's skin under casual contact.

Refueling Area—a location remote from any area accessible to the public where the karts are refueled.

Restraining Device—a safety belt, harness, or other device which offers actual physical support, or restraint to the patrons of a kart.

Ride Action—a term which shall be used to describe the movements and/or motions of an amusement ride or attraction which are generated for amusement purposes; and/or the bodily actions or reactions experienced by the passengers which are a result of the movement or motions. Bodily actions or reactions which are a result of the commission of an act or acts of malicious negligence and/or horseplay shall not be construed as resulting from the ride action.

Ride Operator—any person or persons actually engaged in or directly controlling an amusement ride or attraction.

Rope, Wire Rope and Cable—are interchangeable, but not interchangeable with the terms for fiber rope and manila rope.

Roll Bar—a metal frame designed to extend above the patron's head, support the weight of the kart and patron, and protect the patron should the kart overturn.

Safety Retainer—a secondary safety wire, rope, bar attachment or other device designed to prevent parts of an amusement ride or amusement attraction from becoming disengaged from the mechanism or from tipping or tilting in a manner to cause hazard to persons riding on, or in the vicinity of, an amusement ride or amusement attraction.

Safety Walls—that part of the water flume designed to keep a slider within the geometric confines of the flume.

Serious Injury—death or injury to a member of the public which requires immediate in-patient overnight hospitalization incurred during the operation of any amusement ride.

Splash Pool—a landing pool at the end of the flume from which bathers exit to the deck.

Splash Pool Decks—those areas surrounding a pool or flume which are specifically constructed or installed for use by sliders.

Stress—force per unit of area.

Track—the physical surface on which the kart operates.

Tread Contact Surface—foot contact surfaces of ladder, step, stair, or ramp.

Water Amusement Ride—an amusement ride or attraction which utilizes water as the primary entertainment medium, and moreover, the customer is either fully or partially immersed in water.

Water Flume—a sloped trough-like or tubular structure of varying slope and direction usually made of fiberglass or coated concrete which utilizes water as a lubricant and/or the method of regulating rider speed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2503. Administration

A. The Office of the State Fire Marshal which administers the provisions of R.S. 40:1484.1 et seq. relating to the Amusement Ride Safety Law, is located at 5150 Florida Blvd., Baton Rouge, LA 70806.

B. The following Nationally recognized standards are adopted and used in the formulation and enforcing of these rules and regulations; should there arise a conflict between these standards and R.S. 40:1484.1 et seq. or the rules and regulations, the provisions of R.S. 40:1484.1 et seq. and/or the rules shall apply:

1. ASTM F698-94 Standard Specification for Physical Information to be Provided for Amusement Rides and Devices (approved July 15, 1994; published September 1994);

2. ASTM F747-95 Standard Terminology Relating to Amusement Rides and Devices (approved April 15, 1995; published June 1995);

3. ASTM F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (approved December 15, 1993; published February 1994);

4. ASTM F846-92 Standard Guide for Testing Performance of Amusement Rides and Devices (approved May 15, 1992; published July 1992);

5. ASTM F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (approved January 15, 1993; published March 1993);

6. ASTM F893-87 Standard Guide for Inspection of Amusement Rides and Devices (approved May 29, 1987, reapproved 1995; published July 1987);

7. ASTM F1159-94 Standard Practice for the Design and Manufacture of Amusement Rides and Devices (approved April 15, 1994; published June 1994);

8. ASTM F1193-95 Standard Practice for An Amusement Ride and Device Manufacturer Quality Assurance Program (approved January 15, 1995; published March 1995);

9. ASTM F1305-94 Standard Guide for the Classification of Amusement Ride and Device Related Injuries and Illnesses (approved April 15, 1994; published June 1994);

10. NFPA 101, Edition 1997, Life Safety Code; and

11. NFPA 70, Edition 1996, National Electrical Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2505. Inspections

A. Where only individual units of a ride, such as cars, seats, or other carriers are defective and not in compliance with R.S. 40:1484.1 et seq. and/or these rules, such units shall be taken out of service and clearly marked with a red tag reading *Out of Service*; provided, however, such defects do not jeopardize the safety of the entire ride.

B. The assistant secretary or his designee, upon presenting credentials to the ride owner/operator, is authorized without prior notice to inspect and investigate at reasonable times, and within reasonable limits and manner, any area where amusement rides or amusement attractions are assembled or are in use.

1. Inspections shall include, but are not limited to, a review of necessary documents, observation of and/or examination of the ride assembly or set up.

2. Inspection of the ride shall include, as a minimum, foundation, blocking, fuel containers, mechanical and electrical condition and safe operation of the ride.

3. Amusement rides/attractions shall be operated in accordance with the manufacturer recommended restrictions and limitations, such as, but not limited to height, weight, age or passenger placement. In the event the manufacturer has not provided such recommended restrictions, such restrictions and limitations must be established by the operator and shall be submitted to the assistant secretary for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2507. Prohibited Use

A. The assistant secretary shall order in writing, a cessation of operation of an amusement ride or attraction, if it has been determined after inspection to be hazardous or unsafe. Operation shall not be resumed until such conditions are corrected to the satisfaction of the assistant secretary.

B. No person shall use or permit to be used, an amusement ride or attraction which is not properly assembled or which is defective or unsafe in any of its parts, components, controls, or safety equipment.

C. During a lightning storm, a period of tornado alert or warning, or fire, or when violence, riot, or other civil disturbance occurs or threatens an amusement ride or attraction, or in an area adjacent thereto, passengers shall be unloaded or evacuated from the ride and the ride shall be shut down and secured immediately. Operation shall not resume until the situation has returned to a normal, safe operating condition.

D. An amusement ride or attraction which is exposed to wind or storm with lightning or wind gust above that recommended by the manufacturer, shall not be operated except to release or discharge occupants.

E. If the inspector finds that an amusement ride or attraction presents an imminent danger, to life, injury, mechanical/electrical failure, he will attach to such ride a Cessation Order tag and the amusement ride or attraction shall not be used until the ride is made safe to the satisfaction of the assistant secretary and the tag has been removed by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2509. Medical and First Aid

A. The operator shall ensure the availability of medical aid. In the absence of an infirmary, clinic, or hospital used for the treatment of an injured person, within a ten mile radius of the amusement rides and attractions, the operator shall ensure that a person or persons shall be trained to render first aid. First aid supplies recommended by the American Red Cross' *Anatomy of a First Aid Kit* obtainable from the Office of the State Fire Marshal or the local Red Cross office, shall be readily available.

1. The operator shall have conspicuously posted at the park, carnival, fair or festival office, the telephone numbers and locations for physician, hospital, ambulance service and local fire department to be called in the event of an emergency.

2. The operator shall within twenty four (24) hours of knowledge of the event, report to the assistant secretary any amusement ride or attraction incident which results in serious injury.

3. This report shall describe the nature of the incident, name and address of the affected individual, and a description of the injury, as well as the name and location of the facility where the individual was treated.

4. An incident associated with an amusement ride or attraction which immediately result in a fatal injury shall be reported to the assistant secretary in person or by phone within twelve (12) hours.

5. After determination and consultation with the operator, the assistant secretary may require the scene of such incident to be secured and not disturbed to any greater extent than necessary for the removal of the deceased or injured person or persons. If the ride is removed from service by the assistant secretary an immediate investigation shall be completed and the ride shall not be released for repair and operation until after a complete investigation has been made by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2511. Inspection Fee and Permit

A. A copy of the Certificate of Inspection issued by the assistant secretary shall be continuously displayed on the ride when the ride is in use. The permit shall be encased in such a manner as to be protected from weather conditions. Duplicates of such permits shall be issued by the assistant secretary for a fee of \$7.50 per each permit.

B. The operator of an amusement ride or attraction shall notify the assistant secretary when ownership is transferred to another. In such case, the new operator shall obtain a new permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2512. Operation of Amusement Rides or Attractions

A. The ride operator shall be at least 16 years of age.

B. The operator of an amusement ride or attractions, exclusive of water amusement rides and karts, shall operate the amusement ride or attraction in compliance with the standards adopted in Section 2503.B of these rules, or the equivalence thereof as submitted to and approved by the assistant secretary.

C. The operator shall refuse a passenger seeking admission to an amusement ride or attraction if the passenger cannot meet a guardian or height restriction if the ride is subject to such a restriction. Legible signs to this effect shall be posted in full view of the public seeking admission to rides.

D. The operator of an amusement ride or attraction shall deny entry to any person, if in the opinion of the operator the entry may cause above normal exposure to risk of discomfort or injury to the person who desires to enter, or if in the opinion of the operator the entry may jeopardize the safety of other patrons or employees.

E. A suitable number of non-combustible trash collection containers shall be provided in and around amusement rides. Excessive accumulations of trash or refuse shall be promptly removed.

F. All parts of amusement ride and temporary structures used by passengers or customers shall be maintained in a clean condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2513. Maintenance and Inspection Records

A. The operator shall retain, for a period of twelve (12) calendar months, maintenance and inspection records for each amusement ride in accordance with the following ASTM Standards listed in Section 2503.B, F770-93, F853-93, F893-87.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2515. Rebuilt and Modified Amusement Rides/Attractions

A. If an amusement ride is materially rebuilt or modified, the operator shall notify the assistant secretary and submit for approval documentation equivalent to that required in ASTM Standard F1159-94 Standard Practice for the Design and Manufacture of Amusement Rides and Devices (approved April 15, 1994; published June 1994) on work that was done.

B. The ride shall be reidentified, by the operator, by a different name or identification number or both.

C. The ride shall be subject to all other provisions of all applicable rules, regulations and statutes as if it were a new ride not previously used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2517. Assembly and Disassembly

The operator of an amusement ride shall comply with the construction manual, or the equivalency thereof as determined by the assistant secretary, for the assembly and disassembly of the ride. The construction manual, or the equivalency thereof as determined by the assistant secretary, shall be kept with the amusement ride attraction and shall be available for use by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2519. Brakes and Stops

A. On an amusement ride or amusement attraction where coasting renders the operation dangerous, either during the period while the ride or attraction is being loaded or unloaded or in the case of power failure or other unforeseeable situation a method of braking shall be provided.

B. If cars or other components of an amusement ride or amusement attraction may collide in such a way as to cause injuries upon failure of normal controls, emergency brakes sufficient to prevent these collisions shall be provided in accordance with the manufacturer's design, or the equivalency thereof as determined by the assistant secretary.

C. On amusement rides or amusement attractions which make use of inclined tracks, automatic anti-rollback devices shall be installed to prevent backward movement of the passenger carrying units in case of failure of the propelling mechanism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2521. Internal Combustion Engines

A. Internal combustion engines for amusement rides or attractions shall be capable of handling the assigned load.

B. Where fuel tanks of internal combustion engines for amusement rides are not of adequate capacity to permit uninterrupted operation during normal operating hours, the amusement ride shall be closed down and unloaded or evacuated during the refueling procedure. The fuel supply shall not be replenished while the engine is running.

C. Where an internal combustion engine for an amusement ride or attraction is operated in an enclosed area, the exhaust fumes shall be discharged to outside the enclosed area, as required by NFPA 70, National Electrical Code, 1996 Edition.

D. Internal combustion engines for amusement rides or attraction shall be located to permit proper maintenance and shall be protected by guards, fencing or enclosure in accordance with NFPA 70, National Electrical Code, 1996 Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2523. Wire Rope

A. Wire rope on amusement rides or attractions shall be thoroughly examined weekly. Wire rope found to be damaged shall be replaced with new rope of proper design and capacity as per the manufacturer's data tag or as approved by the assistant secretary. Any of the following conditions shall be cause for rope replacement:

1. in running ropes, six randomly distributed broken wires in one rope lay or three broken wires in one strand of one rope lay;

2. in pendants or standing ropes, evidence of more than one broken wire in one rope lay;

3. abrasion, scrubbing or peening causing loss of more than 1/3 of the original diameter of the outside diameter of the outside individual wires;

4. corrosion;

5. kinking, crushing, birdcaging, or other damage resulting in distortion of the rope structure;

6. heat damage;

7. reduction from normal diameter of more than 3/64 inch for diameters up to and including 3/4 inch, 1/16 inch for diameters 7/8 inch to 1 1/8 inches, 3/32 inch for diameters 1-1/4 inch to 1 1/2 inches;

8. birdcaging or other distortion resulting in some members of the rope structure carrying more load than others; or

9. noticeable rusting or development of broken wires in the vicinity of attachments. When this condition is localized in an operational rope, it may be eliminated by making a new attachment.

B. Wire ropes used to support, suspend, bear or control forces and weights involved in the movement and utilization of tubs, cars, chairs, seats, gondolas, other carriers, the sweeps, or other supporting members of an amusement ride or attraction shall not be lengthened or repaired by splicing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2525. Hydraulic Systems

A. Hydraulic systems and other related equipment used in connection with amusement rides or attractions shall be free of leaks and maintained to ensure safe operation at all times.

B. An amusement ride or attraction which depends upon hydraulic pressure to maintain safe operation shall be

provided with a positive means of preventing loss in hydraulic pressure that could result in injury to passengers.

C. Hydraulic lines shall be guarded so that sudden leaks or breakage will not endanger the passengers or the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2527. Pressure Vessels, i.e., Vacuum Tanks

A. Air compressor tanks, storage tanks and appurtenances used in connection with amusement ride or attractions shall be designed and constructed in accordance with Section VIII of the ASME Code Edition and Addendum mandatory at time of construction; and shall also be equipped and maintained to ensure safe operation.

B. Air compressor tanks and other receivers used in connection with air compressors shall comply with the Rules of the National Board Inspection Code, 1995 Edition, 1996 Addendum, and the 1997 Addendum.

C. Air compressor tanks and other air receivers used in connection with air compressors shall be inspected operationally at least once a year and internally when considered necessary by a National Board Commissioned inspector, registered with the State of Louisiana to conduct these inspections and a record of each inspection shall be kept.

D. Air compressor tanks and other air receivers used in connection with air compressors shall have the maximum allowable working pressure conspicuously marked thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2529. Protection Against Moving Parts

A. The interior and exterior parts of all amusement rides or attractions with which a passenger may come in contact shall be smooth and rounded, free from sharp, rough or splintered edges and corners, with no protruding studs, bolts, screws, or other projections which might cause injury.

B. Interior parts of passenger carrying apparatus upon which a passenger may be forcibly thrown by the action of the ride or attraction shall be adequately padded.

C. Amusement rides or attractions which are self-powered and which are operated by a passenger shall have the driving mechanism guarded and the guard secured in place as to prevent passengers from gaining access to the driving mechanism.

D. Handholds, bars, footrest and other equipment as may be necessary for safe entrance and exit to and from amusement rides or attractions shall be provided and maintained in a safe condition. Such equipment shall be of sufficient strength to support the passengers.

E. Restraining, containing or cushioning devices or a combination of these shall comply with this subsection and be provided and used on all amusement rides where:

1. centrifugal and other forces mechanical malfunction could unseat or dislodge a passenger; or
2. inadvertent movement of a passenger could cause injury to the passenger or any other passenger; or
3. the speed of the ride presents a hazard to a passenger.

F. Restraining, containing or cushioning devices shall be designed, constructed, installed and maintained so as to provide safe support for passengers.

G. Anchorage for the restraining, containing or cushioning devices shall have a strength at least equal to the strength of such devices.

H. All passenger restraints, cushioning or containing devices shall be provided and maintained in accordance with the manufacturer's designs and recommendations and shall not be modified without the approval of the manufacturer and the assistant secretary.

I. All exposed mechanical parts shall have guards installed to prevent possible personal contact while in operation. Any safeguarding means shall not be used that would cause injury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2531. Electrical Equipment

A. The National Electrical Code, NFPA Number 70, 1996, is hereby adopted as the standard for application in the enforcement of the provisions of R.S. 40:1484.1, et seq. This document may be purchased from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

B. All electrical wiring and equipment used for amusement rides or attractions or for lighting shall be installed and maintained in accordance with the National Electrical Code, NFPA Number 70, 1996.

1. The outlets of electrical power lines carrying more than 120 volts shall be clearly marked to show their voltage.

2. All electrical transformer substations shall be properly enclosed and proper warning signs shall be posted.

3. Electrical wiring and equipment located outdoors shall be of such quality and construction or protection that exposure to weather will not interfere with its normal operation.

4. Elevated power lines crossing access or other roads within the proximity of an amusement ride or attraction shall be so suspended as to provide a vertical clearance of at least fifteen feet from the road surface or three feet above any vehicle used within the grounds of a carnival or amusement park, whichever is greater. A horizontal clearance of at least three feet shall be provided on each side of the normal passage space of vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2533. Temporary Wiring

A. If temporary wiring is used it shall be in compliance with the applicable section of the National Electrical Code, NFPA Number 70, 1996.

B. Temporary electrical power and lighting installations shall be permitted during the period of construction and remodeling of buildings, structures, equipment or similar activities.

C. Temporary electrical power and lighting installations shall be permitted for a period not to exceed 90 days.

D. All lamps for general illumination shall be protected from accidental contact or breakage. Protection shall be provided by elevation of at least 7 feet from normal working surface or by a suitable fixture or lampholder with a guard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2535. Grounding

All grounding shall comply with Article 525 of the National Electrical Code, NFPA Number 70, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2537. Construction

A. All amusement rides or attractions shall meet the requirements of the ASTM Standard for the Design and Manufacture of Amusement Rides (F1159-94) and the NFPA Life Safety Code 101, 1997 Edition.

B. Water ride data plates shall contain a location number of the ride or flume and the maximum dispatch time interval.

C. The ride operator shall maintain all of the information as required by the following ASTM Standards; F698-94 Standard Specification for Physical Information to be Provided for Amusement Rides and Devices (July 1994), F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (December 1993) and F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January 1993) and make it available to the assistant secretary, upon request. If this information is not available it shall be developed by the owner/operator and submitted to the assistant secretary for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2539. Means of Access and Egress

A. Safe and adequate means of access and egress from amusement rides or attractions shall be provided as required by NFPA Life Safety Code 101, 1997 Edition and the ASTM Standard F1159-94 Standard Practice for the Design and Manufacture of Amusement Rides and Devices (April 1994).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2541. Walkways and Ramps

A. Walkways and ramps shall be erected with a slope not greater than one in ten except that when nonslip surfaces are provided, the grade may be increased to a maximum of one in eight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2543. Fire Prevention

A. All buildings over one story in height shall be constructed or protected in accordance with NFPA 101-Chapter 8, 1997 Edition.

B. All buildings located within 20 feet of lot lines or within 20 feet of other buildings on the same lot, shall be of protected noncombustible or protected masonry enclosed construction or better.

C. Fabrics constituting part of an amusement ride or attraction shall be flame resistant to meet the provisions of NFPA 101, Chapter 8, 1997 Edition.

E. Approved fire extinguishers in accordance with NFPA 10, 1994 Edition shall be provided at the following locations to secure reasonable and adequate protection from fire hazards:

1. at or near all operating gasoline or diesel engines;
2. at or near all amusement ride or attraction stands, excluding water flumes; and
3. at each food handling booth where cooking is done.

F. Flammable waste such as oily rags and other flammable materials shall be placed in covered metal containers which shall be kept in easily accessible locations. Such containers shall not be kept at or near exits.

G. Gasoline and other flammable liquids and flammable gases when stored shall be kept in reasonably cool and ventilated places. Such liquids shall be in containers as prescribed by NFPA 30, 1996, Chapter 4. Smoking and the carrying of lighted cigars, cigarettes, or pipes is prohibited within 50 feet of any area where such liquids or gases are stored, or are transferred from one container to another. Signage shall be posted stating *No Smoking*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2545. Water Flumes, Structural Design

A. Structural Design. The flumes' structural design and materials shall be in accordance with ASTM Standard F1159-94 Practice for the Design and Manufacture of Amusement Rides and Devices (April, 1994). The flumes and pools shall be watertight and their surfaces shall be smooth and easy to clean.

B. All stairways used as part of a slide shall be constructed to meet the requirements of NFPA 101, 1997 Edition.

E. Visitor and Spectator Areas: The space used by visitors and spectators shall be distinctly and absolutely separated from those spaces used by sliders. Visitors and spectators in street clothes may be allowed within the perimeter enclosure if they are confined to an area separated from the space the sliders use.

F. Typical Posted User Safety Warnings for Slide Operational Use:

1. no running, standing, kneeling, rotating, tumbling, or stopping in flumes or tunnels;
2. no diving from flume at any time;
3. never use this slide when under the influence of alcohol or drugs;
4. only one person at a time. Obey instructions of top pool supervisor and lifeguard at all times;
5. never form chains unless authorized by slide manager or by posted instructions;
6. keep hands inside the flume;

7. leave the landing pool promptly after exiting from slide; and

8. keep all glasses, bottles and food away from pools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2547. Pumps

A. Pumps and motors shall be provided to circulate the water in the splash pool and slide.

B. Pump units shall be accessible for inspection and service in accordance with NFPA 70, 1996 Edition.

C. All motors shall have thermal overload protection in accordance with NFPA 70, 1996 Edition..

D. The motor frame shall be properly grounded, in accordance with the NFPA 70, 1996 Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2549. Water Quality

A. Water quality shall be maintained to meet the requirements of the Louisiana Department of Health and Hospitals and the requirements of ASTM Standard F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January, 1993).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2551. Electrical Safety and Lighting

A. The National Electrical Code, 1996 Edition, as published by the National Fire Protection Association, shall be used for the wiring and grounding of all electrical equipment associated with a flume and for the grounding of all metallic appurtenances.

B. Whenever flumes are operated after dark, artificial lighting shall be provided in upper and lower pool and deck areas, walkways, stairways, and flumes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2553. Operation, Water Flumes

A. The manufacturer or the general contractor of the flume shall provide the operator with a detailed written operational manual, or guide, for all phases of operations and normal maintenance of each component of the system as per ASTM Standards F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (December, 1993) and F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January, 1993)

B. The guide shall be kept in a secure area and made available to each employee or inspector as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2555. Responsibility of Flume Operators

A. Flume operators shall meet the requirements of ASTM Standard F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (December, 1993) and F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January, 1993).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2557. Emergency Procedures

A. A written plan for emergencies shall be carefully devised and kept up-to-date. All employees shall be trained and drilled periodically in the execution of the plan.

B. The emergency plan shall encompass crowd control and safe evacuation, drownings, electrical shock, heat prostration, fractures, poisonings, cuts and burns, neck and back or spinal injuries and exposure to chlorine gas. Each of these situations is addressed in the latest American National Red Cross handbook on first aid, a copy of which shall be on hand at the same location as the emergency plan, the first-aid kit, and the emergency telephone numbers.

C. Each Water Flume location shall have available the following first-aid supplies:

1. first-aid kit, a standard 24-unit kit stocked and readily accessible for use;
2. a stretcher and blankets;
3. a standard plywood backboard or other acceptable splint, made to the specification of the American National Red Cross, for persons with back and neck injuries; and
4. an area or room shall be set aside for the emergency care of casualties.

D. All water flume locations shall have posted by the phones a list of current emergency numbers, to include the nearest available ambulance service, hospital, rescue squad, police assistant secretaries, and fire department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2559. Go-Kart Rules and Regulations

A. Kart Design

1. The speed of each kart shall be limited or governed to not exceed the following: The maximum adult track speed shall not exceed 25 mph and kiddie track speed shall not exceed 10 mph. Speeds other than defined will require approval from the assistant secretary.

2. Whenever the design of a kart enables the readjustment of the governor speed, the means of adjustment shall not be accessible to the patron of the kart.

3. The seat, backrest, seat belts, and leg area of every kart shall be designed to retain the patron inside the kart in the event of a collision or overturn.

4. Karts shall be fitted with a shoulder harness and/or belt restraint system as required by the kart manufacturer and acceptable to the assistant secretary.

5. Karts shall be provided with sufficient guards to prevent anyone from coming in contact with the drive chains, belts, hot mufflers, engines or rotating parts.

6. Karts shall have bumpers, wheels and body parts that are comparable to that installed by the original manufacturer.

7. Kart wheels shall be enclosed, guarded or operated so the wheels of a kart cannot interlock with or ride over the wheels of another kart.

8. The kart steering wheel, hub and all exposed components shall be padded or helmets and face shields worn to minimize the risk of injury to any patron in the event of a collision or overturn.

9. The kart fuel tank shall be designed and mounted to prevent it from damage or leaking in the event of a collision or overturn.

10. Headrests or roll bars on a kart shall extend above the patron's head and be capable of supporting the weight of the kart and patron as required by the manufacturer. In the event the manufacturer fails to recommend or address this area the karts shall be equipped with roll bars acceptable to the assistant secretary.

11. Karts shall be provided with impact absorbing bumpers, or energy absorption body parts.

12. Karts shall have sufficient muffler systems installed to prevent any noise levels which will interfere with the track operations, adjacent businesses, residential areas or damage the hearing of employees or patrons.

13. The brake and throttle controls on a kart shall be clearly identified. The brake and throttle controls shall be foot operated and return automatically to a non-operational position when released.

14. Karts shall be individually identified either by numbers, alpha characters or other markings acceptable to the assistant secretary.

B. Track Design

1. The design of the kart track shall be consistent with the kart manufacturers' recommendations. In the absence of any manufacturers' recommendations, the track design shall comply with the current industry standards acceptable to the assistant secretary.

2. Cones may be used on tracks as a warning device and to notify the patron of upcoming changes in the track conditions and are used for the following specific reasons:

- a. to notify drivers of impending course changes;
- b. to outline the track and mark key points such as the apex of the turns; and
- c. as a warning device to notify the drivers of the severity of upcoming turns by the location and number of cones prior to the turn;
- d. cone placement:
 - i. on the inside corners; one cone to alert the driver and locate the apex;
 - ii. on the outside corner; two cones to identify minor course changes;
 - iii. three cones to identify course changes which requires a slower speed to safely negotiate the turn; and

iv. four and five cones to identify areas where both slower speed and applied braking will be necessary to safely complete the course.

e. once the proper cone locations have been located for the track, these locations shall be marked with high visibility paint under the proper location of the cone. This will alert racing attendants to the correct location of the cones when they are displaced.

3. The track shall have a hard smooth surface.

4. The track shall provide road grip sufficient to enable the kart to be driven safely at maximum speed and shall be free of ruts, holes, bumps, water, oil, dirt, or other debris.

5. Track surface and design not covered by manufacturers' recommendations or in the absence of such recommendations must be approved by the assistant secretary.

6. The width of the track must be a minimum of 16 feet and maximum of 25 feet. The turns on an oval track must be a minimum of five feet wider than the straight away. The minimum radius of the turns is 15 feet.

7. The track shall have signs that indicate one direction of travel and no U-turns permitted. These signs shall be posted at various locations around the track perimeter. Signs, signal lights and other safety equipment shall be maintained in operational condition at all times when open to the public.

8. The track shall have no intersecting course configurations. Pit entrances and exits are allowed.

9. The shoulder shall be level with the track and marked with cones. White or yellow lines at least four inches in width shall be used to mark all inside and outside edges of the kart track except where barriers are provided along the inside and outside edges of the kart track.

10. Barriers shall be designed to prevent a kart from overturning or running over or under the barrier and designed to bring a kart safely to a full stop or guide the kart safely back onto the track.

a. Barriers shall be placed:

- i. between tracks or sections of tracks within 30 feet of each other and constructed of materials that will not readily ignite;
- ii. between the track and obstructions or hazards located with 30 feet from the track;
- iii. along all non-access and non-egress edges of the pit area; and
- iv. between the track and any area accessible to spectators.

11. Fencing shall be at least 48 inches in height. The fence and gates shall be designed so a four-inch sphere cannot pass through any opening. Fencing shall be located around every kart track.

12. Pit area for loading and unloading must be separated from the track by a fence or barrier. The pit area must be the same surface as the track and have separate entrance and exit lanes.

13. Electrical installations must comply with the National Electrical Code (NFPA-70, 1997 Edition) and include lighting for night operation, if operations are conducted after dark.

14. Proposals for construction of new kart tracks in the State of Louisiana shall be submitted to the Office of the State Fire Marshal, Mechanical Safety Section and other appropriate

agencies before beginning construction. The following information shall accompany any application or proposal and shall include but not be limited to:

a. One copy of site plans and all accompanying documentation.

b. A copy of all required local, parish or state permits such as but not limited to business license, electrical, building, or plumbing permits. When all inspections are completed by local, parish or state agencies one copy of the completed inspection report shall be sent to the Louisiana State Fire Marshals Office, Mechanical Safety Section for enclosure in the facility's permanent file. Any alterations or modifications shall be approved prior to beginning work as required for new construction.

15. Fire Protection

a. Kart tracks shall be equipped with ABC dry chemical fire extinguishers with a minimum of five pounds capacity as provided for in National Fire Protection Association-10. Standard for Portable Fire Extinguishers, 1997 Edition, Chapter 1.

b. A fire extinguisher shall be readily accessible from all areas of the track and one fire extinguisher shall be kept in the pit and refueling area. The fire extinguisher location shall be prominently marked, easily accessible and approximately 36 inches above the ground.

16. Refueling Area

a. Karts shall be refueled in a designated location remote from any area accessible to the public. Fuel storage and transfer cans must meet the requirements of NFPA 30, 1997 Edition. Any fuel spillage must be promptly cleaned and prevented from running onto the track or any area accessible to the public. Warning signs must be prominently displayed stating that smoking is prohibited in the refueling area.

b. All kart motors shall be turned off during refueling.

17. Track Operation

a. Karts may only be operated by patrons within height limits set by the manufacturer. If no height limit is set by the manufacturer, patrons shall be at least 52 inches tall and have a leg length that can reach the brake and throttle controls from the patron's seat in order to drive an adult kart.

b. Only patrons less than 52 inches in height with a leg length sufficient to reach the brake and throttle controls from the patron's seat shall be permitted to operate a kiddie kart.

c. Adult karts and kiddie karts shall not be operated on the same track at the same time.

d. No kart shall be operated during a lightening storm, a period of tornado warning, fire, riot or other civil disturbance in the area of the track or in an adjacent area. If any of these events occur while the track is in operation, patrons shall be unloaded and evacuated from the ride and the ride shut down until normal, safe operational conditions are established.

e. Kart tracks shall be monitored during operation either directly by attendants, or indirectly by electronic visual and audio means acceptable to the assistant secretary.

f. A kart losing oil or fuel shall immediately be removed from the kart track. All karts must be stopped immediately and the track cleaned prior to restarting.

g. When the kart manufacturer recommends, or they are deemed necessary by the assistant secretary, the use of helmets must be provided for all patrons to use. Helmets, if used, must fit the patron's head correctly. All helmets must be cleaned with disinfectant twice daily.

h. Karts designed for single or multiple riders shall use a shoulder harness and/or belt restraint system as required by the kart manufacturer. When deemed necessary for additional protection of kart patrons the assistant secretary may require the addition and use of a shoulder harness or belt restraint system on all karts.

i. Patron's loose clothing and hair longer than shoulder length must be secured prior to operating any kart. Fully enclosed shoes must be worn by kart patrons at all times during operation of a kart.

j. Patrons are prohibited from smoking during kart operation.

k. Track attendants shall not allow patrons to leave their karts either in the pit or on the track unless assisted by track or pit attendants.

l. The kart track operator shall post a conspicuous warning sign at the entrance to the kart track. The sign shall be at least two feet by two feet in sharply contrasting colors and shall contain the following warning:

Persons with the Following Conditions Are Prohibited from this Ride:

1. heart conditions;
2. back or neck ailments; or
3. pregnancy.

n. The kart track operator must have a sign posted at the ticket window or track entrance and in the pit area that conveys, at a minimum, the following rules and regulations.

i. The patron height limit specified by the manufacturer, or no less than 52 inches for adult karts and no more than 52 inches for kiddie karts.

ii. Keep both hands on the wheel and both feet in the kart at all times. Do not get out of the kart unless track attendant is present.

iii. All loose clothing and hair longer than shoulder length must be secured. Fully enclosed shoes must be worn by kart patrons at all times during operation of kart.

iv. No smoking in kart or pit area.

v. Persons under the influence of intoxicants will not be allowed to operate karts.

vi. The use of private karts or vehicles will be prohibited on kart track when they are open to the public.

C. Record Retention and Inspection

1. Daily inspections must be made on all karts prior to operation. Inspections shall include but not be limited to: tires, padding, steering wheel, frame welds, spindles, axles, seat or shoulder belts, roll bars, gasoline tank condition, brake and gas pedal operation, and other parts as recommended by the kart manufacturer or the assistant secretary.

2. Weekly, monthly and annual inspections shall be performed as recommended by the kart manufacturer or the assistant secretary.

3. A track operation manual shall be written in the English language and available for review by the assistant secretary.

4. The kart track shall have and demonstrate an emergency plan for evacuation of patrons and employees in the event of an emergency. This shall include but not be limited to: fires, kart collisions, dangerous weather, obstructions on the track, handling intoxicated patrons and emergency first aid.

5. The kart track shall maintain records of all required inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

Interested persons may submit written comments on these proposed rules to Boyd Petty at 5150 Florida Boulevard, Baton Rouge, LA 70806. Comments will be accepted through the close of business November 20, 1998.

Lieutenant Colonel Ronald B. Jones
Acting Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Amusement Ride Safety**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation costs were provided in the original legislation (SB 101) for the inspection of Amusement Rides and Attractions, in which approximately \$400,000 was budgeted for start-up costs of doing inspections. Future costs will be recovered by fees collected in accordance with the Law.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The source of funds will be self-generated from the fees (established in SB 101) from the inspection of Amusement Rides and Attractions. Other self-generated revenues generated by the Office of State Fire Marshal will assist in the funding of these Rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Amusement Ride owners and operators will incur the costs related to the inspection of the Amusement Rides/Devices. The General Public (as users of these attractions) will receive the benefit of an increase in the safety of the rides.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will have no estimated effect on competition and employment.

Lt. Col. Ronnie Jones
Acting Undersecretary
9810#034

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Fire Protection and Sprinkler Licensing
(LAC 55:V.Chapter 30)

In accordance with the provisions of R.S. 49:950, et seq. and R.S. 40:1484.3, relative to the authority of the State Fire

Marshal to promulgate and enforce rules, relative to the regulation of Amusement Attractions and Rides, notice is hereby given that the Office of the State Fire Marshal intends to amend and adopt the following rules.

Title 55

PUBLIC SAFETY

Part V. Administrative Rules on Fire Protection

Chapter 30. Portable Fire Extinguisher, Fixed Fire Extinguisher, Fire Detection and Alarm and Fire Protection Sprinkler Systems and/or Equipment Rules

§3001. Purpose

A. The purpose of these rules is to regulate the activity of leasing, renting, selling, inspecting, installing, maintaining and servicing of portable fire extinguishers and the planning, certifying, installing, inspecting, maintaining or servicing of fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems or fire protection sprinkler systems in the interest of protecting and preserving lives and property pursuant to authority of R.S. 40:1625 et seq. and 1651 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3003. Applicability of Rules

A. These rules shall apply to all businesses and persons engaged in the activity of leasing, renting, selling, inspecting, installing, maintaining and servicing of portable fire extinguishers and the planning, certifying, installing, inspecting, maintaining or servicing of fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems or fire protection sprinkler systems and/or hydrostatic testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3005. Exceptions

A. These rules shall not apply to businesses and/or persons engaging in the activity of planning, certifying, installing or servicing fire detection and alarm equipment and/or systems in one or two family dwellings which is governed by R.S. 40:1662.1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3007. Notices by the Fire Marshal

A. Any notice required to be given by the State Fire Marshal by any provision of L.R.S. 40: 1625 et seq. or 1651 et seq. or these rules must be given by personal service or mailed, postage prepaid, to the person's residence or business address as it appears on the records in the Office of State Fire Marshal. It is the responsibility of the person or business involved to assure that the Office of the State Fire Marshal has a correct address for the person or business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3009. Certificate, License, Permit, Required

A. Each firm engaged in the activity of installing, inspecting, maintaining or servicing portable fire extinguishers or planning, certifying, installing, inspecting, maintaining or servicing fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems shall apply for a certificate of registration in the class(es) of certification desired in accordance with LAC 55:V:3015 prior to conducting any such activity in this state.

B. Each business engaged in the activity of planning, certifying, installing, inspecting or servicing fire protection sprinkler systems shall employ a qualifying person or certificate holder and obtain a permit for such in accordance with R.S. 40:1625 et seq. prior to conducting any such activity in this state.

C. Each person or employee, except apprentices, engaged in the activity of installing, inspecting, servicing portable fire extinguishers or planning, certifying, installing, inspecting or servicing fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems shall apply for a license in the class and/or classes of licensure desired in accordance with LAC 55:V:3017 prior to conducting any such activity in this state.

D. Each apprentice, as defined in LAC 55:V:3013, engaged in the activity of installing, inspecting or servicing portable fire extinguishers or installing, inspecting or servicing fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems shall apply for a permit in accordance with LAC 55:V:3019 prior to conducting any such activity in this state.

E. Any business and/or persons described in §3009.A-D, which have not applied for and received a current and valid certificate of registration, license or permit shall immediately cease such activities. The Office of State Fire Marshal may take all steps necessary to enforce an order to cease and desist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3011. Qualifying Persons

A. Each certified business or each business seeking certification, other than portable fire extinguisher and pre-engineered fixed fire extinguishing system firms, shall employ at least one qualifying person. No systems shall be planned, installed or submitted to this office for review if the business does not employ a qualifying person as provided herein.

B. The qualifying person shall be a paid employee and shall only qualify the business for which he is employed. A contract employee cannot be used to fulfill this requirement except as provided by §3011.F.

C. The qualifying person shall be primarily and regularly engaged in the planning, supervision of the installation and

servicing of fixed fire extinguishing, fire alarms, and/or sprinkler equipment and/or systems.

D. If the qualifying person is a professional engineer currently registered with the Louisiana Board of Professional Engineers, the following endorsements shall be required for each discipline:

1.a. fire protection sprinkler systems—Mechanical Engineer;

b. engineered fixed fire extinguishing systems—Mechanical Engineer;

c. fire alarm systems—Electrical Engineer;

2. a Fire Protection Engineer may substitute for any of the above if documented to be in the appropriate discipline.

E. At anytime that a business finds itself without a qualifying person, such businesses shall only be able to continue certifying, inspecting or servicing existing contractual obligations but shall not be engage in any new work involving certifying, inspecting or servicing of fixed fire extinguisher equipment and/or systems, or fire alarm and detection equipment and/or systems, or fire protection sprinkler equipment and/or systems until a qualifying person has been employed as provided herein.

F. This office shall be notified in writing within ten (10) working days anytime a qualifying person's employment is terminated for any reason.

G. A business who loses its qualifying person and has timely notified the Office of the State Fire Marshal shall have forty-five (45) days to hire another qualifying person. If after the loss of such an employee, a replacement can not be found, within the forty-five (45) days the firm may make a request to the Office of the State Fire Marshal to temporarily hire a qualifying person on a contractual basis. Good cause must be shown why another employee cannot be permanently hired. Approval by the Office of the State Fire Marshal for the hiring of a qualifying person on a contractual basis shall not exceed six (6) months. Not later than thirty (30) days prior to the expiration of the six month period, the business can request an additional six (6) month period to employ a qualifying person on a contractual basis. The Office of the State Fire Marshal may grant one (1) additional six (6) month period during which a business may employ a qualifying person on a contractual basis.

H. Failure to notify this office in writing within ten (10) working days of the loss of a qualifying person will cause forfeiture of any extension of time to hire another qualifying person.

I. A qualifying person must obtain an individual employee license or permit as required by these rules. The examination requirement for licensure or permitting will be waived for these employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1657.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 17:972 (October 1991), amended LR 25:

§3013. Definitions

A. The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise.

Activity—the leasing, renting, selling, inspecting, installing, maintaining and servicing of portable fire extinguishers and the planning, certifying, installing, inspecting, maintaining or servicing of fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems or fire protection sprinkler systems pursuant to R.S.40:1625 et seq. and R.S.40:1651 et seq.

Apprentice—a person to whom a permit has been issued pursuant to R.S. 40:1651 et seq., to perform various acts of service or installation while under the direct supervision of and accompanied by an employee of the same certified firm, and licensed under the same statutes to perform such acts.

Branch Office—a location other than firm's main office, from which the acts authorized by the certificate of registration are performed.

Business—for the purpose of these rules the term business shall mean 'firm' as used in R.S.40:1651 et seq. and 'fire protection sprinkler contractor' as used in R.S. 40:1625 et seq.

Certificate of Registration—that document issued by the State Fire Marshal to a person, firm, corporation, or association authorizing same to engage in such activities as defined in LAC 55:V:3015 B.

Certify—to attest to the proper charging, or filling, or inspecting, or installing, or maintaining, or recharging, or refilling, or repairing, or servicing, or testing of portable fire extinguishers, fixed fire extinguishing systems, fire detection and alarm systems and/or fire protection sprinkler systems.

Class A Certificate of Registration—that document issued by the State Fire Marshal that authorizes a firm to engage in the activity of installing or servicing portable fire extinguisher and hydrostatic testing not required by the U.S. Department of Transportation (U.S. DOT).

Note: Hydrostatic testing required by the U.S. DOT requires a *Class E Certificate*, as defined in §3013.

Class B Certificate of Registration—that document issued by the State Fire Marshal that authorizes a firm to engage in the activity of planning, certifying, installing or servicing pre-engineered fixed fire extinguisher systems and those activities specifically authorized by a *Class B-1 Certificate*.

Class B-1 Certificate of Registration—that document issued by the State Fire Marshal that authorizes a firm to engage in the activity of certifying, installing or servicing pre-engineered fixed fire extinguisher systems containing wet or dry chemical agents within a kitchen ventilation system.

Class C Certificate of Registration—that document issued by the State Fire Marshal that authorizes a firm to engage in the planning, installation, inspecting, servicing, and certifying of engineered or pre-engineered fixed fire extinguisher systems.

Class D Certificate of Registration—that document issued by the State Fire Marshal that authorizes a firm to engage in the planning, installation, servicing, supervising and certifying of fire detection and alarms systems and those activities specifically authorized by a *Class D-1 Certificate*.

Class D-1 Certificate of Registration—that document issued by the State Fire Marshal that authorizes a firm to engage in the activity of planning, installing, supervising and certifying fire detection and alarm systems in structures or

occupancies which are not required by NFPA 101 to be protected by an approved fire alarm and detection system.

Class E Certificate of Registration—that document issued by the State Fire Marshal that authorizes a firm to engage in hydrostatic testing of fire extinguishers manufactured in accordance with the specification and procedure of the United States Department of Transportation.

Contact person—that individual designated by a business to act as liaison with the Office of the State Fire Marshal.

Department of Transportation (DOT) Cylinder—all fire extinguisher cylinders manufactured and tested in compliance with specifications and requirements of the United States Department of Transportation.

Note: DOT regulations place 21 year age restriction on drivers who transport certain DOT regulated cylinders.

Employee—one who works for a firm as defined by LSA-R.S.40:1652(1) in return for financial or other compensation. However, the term shall include the following.

a. For the purposes of the licensing requirements, contained in R.S. 40:1653(C)(1) employees shall not include secretaries, drivers, accounting personnel, or persons who sell portable fire extinguishers or single station smoke/fire detectors.

b. For the purposes of licensing requirements, the firm owner or owners shall be considered *employees* if he or she is or will be physically certifying, installing, inspecting or servicing portable fire extinguishers or planning, certifying, installing, inspecting or servicing fixed fire extinguisher systems and/or equipment or in planning, certifying, installing, inspecting or servicing fire detection and alarm systems and/or equipment or doing hydrostatic testing.

Engineered Systems—special systems individually designed or altered in accordance with nationally recognized fire protection system design standards and manufacturer's guidelines

Fire Protection Equipment/Systems—as governed by R.S. 40:1651 et seq., includes any equipment/system relating to portable fire extinguishers, fixed fire extinguishing systems (pre-engineered or engineered) and/or fire alarm and detection systems.

Fire Protection Sprinkler Systems—as defined in R.S. 40:1625(5), including but not limited to water sprinkler systems, standpipes, and hose stations, and shall include the provisions of NFPA 13, 13D, 13R, 14, 20 and 25.

Hydrostatic Testing—pressure testing cylinders by approved hydrostatic methods and in accordance with NFPA codes and the U.S. Department of Transportation.

Inspection—the act of checking and certifying portable fire extinguishers, fixed fire extinguishing equipment and/or systems, fire detection alarm equipment and/or systems and fire sprinkler systems for functional performance of equipment/system in accordance with all applicable engineered specifications, manufacturer's specifications and adopted codes and standards.

Installation—the initial placement of a portable fire extinguisher, fixed fire extinguishing equipment and/or systems, fire detection and alarm equipment and/or systems and fire protection sprinkler systems or an extension, or alteration after initial placement.

License—that document issued by the State Fire Marshal to an employee of a certified firm authorizing the employee to engage in the activities as defined by LAC 55:V:3017 and 3025.

Maintenance—repair service, including periodically recurrent inspections and tests, required to keep fire protection equipment/systems and fire protection sprinkler systems and their components in an operable condition at all times, together with replacement of the equipment/system or of its components, when for any reason they become undependable or inoperable.

Nationally Recognized Testing Laboratory—a nationally recognized testing company concerned with product and service evaluation, which, after conducting successful examinations, inspections, tests and reexaminations, reflects approval by various labeling, listing and classification actions.

NFPA—the National Fire Protection Association, Inc., a nationally recognized standards-making organization.

Non-Conforming—a system or component of a system which does not comply with applicable NFPA codes or standards.

Non-Required—a system or component of a system which is not required by the applicable occupancy chapter of NFPA 101 (Life Safety Code).

Office—Office of State Fire Marshal.

Permit—those documents issued by the State Fire Marshal pursuant to LSA-R.S. 40:1625 et seq. or LSA-40:1651 et seq.

Person—a natural individual, including any owner, manager, officer, or employee of any business.

Pocket License or Permit—that document issued by the State Fire Marshal to an employee of a certified firm, in pocket size and bearing a photographic image of the licensee or permittee, authorizing the employee to engage in the activities as defined by LAC 55:V:3017, 3019, 3025 and 3027.

Pre-Engineered Systems—packaged systems which consist of system components designed to be installed according to pretested limitations as approved or listed by a testing laboratory. Pre-engineered systems may incorporate special nozzles, flow rates, methods of application, nozzle placement and pressurization levels, which may differ from those detailed elsewhere in NFPA. Pre-engineered systems shall be installed to protect hazards within the limitations that have been established by the testing laboratories where listed.

Portable Fire Extinguisher—a portable device containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire and shall include semi-portable fire extinguishers.

Qualifying Person—the employee of a business who is certified at the National Institute for the Certification of Engineering Technologies (NICET) Level III or has passed the written examination required to be certified at the NICET Level III in Fire Protection in the appropriate discipline or a professional engineering currently registered with the Louisiana Board of Professional Engineers with the appropriate indorsement as provided by §3011.D.

Recharge—the replacement of the extinguishing agent, the expellant or both.

Semi-Portable—any portable fire extinguisher mounted on skids or wheels.

Service—the act of repair or replacement of fire protection equipment/systems or fire protection sprinkler systems or their components to ensure the proper functioning of the equipment/system.

Shop—a facility of a certified business where designing, certifying, pre-assembling, servicing, repairing or hydrostatic testing is performed and where parts and equipment are maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 17:972 (October 1991), amended LR 25:

§3015. Permits and Certificates of Registration

A. Any individual, partnership, corporation, association or joint venture must obtain from the State Fire Marshal a permit as provided for by R.S. 40:1625 et seq. before engaging in the installation, repair, alteration, addition, maintenance or inspection of fire protection sprinkler systems.

1. Each fire protection sprinkler contractor, as defined by R.S. 40:1624(4)(a) shall have at least one (1) qualifying person or certificate holder.

2. Fire protection sprinkler contractors as defined by R.S. 40:1624(4)(a) and their owners shall be responsible for the acts of their agents and employees for the purpose of these rules including the initiation of administrative action by the state fire marshal.

B. Any, person, partnership, corporation or association must obtain from the State Fire Marshal a certification of registration as provided for by R.S. 40:1651 et seq. before engaging in the activity of installing, or servicing portable fire extinguishers or planning, certifying, installing or servicing fixed fire extinguisher systems or fire detection and alarm systems.

1. Each firm, as defined by R.S. 40:1652(1), shall have at least one (1) licensed technician per class of certification to perform the act or acts authorized by its certificate.

2. Firms as defined by R.S. 40:1652(1) and their owners shall be responsible for the acts of their agents and employees for the purpose of these rules including the initiation of administrative action by the state fire marshal.

C. The following shall apply to both permits and certificates of registration.

1. Posting. Each permit or certificate shall be posted conspicuously at each firm and/or branch office premises. All businesses without a physical location in this state shall be required to purchase a duplicate permit or certificate to post in each vehicle which will come into this state to do work.

2. Changes of Ownership. The change of a firm's majority ownership invalidates the current certificate. To assure continuance of the firm, an application for a new certificate shall be submitted to the State Fire Marshal within 10 days after such change in ownership.

3. Change of Corporate Officers. Any change of corporate officers must be reported in writing to the State Fire Marshal within 10 days of the change, and does not require a revised certificate.

4. Duplicates. A duplicate permit or certificate must be obtained from the State Fire Marshal to replace a lost or destroyed permit or certificate. The permit or certificate holder must submit written notification of the loss or destruction within 10 days, accompanied by the required fee specified in LAC 55:V.3031.

5. Revisions. The change of a business's name, location, or mailing address requires a revision of the permit or certificate of registration. Permits or certificates of registration requiring changes must be surrendered to the State Fire Marshal within 10 days after the change requiring the revision. The permit or certificate of registration holder must submit written notification of the change with the surrendered permit certificate of registration, accompanied by the required fee specified in LAC 55:V.3031.

6. Non-Transferability. A permit or certificate of registration is not transferable from one business to another.

7. Validity. A permit or certificate of registration is valid for one year from date of issue, and must be renewed annually unless the State Fire Marshal adopts a system under which certificates expire on various dates during the year. Should a staggered renewal system be adopted, the renewal fees shall be prorated on a monthly basis so that each registrant pays only that portion of the fee that is allocable to the number of months during which the certificate is valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1653.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3017. Licensure

A. Required. Each employee of a firm, to which a certification of registration has been issued pursuant to the provisions of R.S. 40:1651 et seq. other than an apprentice, who installs, inspects, maintains and services portable fire extinguishers, and/or plans, certifies, installs, inspects, maintains or services fixed fire extinguishing systems and/or fire detection and alarm systems and/or engages in hydrostatic testing shall have a current and valid license issued by the State Fire Marshal.

B. Types of Licenses. Each license shall be identified by class, which indicates the authorized act or acts which may be performed by the licensee as follows.

1. Class A Technician's License authorizes the person to install, inspect, maintain and service portable fire extinguishers.

2. Class B Technician's License authorizes the person to plan, install, inspect, maintain, service, supervise and certify pre-engineered fixed fire extinguishing systems.

3. Class B-1 Technician's License authorizes the person to plan, install, inspect, maintain, service, supervise and certify pre-engineered fixed fire extinguishing systems containing wet or dry chemical agents within a kitchen ventilation system.

4. Class C Technician's License authorizes the person to plan, install, inspect, maintain, service, supervise and certify engineered or pre-engineered fixed fire extinguishing systems.

5. Class D Technician's License authorizes a person to plan, install, inspect, maintain, service, supervise and certify fire detection and alarm systems.

6. Class D-1 Technician's License authorizes the person to plan, install, inspect, maintain, service, supervise and certify fire detection and alarm systems in structures or occupancies which are not required by NFPA 101 to be protected by an approved fire detection and alarm system.

7. Class E Hydrostatic Tester's License authorizes the person to perform hydrostatic testing.

C. Posting. It is not necessary to post an employee license on a wall. A master list of all employees' names and license numbers must be kept at each office location and must be available for review upon request by the State Fire Marshal or his designated representative.

D. Pocket license. The pocket license is for immediate identification purposes only so long as such license remains valid and while the holder is employed by the firm reflected on the license and shall be visibly displayed on his/her person at all times when conducting fire protection work in the field. The pocket license need not be visibly displayed when working in areas where the license may be damaged or lost. The license must still be available for inspection upon request.

E. Duplicate license. A duplicate license must be obtained from the State Fire Marshal to replace a lost or destroyed license. The license holder and his employer must submit written notification within 10 days of the loss or destruction of a license, accompanied by the required fee as specified in LAC 55:V.3031.

F. Revised licenses. The change of a licensee's employer, home address or mailing address requires a revised license. Licenses requiring revision must be surrendered to the State Fire Marshal within ten (10) days after the change requiring the revision. The license holder and his employer must submit written notification of the necessary change with the surrendered license, accompanied by the required fee as specified in LAC 55:V.3031.

G. Non-Transferable. A license is not transferable from one person to another or from one firm to another.

H. License reciprocity. The State Fire Marshal may waive any license requirements for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

I. Validity. A license is valid for one year from date of issue, and must be renewed annually unless the State Fire Marshal adopts a system under which licenses expire on various dates during the year. Should a staggered renewal system be adopted, the renewal fees shall be prorated on a monthly basis so that each licensee pays only that portion of the fee that is allocable to the number of months during which the license is valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1653.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3019. Apprentice Permit

A. Required. Each employee of a firm, to which a certification of registration has been issued pursuant to the provisions of R.S. 40:1651 et seq. engaged as an apprentice shall have a current and valid apprentice permit issued by the State Fire Marshal.

B. Validity. A permit shall be valid for a period of one year from the date of issuance and is non-renewable.

C. Supervision. An apprentice may perform the various acts of inspecting, maintaining, servicing or installing portable fire extinguishers, fixed fire extinguishing equipment and/or systems and fire alarm and detection equipment and/or systems only while under the direct supervision of and accompanied by a licensee holding a valid license to perform such acts. The apprentice and the supervising licensee must be employees of the same firm.

D. Identification. A permit holder shall, upon demand by the State Fire Marshal or his designated representative, show and allow the examination of such permit.

E. Posting. It is not necessary to post the apprentice permit on a wall, but it must be kept on the apprentice's person at all times whenever the apprentice is performing activity regulated by R.S. 40:1651 et seq. and these rules.

F. Pocket Permit. The pocket permit must be kept on the apprentice's person at all times and shall be visibly displayed on his/her person at all times while conducting fire protection work in the field. The pocket permit need not be visibly displayed when working in areas where the permit may be damaged or lost. The permit must still be available for inspection upon request.

G. Duplicate Permit. A duplicate permit must be obtained from the State Fire Marshal to replace a lost or destroyed permit. The permittee and his employer must submit written notification within 10 days of the loss or destruction of the permit, accompanied by the required fee as specified in LAC 55:V.3031.

H. Revised Permits. The change of a permittee's employer, home address or mailing address requires a revised permit. Permits requiring changes must be surrendered to the State Fire Marshal within 10 days after the change requiring the revision. The permit holder and his employer must submit written notification within 10 days of the necessary change, with surrendered permit, accompanied by the required fee as specified in LAC 55:V.3031.

I. Non-transferable. A permit is not transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1653.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3021. Alteration of Certificates, Licenses or Permits

A. Any alteration of a certificate of registration, license or permit renders it invalid and such alteration shall be the basis for administrative action in accordance with penalties set forth in R.S. 40:1625 et seq., 1651 et seq. and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3023. Application for Permits or Certificates of Registration

A. Applications for certificates of registration for fire protection firms and their branch offices and permits for fire protection sprinkler contractors shall be in writing on the forms provided by the State Fire Marshal and accompanied by the required fee as specified in LAC 55:V.3031.A.

B. The application for permits or certificates of registration shall:

1. be executed by the sole proprietor, by each partner of a partnership, or by the authorized officer of a corporation or association;
2. identify the type of permit or certificate of registration applied for;
3. identify the principal location of the business;
4. identify the location of each branch office;
5. identify the business's Louisiana Sales Tax number and Federal Tax number;
6. identify any and all names by which the business may conduct activity regulated by R.S. 40:1625 et seq., 40:1651 et seq. and these rules;
7. identify the contact person as defined by these rules;
8. identify the qualifying person for businesses seeking permitting or certification in any of the following disciplines:
 - a. engineered fixed fire extinguishing systems;
 - b. fire alarm and detection systems; or
 - c. fire protection sprinkler systems;
9. include for engineered fixed fire extinguishing system and fire alarm and detection systems firms a separate employee application for their qualifying person along with the qualifying person's credentials and an originally signed and notarized employment affidavit;
10. except for fire protection sprinkler contractors, be accompanied by:
 - a. at least one application with fee from an employee seeking to obtain a technician's license in each class of certification;
 - b. a current certificate of insurance issued to the office of State Fire Marshal in the following minimum amounts:

Number	Class of Certificate	Amount
1.	Class A: Portables	\$ 300,000
2.	Class B: Pre-Engineered Systems	\$ 500,000
3.	Class B-1: Kitchen Suppression Systems	\$ 500,000
4.	Class C: Engineered and Pre-Engineered Systems	\$ 1,000,000
5.	Class D: Alarms	\$ 500,000
6.	Class D-1: Non-Required Systems	\$ 300,000
7.	Class E: Hydrostatic Testing	\$ 500,000

11. if the firm desires a Class "E" (Hydrostatic) Certificate of Registration, be accompanied by the following:

- a. a copy of the DOT letter registering applicant's facility which awards a registration number to the facility; and

b. a copy of the firm's identifying mark (symbol);

12. for out of state businesses, include a list of all vehicles which shall come into this state to conduct activity regulated by R.S. 40:1625 et seq., 40:1651 et seq. and these rules. The list shall include the vehicle's make, model, year and license number.

C. The application shall also include written authorization by the applicant permitting the State Fire Marshal or his representative to enter, examine, and inspect any premise, building, room, vehicle, or establishment used by the applicant while engaged in activity to determine compliance with the provisions of R.S. 40:1625 et seq., 1651 et seq. and these rules.

D. When the applicant has completed the requirements contained above, a pre-certification inspection may be conducted at the facilities or of the vehicles of the applicant. Such inspection is to determine that such equipment necessary to perform activities in accordance with the applicable NFPA codes and/or standards, UL or manufacturer's specifications for which the applicant is applying to be permitted or certified is on hand. The office may inspect vehicles, equipment, buildings, devices, premises or any area to be used in performing the activities allowed by the permit or certificate of registration. After issuance of a permit or certificate of registration, such facilities may be inspected annually thereafter or as frequently as deemed necessary to ensure that the equipment requirement continues to be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 17:972 (October 1991), amended LR 25:

§3025. Application for Licenses

A. Original and renewal applications for a license from an employee of a certified firm shall be on forms provided by the State Fire Marshal and accompanied by the required fee as specified in LAC 55:V.3031.

B. Applications for technician's licenses shall be accompanied by a written statement from the employer certifying the applicant's competency to install, inspect, service, and/or certify those systems for which the applicant desires to become licensed.

C. Applications for technician's licenses will not be accepted unless accompanied by documentation showing that the applicant has met all competency requirements as provided in LAC 0155:V:3033.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3027. Application for Apprentice Permit

A. Each person employed as an apprentice by a certified firm shall apply for a permit on a form provided by the State Fire Marshal and accompanied by the required fee as specified in LAC 55:V:3031. Due to the supervisory requirements of R.S. 40:1653(D), no competency examination is required for an apprentice permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3029. Fees—General Information

A. Every fee required in accordance with the provisions of R.S. 40:1625 et seq. and 40:1651 et seq. and these rules, shall be paid by check or money order made payable to the Office of State Fire Marshal. Cash cannot be accepted.

B. Fees shall be paid at or mailed to the Office of the State Fire Marshal at 5150 Florida Blvd., Baton Rouge, Louisiana 70806.

C. Late fees are required by R.S. 40:1625 et seq. and 40:1651 et seq. on all permit, certificate of registration or license holders who fail to submit renewal applications on or prior to their expiration date.

D. A renewal application accompanied by the required renewal fee and deposited with the United States Postal Service is deemed to be timely filed, regardless of actual date of delivery, when its envelope bears a legible postmark date which is on or before the expiration date of the permit, certificate or license being renewed.

E. Holders of permits, certificates and licenses which have been expired for less than two years cannot be issued new certificates or licenses.

F. Permits, certificates or licenses which have been expired for two years or more cannot be renewed, and the holders thereof must apply for a new permit, certificate or license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1653.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3031. Fees—Specific Information

A. Permit Fee. R.S. 40:1625 et seq. (Fire Protection Sprinkler Contractors)

Type		Fee
1.	Original (Initial) Permit Fee. [R.S. 40:1628(A)]	\$100.00
2.	Renewal Fee. [R.S. 40:1631 (D)]	\$100.00
3.	Late Renewal Fee. [R.S. 40:1631(C)]	\$150.00
4.	Revised or Duplicate Permit Fee	\$20.00

B. Certificates of Registration Fees. R.S. 40:1651 et seq. (Fire Protection Firm)

Type		Fee
1.	Original Certification Fees:	
	a. Original Certification Fee. [R.S. 40:1653(A)]	\$350.00
	b. Each additional certification Fee	\$100.00
	c. Original Hydrostatic Testing Certificate Fee. [R.S. 40:1653(E)]	\$50.00
2.	Renewal Fee. [R.S. 40:1653(A)]	

	a. Class A (portables)	\$150.00
	b. Class B (pre-engineered)	\$100.00
	c. Class B-1 (kitchen suppression)	\$50.00
	d. Class C (engineered and pre-engineered)	\$100.00
	e. Class D Certificate (alarm)	\$100.00
	f. Class D-1 Certificate (non-required alarm)	\$50.00
	g. Class E Certificate (hydrostatic)	\$50.00
3.	Late Renewal Fee. A penalty shall be assessed in accordance with R.S. 40:1657(E) for the late renewal of a certification of registration.	
4.	Change in ownership. [R.S. 40:1653(B)]	\$350.00
5.	Changes or alternations. [R.S. 40:1653(B)]	\$20.00
6.	Duplicate Certificates of Registration [R.S. 40:1653(B)]	\$20.00

C. Branch Office Fees

Type		Fee
1.	Original Application fee. Regardless of how many classes of certification of registration selected by the applicant, the original (initial) fee for a branch office is always \$100.00 [R.S. 40:1653 (A)], including branch offices of firms certified in hydrostatic testing.	\$100.00
2.	Renewal fee. [R.S. 40:1653(A)]	\$100.00
3.	Late Renewal Fees. A penalty shall be assessed in accordance with R.S. 40:1657(E) for the late renewal of a license.	
	a. Not more than 90 days	\$150.00
	b. More than 90 days, but less than two years	\$250.00
4.	Change in Ownership. [R.S. 40:1653(B)]	\$100.00
5.	Changes or alterations. [R.S. 40:1653(B)]	\$20.00
6.	Duplicates. [R.S. 40:1653(B)]	\$20.00

D. License Fees. Classes A, B, B-1, -1, C, D, and D-1

Type		Fee
1.	Original license fee. [R.S. 40:1653(C)]	
	a. The first class of license selected	\$50.00
	b. Each additional license	\$10.00
2.	Renewal Fees. [R.S. 40:1653(C)]	
	a. First class of license renewed	\$50.00
	b. Each additional class of license renewed	\$10.00

3.	Late Renewal Fees. A penalty shall be assessed in accordance with R.S. 40:1675(E) for the late renewal of a license.	
	a. Expired not more than 90 days	
	i. First class of license renewed	\$75.00
	ii. Each additional class of license renewed	\$15.00
	b. Expired more than 90 days, but less than two years	
	i. First class of license renewed	\$100.00
	ii. Each additional class of license renewed	\$20.00
4.	Changes or Alteration Fees. [R.S. 40:1653(B)]	\$20.00
5.	Duplicate License Fees. [R.S. 40:1653(B)]	\$20.00
6.	Initial Competency Examination Fee. (Non-refundable)[R.S. 40:1653(C)](per exam)	\$10.00
7.	Re-examination Fee. (Non-refundable) [R.S. 40:1653(C)](per exam)	\$10.00

E. Apprentice Permit Fees

Type		Fee
1.	Original (initial) permit fees. [R.S. 40:1653(D)]	\$30.00
2.	Changes or alterations. [R.S. 40:1653(B)]	\$20.00
3.	Duplicate permits [R.S. 40:1653(E)]	\$20.00

F. Fees for Class E Licenses

Type		Fee
1.	Original (initial) license fee. [R.S. 40:1653(E)]	\$25.00
2.	Renewal license fee. [R.S. 40:1653(E)]	\$25.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1653.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 17:972 (October 1991), amended LR 25: **\$3033. Examinations**

A. Applicants for licenses are required to take an examination and obtain at least a grade of 75 percent in each appropriate section of the examination. Examinations may be supplemented by practical tests or demonstrations deemed necessary to determine the applicant's knowledge and ability.

B. The technician's license examination will include the following:

1. a section on these rules and R.S. 40:1651 et seq.;
2. a section on the planning, certifying, installing and servicing of those types of systems for which the applicant desires to be licensed.

C. The standards used in examinations will be those applicable codes and standards adopted by LAC 55:V.103.

D. Applicants who fail any section may file a reexamination application accompanied by the required fee and retake the examination.

E. A person whose license has been expired for two years or longer must take and pass another examination prior to the issuance of a new license. No examination is required for a licensee whose license is renewed within two years of expiration.

F. A person who desires to take a competency test must first pre-register for that test with the State Fire Marshal's Office or the examination administrator designated by the State Fire Marshal, on a pre-registration form provided by this Office or the examination administrator. The pre-registration form and the required fee must be received by the Office five working days prior to the examination date.

G. Results. Examination scores shall be mailed to the applicant's address as listed on the pre-registration form within thirty (30) days after completing the test.

H. In lieu of an examination, the Office of the State Fire Marshal may accept an approved training course in which an examination is also given. The Office of the State Fire Marshal shall determine whether the training course is equivalent to the examination requirements and may audit the course, at no cost to the Office, prior to final determination and periodically to ensure continued equivalency. Requests for acceptance of a training course to be equivalent must be made in writing and include the following:

1. course outline and syllabus;
2. length of course and specific time covered per topic;
3. example of test questions;
4. a copy of the certificate granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1653.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3035. Portable Fire Extinguishers

A. General Provisions

1. Portable fire extinguishers shall be installed, inspected, serviced and maintained in compliance with the edition of NFPA 10 most recently adopted by the Office of the State Fire Marshal in LAC 55:V.103.

2. A service tag shall be securely attached by the licensee to the portable upon completion of any work.

3. When an extinguisher is found to be in a condition which would not allow hydrostatic testing as described in NFPA 10, as adopted by the Office of the State Fire Marshal in LAC 55:V.103, the extinguisher shall be red tagged or removed from service and destroyed in accordance with NFPA 10 as adopted by the Office of the State Fire Marshal in LAC 55:V.103.

4. When an extinguisher is removed from the owner's premise for service, a replacement extinguisher shall be left of equal or greater rating on a one for one basis. Replacements need not be left where a building owner has fire extinguishers in excess of the required amount as required by NFPA 10 and NFPA 101 as adopted by the Office of the State Fire Marshal in LAC 55:V.103.

5. Anytime an extinguisher is opened for any reason then the appropriate maintenance procedures in NFPA 10 as adopted by the Office of the State Fire Marshal in LAC 55:V.103, shall be performed. If these procedures fulfill the requirements of a six year maintenance then a record tag shall be affixed to the exterior of the extinguisher shell. Future six year maintenance procedures shall begin from that date.

B. Record Tag. Each six year maintenance shall be recorded on a record tag consisting of a decal which shall be affixed (by a heatless process) on the exterior of the extinguisher shell. The decal shall either be metallic or of an equally durable material which does not corrode and which remains affixed to the extinguisher for the required period. The decal shall also not fade, wash away, or otherwise become illegible. This paragraph supersedes labeling requirements set forth in NFPA 10 as adopted by the Office of the State Fire Marshal in LAC 55:V.103. Previous six year maintenance record tags shall be removed when a new one is affixed. The record tag shall contain the following information:

1. year and month that the six year maintenance was performed;
2. the name of the firm and its certificate number;
3. the initials of the person performing the maintenance and his/her license number.

C. External Verification Collar

1. In addition to any other tag required by these rules, an external verification collar shall be provided each time an extinguisher is opened up for any type of maintenance or for any purpose.

2. The standard external verification collar shall be on durable material. Self adhesive collars shall be permitted. Any color may be used with the exception of yellow or red.

D. External verification collars shall bear the following:

1. the certificate number of servicing firm (preprinted or printed in permanent ink);
2. name and license number of the person who performed the service (preprinted or printed in permanent ink);
3. month and year that the service was performed (to be punched).

E. A new external verification collar shall be provided for an extinguisher each time internal maintenance or recharging is performed or the extinguisher is opened for any other reason. A new external verification collar is not needed when a CO₂ extinguisher is recharged without opening the cylinder for inspection or on side cartridge type extinguishers.

F. External verification collars shall be affixed in the following manner.

1. Any collar previously attached shall be removed prior to affixing a new collar.
2. The collar shall be placed around the exterior of the cylinder at or below the valve assembly.

G. The diameter of the opening for external verification collars shall not exceed 1/4" the diameter of the extinguisher's neck, measured directly below the valve assembly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3037. Fixed Fire Extinguisher, Fire Alarm and Detection and Fire Protection Sprinkler Systems

A. All required fixed fire extinguishing systems including pre-engineered and engineered systems, fire alarm and detection systems, and fire protection sprinkler systems shall be installed, inspected, serviced, and maintained in compliance with the manufacturer's installation manuals, specifications, and the applicable codes and standards adopted in LAC 55:V.103 and 3053. All non-required and non-conforming fixed fire extinguishing systems including pre-engineered and engineered systems, fire alarm and detection systems, and fire protection sprinkler systems shall be installed, inspected, serviced, and maintained in compliance with the manufacturer's installation manuals, specifications, and deviations from the applicable codes and standards adopted in LAC 55:V.103 and 3053 as authorized by the Office of the State Fire Marshal. Non-required and/or non-conforming systems/equipment which only comprise smoke detectors connected to a burglar alarm system need not be inspected and certified annually by a certified fire alarm system firm. The owner of these systems must ensure these systems are functional and maintained in compliance with the manufacturer's specifications, as provide by R.S. 40:1561, et seq., and NFPA 101 as adopted by LAC 55:V.103.

B. All systems shall be designed, installed and serviced by certified firms having licensed personnel working within their certification and licensing discipline. In cases where disciplines cross over, the following reasoning will prevail.

1. Automatic detection and control systems will be designed, installed, inspected and serviced by firms certified to install fire detection and alarm systems and/or equipment unless it is just the section device associated with the actuation of an engineered or pre-engineered system, in which case the fire detection and alarm firm is not needed. However, any connection of that engineered or pre-engineered system to any alarm initiated system, to include but not limited to enunciator panels, HVAC shutdown and any other auxiliary feature controlled by the fire alarm system, then a firm certified in Fire Detection and Alarms must certify, plan, install, inspect or service the device.

2. Water supply and distribution piping systems as provided for in NFPA 25, as adopted in LAC 55:V.103 will be certified, designed, installed, inspected and serviced by certified fire protection sprinkler contractors. Foam systems providing foam solution to fire monitors, portable nozzles, or fire trucks are excluded from this rule.

3. Alarm devices such as flow switches, pressure switches, low air pressure switches that are an integral part of the piping system must be installed by certified fire protection sprinkler contractors and connected to the fire alarm system by a certified fire detection and alarm firm.

C. All non-required or non-conforming systems require written permission and possible review from the Office of the State Fire Marshal Plan Review Section prior to installation. Non-conforming systems shall be maintained in a functioning operational state as long as the system is within the facility.

Non-required systems shall be maintained in accordance with the applicable NFPA code, standard and manufacturer's specifications governing that particular system as long as the system is within the facility.

D. Interconnected smoke detector systems as required by the NFPA 101, as adopted by the Office of the State Fire Marshal in LAC 55:V.103, or as authorized by this office must be installed, inspected, serviced and maintained by either a certified fire detection and alarm firm or an electrical contractor as provided by R.S. 40:1656(7). These systems must be submitted to this office for review prior to installation.

E. External Verification Collar

1. In addition to any other tag required by these rules, an external verification collar shall be provided each time a fixed fire suppression agent cylinder is opened for any purpose.

2. The external verification collar shall be on durable material. Self adhesive collars shall be permitted. Any color may be used with the exception of yellow or red.

3. External verification collars shall bear the following:

- the certificate number of servicing firm, preprinted or printed in permanent ink;

- name and license number of the person who performed the service, preprinted or printed in permanent ink;

- month and year that the service was performed. This information must be punched.

F. A new external verification collar is not needed in the following:

- when a CO₂ cylinder is recharged without opening the cylinder for inspection;

- cartridge operated type of systems.

G. External verification collars shall be affixed in the following manner.

- Any collar previously attached shall be removed prior to affixing a new collar.

- The collar shall be placed around the exterior of the cylinder at or below the valve assembly.

H. The diameter of the opening for external verification collars shall not be more than 1/4" larger than the diameter of the cylinder's neck, measured directly below the valve assembly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3039. Hydrostatic Tests

A. All hydrostatic testing shall be conducted in compliance with U.S. Department of Transportation hydrostatic testing requirements, or, where applicable, in compliance with the appropriate NFPA code or standard as adopted by the Office of the State Fire Marshal in LAC 55:V.103. The owner shall be informed of a needed test or replacement.

1. Recording of Tests

- High Pressure Cylinders. High pressure cylinders and cartridges shall be stamped in accordance with the applicable NFPA and D.O.T. standards as adopted by the Office of the State Fire Marshal in LAC 55:V.103.

b. Low Pressure Cylinders. Each hydrostatic test shall be recorded on a record tag consisting of a decal which shall be affixed by a heatless process on the exterior of the extinguisher cylinder. The decal shall either be metallic or of an equally durable material which does not corrode and which remains affixed to the extinguisher for the required period. The decal shall also not fade, wash away, or otherwise become illegible.

c. The record tag shall contain the following information, which, exception for §3039.A.1.c, must be hand punched:

- i. year and month that the hydrostatic test was performed;
- ii. test pressure used;
- iii. name of the firm and its certificate number;
- iv. initials of the person performing the maintenance and his license number.

d. Previous hydrostatic test record tags shall be removed when a new one is affixed.

2. Minimum Equipment and Facilities Requirements. The following equipment shall be required depending upon the firm's class of certification:

- a. Class A (low pressure):
 - i. approved equipment for drying cylinders;
 - ii. test apparatus including appropriate adapters, fittings and tools;
 - iii. hydrostatic test labels as required by the applicable NFPA code(s) or standard(s), as adopted by the Office of State Fire Marshal in LAC 55:V.103;
 - iv. facilities for leak testing of pressurized extinguishers;
 - v. adequate safety cage for hydrostatic testing of low pressure cylinders;
 - vi. cylinder inspection light;
 - vii. proper wrenches with non-serrated jaws or valve puller (hydraulic or electric).
- b. Class E (high pressure):
 - i. adequate hydrostatic test equipment for high pressure testing and calibrated cylinder including appropriate adapters, fittings and tools;
 - ii. adequate equipment for test dating high pressure cylinders (over 900 PSI). Die stamps must be a minimum of 1/4 inch;
 - iii. clock with sweep second hand on or close to hydrostatic test apparatus;
 - iv. approved equipment for drying cylinders;
 - v. facilities for leak testing of pressurized extinguishers;
 - vi. cylinder inspection light;
 - vii. proper wrenches with non-serrated jaws or valve puller (hydraulic or electric).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3041. Installation Tags

A. Upon installation of any new fire protection system, the system shall have a tag permanently affixed to the panel for fire alarm and suppression systems. On kitchen hood suppression

systems, the tag shall be permanently affixed to the side of the suppression agent cylinder. This requirement does not apply to portable fire extinguishers or fire protection sprinkler systems. The installation tag shall be a minimum of 2 3/4 inches by 2 3/4 inches. Maximum size cannot exceed 5 inches by 5 inches. The tag shall be white in color and have a self adhesive backing. The following information and wording shall be required on the front side of the tag:

1. DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL (all capital letters, in bold type);
2. installation tag (Preprinted);
3. installation date (Date to be hand written);
4. business's name (Preprinted);
5. business's certificate number (Preprinted);
6. technician's name (Name to be preprinted or hand written);
7. technician's license number (Number to be preprinted or hand written);
8. technician's signature (Signature cannot be preprinted);
9. NFPA Code Edition System was installed under (Hand written);
10. plan review or exemption number (To be hand written);
11. serial or model number of panel and/or cylinder, if applicable (To be hand written).

B. All tags shall have a signature line for the technician to sign the tag upon completion of the work. No preprinted signatures are permitted. Technicians must sign the tag; initials are not permitted. Apprentices are not permitted to sign tags.

C. If after initial installation a cylinder or panel is replaced for any reason, a new installation tag shall be completed and attached as above, noting the appropriate changes in information.

D. If an installation tag is replaced, hand write *Replacement* after the installation date. If the installation date is not known the date of replacement can be used.

E. Copies of certificates of compliance required to be completed by this office shall be attached to the system in a plastic pocket pouch/sleeve or given to the owner for filing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3043. Service, Yellow, and Red Tags

A. All portable fire extinguishers, fixed fire extinguisher equipment and/or systems, fire alarm and detection equipment and/or systems and fire protection sprinkler systems shall be tagged in the following manner.

1. Service Tags

a. A service tag shall be completed and attached to a portable fire extinguisher, a fixed fire extinguisher system, a fire detection and alarm system, a fire protection sprinkler system, a standpipe and a hose station after it has been installed, inspected, maintained, certified or serviced indicating all work that has been done.

b. Service tags shall be green in color for fixed fire extinguisher systems, fire detection and alarm systems,

tandpipe/hose stations and fire protection sprinkler systems. Service tags may be of any color but yellow or red for portable fire extinguishers.

c. The service tag shall be attached at the following locations.

i. For portable fire extinguishers the tag shall be attached at the valve.

ii. For fixed fire extinguisher systems the tag shall be attached at the tank and at the panel.

iii. For kitchen hood suppression systems the tag shall be attached at the tank and at the manual pull station.

iv. For fire alarm and detection systems the tag shall be attached at the panel.

v. For fire protection sprinkler systems the tag shall be attached at the riser and/or fire pump.

vi. For standpipes/hose stations the tag shall be attached at the valve control and/or fire pump.

d. The service tag shall be attached in such a way as to not hamper the actuation and operation of the equipment or system.

e. A service tag shall be attached on all systems found to be in proper working condition and which meet all the requirements of the applicable NFPA codes and standards enforced at the time of the original installation, and the manufacturer specifications. This tag shall be used for new installations and shall be in addition to the installation tag provided for in §3041. This tag shall also be used for all service calls where the system is found to meet the above conditions.

f. Service tags must contain all of the information listed below:

i. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters in bold face type);

ii. servicing business's name, address and telephone number;

iii. servicing business's State Fire Marshal certificate number;

iv. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

v. servicing technician's signature to be signed at time of service (no preprinted signatures nor initials are permitted; installers, trainees or apprentices are not permitted to sign tags);

vi. month and year in which service was performed (must be punched through service tag at designated marks for month and year; designated marks for month and year shall only be punched once per tag);

vii. type of service performed. Only service and inspection shall be noted on tag for type of work performed (must be punched through service tag); specifics as to service performed shall be noted on rear of tag, (i.e. recharged cylinder, changed smoke detector, repaired pull station, etc);

viii. serial number of portable fire extinguisher, fixed fire extinguisher system cylinder and/or panel and fire detection and alarm system control panel;

ix. owner of system and address of owner (to be noted on rear of tag).

2. Partial Impairment Tags (yellow tags)

a. All businesses engaged in the activity of installing, repairing, inspecting or certifying of fixed fire extinguisher systems, fire detection and alarm systems and/or fire protection sprinkler systems shall be allowed to have a partial impairment tag, to be yellow in color, which is to be used when minor deficiencies are found on these systems. The partial impairment tag is in addition to the requirement of having a service tag and impairment tag (red tag).

b. A partial impairment tag may be placed on all systems in which there is a deficiency with the system but where the system is still functional. This would include situations where routine service is needed but has not been approved by the owner of the system or equipment.

c. A partial impairment tag shall not remain on a system for more than 60 days. If the problem is not corrected after 60 days the certified business shall be required to notify, in writing, the Office of the State Fire Marshal Licensing Section.

d. Partial impairment tags must contain all of the information listed below:

i. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters in bold face type);

ii. servicing business's name, address and telephone number;

iii. servicing business's State Fire Marshal certificate number;

iv. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

v. servicing technician's signature to be signed at time of inspection (no preprinted signatures nor initials are permitted; installers, trainees or apprentices are not permitted to sign tags);

vi. month and year in which the impairment was found (to be punched through service tag at designated marks for month and year; designated marks for month and year shall only be punched once per tag);

vii. dateline in which the actual day, month and year the inspection was performed (to be hand written);

viii. type of impairment found (to be hand written on rear of tag);

(If additional space is needed to note the impairments, then multiple tags shall be used noting 1 of 2, 2 of 2, etc.).

ix. serial number of portable fire extinguisher, fixed fire extinguisher system cylinder and/or panel, fire detection and alarm system control panel or water based fire sprinkler system check valve;

x. owner of system and address of owner (to be noted on rear of tag).

3. Impairment Tags (red tags)

a. Upon the effective date of these rules, a new impairment tag, which shall be red in color, shall be used.

b. An impairment tag shall be placed on all fixed fire extinguisher or fire detection and alarm systems where the system is impaired to the point that life safety is at risk or to a extinguishing system which will prevent the automatic or manual discharge system from functioning as intended.

c. Portable fire extinguishers, fire protection sprinkler systems, standpipe systems or hose stations shall be red tagged when the extinguisher is inoperable for any reason.

d. Impairment tags shall also be placed on any system or portable where life safety is in imminent danger.

e. Written notice shall be made to the owner and to the Office of the State Fire Marshal by the certified business as soon as is practically possible but shall not exceed two working days after the impairment is discovered. Written notification can be by mail or facsimile. The Office of State Fire Marshal shall provide a form for notification.

f. Impairment tags must contain all of the information listed below:

i. DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL (all capital letters in bold face type);

ii. servicing business's name, address and telephone number;

iii. servicing business's State Fire Marshal certificate number;

iv. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

v. servicing technician's signature to be signed at time of inspection (no preprinted signatures nor initials are permitted; installers, trainees or apprentices are not permitted to sign tags);

vi. month and year in which the inspection was performed (to be punched through service tag at designated marks for month and year; designated marks for month and year shall only be punched once per tag);

vii. dateline in which the actual day, month and year the inspection was performed (to be hand written);

viii. type of impairment found (to be hand written on rear of tag);

(If additional space is needed to note the impairments, then multiple tags shall be used noting 1 of 2, 2 of 2, etc.)

ix. serial number of portable fire extinguisher, fixed fire extinguisher system cylinder and/or panel, fire detection and alarm system control panel or fire protection sprinkler systems check valve;

x. owner of system and address of owner (to be noted on rear of tag).

4. Written Notification. The following information is required to be sent when written notification is made to the Office of the State Fire Marshal:

a. name, address, and telephone number of the owner of the system;

b. name, address, telephone number, and certificate number of the business noting the impairment;

c. name and license number of the technician who did the inspection;

d. type of system (manufacturer and model number should also be included);

e. code and year edition used for inspection.

f. reason for the impairment.

Note: A copy of the inspection or service report shall be included;

g. date system or equipment was red or yellow tagged.

5. Non-required and/or Non-conforming Systems. Where a fire protection or fire protection sprinkler system is non-required, or permitted to be installed in a non-conforming state by this Office or is both non-required and non-conforming then the following additions shall be made to the guidelines set forth in §3043.

a. Each business shall stamp or write on the installation tag and/or service tag one of the following statements, as applicable:

i. *Non-required System*, or

ii. *Non-conforming System*, or

iii. *Non-required/non-conforming System*.

b. Such print or stamp shall be in all capital lettering and be written or stamped so as to not obscure other information provided on the tag.

c. This does not supersede the requirements to place a yellow or red tag on a system that is impaired in any way.

6. Miscellaneous Provisions

a. On all fixed fire extinguisher, fire alarm and detection systems and fire protection sprinkler systems, a plastic pocket pouch/sleeve shall also be attached to the panel, riser or tank, as appropriate, where all tags shall be maintained for a period of one year after the system's annual inspection. For kitchen suppression systems, the pocket pouch/sleeve shall be attached at or near the manual pull station. Upon a new annual inspection (or six month inspection for kitchen suppression systems), all previous service tags may be removed and given to the owner to keep on file. This requirement does not apply to portable fire extinguishers, standpipes or hose stations.

b. All tags must be card stock, plastic or metal in order to maintain the running record for the system. One sided or self adhesive service tags are not permitted.

c. All tags shall be 5 1/4 inches in height and 2 5/8 inches in width.

d. Businesses shall have their tags printed and one forwarded to the State Fire Marshal's Licensing Section for approval and incorporation in the business's file.

e. All tags remain the property of the certified business and may be removed only by licensed employees of the certified business or employees of the State Fire Marshal's Office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3045. Prohibited Acts and Equipment

A. The following acts are prohibited and shall be considered grounds for administrative action to be taken against businesses, persons and/or employees committing such:

1. charging a customer for work that was not performed;

2. misrepresenting oneself and/or one's business to a customer or to a deputy fire marshal or his designated representative;

3. impersonating a deputy fire marshal or any other official;

4. intimidating or coercing a customer;
5. planning, certifying, installing, inspecting, maintaining or servicing fire protection sprinkler systems or fire protection systems and/or equipment contrary to applicable NFPA codes, standards, and/or manufacturer's specifications without specific written permission from the Office of the State Fire Marshal;
6. falsifying an application or any other document submitted to obtain a certificate, license or permit or other documentation requested by or submitted to the Office of the State Fire Marshal;
7. falsifying tags, labels, inspection reports, invoices and/or other documents;
8. working an apprentice or as an apprentice without direct supervision by a technician licensed to perform the work being done;
9. working an employee or as an employee without the appropriate class of license or permit or working without a proper license or permit;
10. working without the appropriate classification of firm certificate or working without a permit or certificate;
11. working with an expired license, permit or certificate;
12. failing to notify the Office of the State Fire Marshal of any changes that affect licensure;
13. contracting to a business, person or employee which is not properly certified, permitted or licensed through the Office of the State Fire Marshal to perform acts regulated by the provisions of R.S. 40:1625 et seq. and 1651 et seq. or these rules;
14. failing to adhere to the tagging and/or notification policies of the Office of the State Fire Marshal;
15. installing a fixed fire protection system, fire alarm and detection system or fire protection sprinkler system prior to submitting and receiving a stamped set of plans or go to work letter from the Plan Review Section of the Office of the State Fire Marshal;
16. failing to possess the equipment, tools, NFPA codes, standards or manufacturer's UL listed installation and service manuals to properly plan, certify, inspect, install, maintain or service the systems or equipment for which a business is certified;
17. failing to adhere to all applicable laws and rules governing fire protection sprinkler systems or fire protection systems and/or equipment as promulgated by the Office of the State Fire Marshal;
18. engaging in false, misleading or deceptive acts or practices.

B. The following portable fire extinguishers and cylinders are prohibited from use:

1. carbon tetrachloride portables;
2. portables or fixed system cylinders without labels of an approved testing laboratory or name plates, except that a portable fire extinguisher or fixed system cylinders whose original label or name plate has been replaced with a manufacturer approved replacement label or name plate, and maintenance records as provided below, documenting the replacement shall not be prohibited;
3. maintenance records shall include the following:
 - a. manufacturer;

- b. type and size of the portable fire extinguisher or fixed system cylinders;
- c. serial number of extinguisher or fixed system cylinders;
- d. dates and types of service performed.
4. any portable or cylinder prohibited by the adopted NFPA codes and standards listed in LAC 55:V.103;
5. systems without listing from an approved testing laboratory;
6. systems or portables in which replacement parts are no longer available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1659.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3047. Enforcement

A. The State Fire Marshal or his designated representative, shall make, or cause to be made, from time to time, inspections of a business physical locations, vehicles or job sites to verify required certificates, employee lists, employee licenses and permits, insurances, equipment, tools, NFPA codes, standards and manufacturer's manuals and work/service performed, and as circumstances dictate, to determine that fire protection sprinkler system, portable fire extinguisher, fixed fire extinguisher and fire detection and alarm businesses and their employees are engaging in activity in accordance with the requirements of R.S. 40:1625 et seq., 40:1651 et seq. and LAC 55:V.Chapter 30.

B. The State Fire Marshal shall investigate all complaints of alleged violations of L.R.S. 40:1574, 40:1625 et seq., 40:1651 et seq. and LAC 55:V.Chapter 30. Complaints of alleged violations shall be made in writing to the Licensing Section of the State Fire Marshal's office. The Office shall make available a complaint form to be used as needed. Penalties shall be administered to those businesses and /or employees found to have violated these laws and/or rules. Proposed administrative penalty letters shall act as official notification of alleged violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1659.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3049. Administrative Actions

A. The State Fire Marshal may refuse the issuance or renewal of, suspend, or revoke a certificate of registration, license or permit and impose administrative penalties, if, after notice and hearing, as provided for by the Administrative Procedures Act, it is found that a person, certified business, licensee or permit holder, or an applicant for registration, license or permit, failed to comply with the provisions of these rules, R.S. 40:1625 et seq., R.S. 40:1646 et seq. and/or R.S. 40:1651 et seq.

1. Offenses. The following categories shall denote classification of offenses for persons, businesses and employees for determining the penalty to be imposed:

- a. minor:
 - i. failing to notify the Office of the State Fire Marshal of any changes that affect licensure;

- ii. failing to adhere to the tagging and/or notification policies of the Office of the State Fire Marshal;
- iii. working with an expired (1-60 days) license, permit or certificate of registration;
- iv. failing to properly display a firm certificate or an individual license or permit;

b. serious:

- i. misrepresenting oneself and/or one's business to a customer or to a deputy fire marshal or his designated representative;
- ii. planning, certifying, installing, inspecting, maintaining or servicing fire protection sprinkler systems or fire protection systems and/or equipment contrary to applicable NFPA codes, standards, and/or manufacturer's specifications without specific written permission from the Office of the State Fire Marshal;
- iii. working an apprentice or as an apprentice without direct supervision by a technician licensed to perform the work being done;
- iv. working an employee or as an employee without the appropriate class of license or permit;
- v. working without the appropriate classification of firm certificate;

vi. working with an expired (61-180 days) license, permit or certificate;

vii. installing a fixed fire protection system, fire alarm and detection system or fire protection sprinkler system prior to submitting and receiving approval from the Plan Review Section of the Office of the State Fire Marshal;

viii. contracting to a business, person or employee which is not properly certified or licensed through the Office of the State Fire Marshal to perform any certification, installation, inspection, maintenance or service on fire protection sprinkler systems or fire protection systems and/or equipment;

ix. failing to possess the equipment, tools, NFPA codes, standards or manufacturer's UL listed installation and service manuals to properly plan, inspect, install, maintain or service the systems or equipment for which a business is certified;

x. committing five or more Minor offenses within a three year period.

c. major:

- i. charging a customer for work that was not performed;
- ii. impersonating a deputy fire marshal or any other official;
- iii. intimidating or coercing a customer;
- iv. falsifying an application or any other document submitted to obtain a certificate, license or permit or other documentation requested by or submitted to the Office of the State Fire Marshal;
- v. falsifying tags, labels, inspection reports, invoices and/or other documents;
- vi. working without any license or permit;
- vii. working without any certificate of registration or permit;
- viii. committing three or more Serious offenses within a three year period;

ix. engaging in false, misleading or deceptive acts or practices.

2. Penalties. The following fine schedule shall be used to assess fines to persons, businesses, and/or employees who violate the laws and rules governing the fire protection sprinkler, portable fire extinguishers, fixed fire suppression and fire alarm and detection industries. Penalties will be imposed to persons, businesses and/or employees based on the classification of offense. Each classification of offense will have a minimum and maximum fine shown and any other administrative penalty that may be imposed.

a. Businesses and/or Persons

Type	Fine
Minor	\$50.00 to \$250.00 and/ or official warnings may be imposed
Serious	\$251.00 to \$500.00 and/or suspensions of up to 90 days may be imposed
Major	\$501.00 to \$1,000.00 and/or suspensions from 91 to 365 days may be imposed and/or revocation of certificate may be imposed

b. Employees and/or Persons

Type	Fine
Minor	\$10.00 to \$50.00 and/or official warnings may be imposed.
Serious	\$50.00 to \$250 and/or suspensions up to 90 days may be imposed.
Major	\$251.00 to \$1000.00 and/or suspensions from 91 to 365 days may be imposed and/ or revocation of license may be imposed.

i. minor: \$50 fine to \$250 fine and/or official warnings may be imposed;

ii. serious: \$251 fine to \$500 fine and/or suspensions of up to 90 days may be imposed;

iii. major: \$501 fine to \$1000 fine and/or suspensions from 91 to 365 days may be imposed and/or revocation of certificate may be imposed.

b. Employees and/or Persons:

i. minor: \$10 fine to \$50 fine and/or official warnings may be imposed;

ii. serious: \$50 fine to \$250 fine and/or suspensions of up to 90 days may be imposed;

iii. major: \$251 to \$1000 fine and/or suspensions from 91 to 365 days may be imposed and/or revocation of license may be imposed.

c. Revocations may be up to a year, after which reapplication must be made. The Office of the State Fire Marshal may refuse the issuance of a new certificate of registration, a permit or a license if the applicant can not show good cause for reissuance.

d. The State Fire Marshal may deviate from this fine schedule where circumstances and/or evidence warrant a more stringent or more lenient penalty.

e. Those offenses not enumerated in this list shall

receive penalties for violations of similar nature.

f. The Office of the State Fire Marshal may also pursue criminal charges or injunctive relief for any of the above enumerated offenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1660.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3051. Severability

A. If any provision of these rules or the application thereof to any business, person, employee or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these rules which can be given effect without the invalid provisions or application. To this end, all provisions of these rules are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3053. Adopted Standards

A. The office adopts by reference in their entirety those copyrighted standards enumerated in LAC 55:V.103 published by and available from the National Fire Protection Association, Inc. (NFPA), Batterymarch Park, Quincy, Massachusetts, 02268. A copy of the standards shall be kept available for public inspection in the Office of the State Fire Marshal. In addition to those listed standards, the following shall also be adhered to as applicable:

1. ASME/ANSI A17.1 - 1993, Safety Code for Elevators and Escalators;
2. ASME/ANSI A17.3 - 1993, Safety Code for Existing Elevators and Escalators;
3. ASME/ANSI A117.1 - 1980, Specifications for Handicapped Accessibility;
4. ADAAG - 1994, American Disability Accessibility Act Guidelines;
5. United States Department of Transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3055. National Recognized Testing Laboratory

A. The criteria for recognition by the Office of State Fire Marshal as a Nationally Recognized Testing Laboratory shall be as follows.

1. The applicant laboratory's portable fire extinguisher testing standards shall meet or exceed the best listed national standards:

- a. Fire Test Standards: ANSI/UL 154, CAN4-S503-M83;
- b. Performance Standards:
 - i. CO₂ Types: ANSI/UL 154, CAN4-S503-M83;
 - ii. Dry Chemical Types: ANSI/UL 299, ULC-S504;
 - iii. Halon Types: ANSI/UL 1093, ULC-S504;
 - iv. 2-1/2 Gallon Stored Pressure Water Types: ANSI/UL 626;

v. Factory Follow-up on Third Party Certified Portable Fire Extinguishers: ANSI/UL 1803;

vi. Foam Types: ANSI/UL 8.

2. The applicant laboratory shall maintain a follow-up inspection program to confirm that the manufacturer is providing the controls, inspections, and tests necessary to assure that all current manufactured extinguishers will meet the laboratory's testing standards. This follow-up inspection shall occur no less than once each six months for the first two years and once each year thereafter.

a. The application by a testing laboratory for recognition by the State Fire Marshal as a nationally recognized testing laboratory shall not be on any particular form but shall include all of the information and material requested in §3055.B.2:

b.i. the address and telephone number of the main facility and all branch offices;

ii. a current organizational Chart showing the relationship between administration, operation, and quality control;

iii. resumes of the education and experience of key personnel;

iv. a floor plan of the main facility and all branch offices indicating location of the equipment used for testing portable fire extinguishers;

v. a list of all equipment used to test portable fire extinguishers, identified by manufacturer, model number and serial number; detailed plans and specifications shall be submitted on any testing equipment fabricated by the applicant;

vi. procedures for selecting, receiving, storage, handling, and shipping of test specimens;

vii. test standards and procedures most frequently used;

viii. method and frequency of test equipment calibration;

ix. procedure for safekeeping of records and files;

x. copies of all data sheets and test report forms;

xi. facsimiles of all contracts executed between the testing laboratory and portable extinguisher clients;

xii. procedure for periodic updating of the report;

xiii. method of distributing test reports and certifications, including an indication of who may obtain copies of the final reports and how the reports may be obtained.

xiv. a copy of the laboratory's partnership agreement, if a partnership, or of the articles of incorporation, if a corporation, and a copy of any by-laws;

xv. a list of all the portable fire extinguishers presently listed by the testing laboratory showing the manufacturer and the model number;

xvi. copies of the test reports on all listed portable extinguishers which must be in sufficient detail to provide for complete verification and evaluation of the operations and objectives, and must include the signature of personnel performing the test and must also include the name of the supervisory engineer;

xvii. whether the applicant testing laboratory has been recognized as a "nationally recognized testing laboratory" by any other state or by an organized, voluntary recognized organization such as the National Voluntary Laboratory Association Program and whether recognition by any other state or organization has been denied;

xviii. how long the applicant testing laboratory has tested portable extinguishers;

xix. a notarized statement of independence which shall state that, with reference to the laboratory's testing of portable extinguishers:

(a). there are no managerial affiliations with any producer, supplier, or vendor;

(b). changes in any major test equipment;

(c). establishment of a new branch office or facility at which portable fire extinguishers are to be tested;

(d). changes in principal officers, key supervisory personnel, or key testing personnel in the company.

3. This office approves Underwriters Laboratories, Inc., Factory Mutual Research Corporation and the United States Testing Company, Inc. as nationally recognized testing laboratories for the purpose of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3057. Equipment and Facilities

A. Each certified business location shall be required to possess the equipment, tools, NFPA codes, standards and manufacturer's UL listed installation and service manuals necessary to properly plan, inspect, install, maintain or service the systems or equipment for which it is certified. Fire protection fire sprinkler contractors shall have such equipment, tools NFPA codes, standards and manuals available at each of its operating locations. If such work is performed from a vehicle, then the vehicle shall be required to possess the necessary equipment, tools, NFPA codes, standards and manuals.

B. The State Fire Marshal or his representative may inspect a business's physical locations or vehicle(s) to ensure the proper equipment, tools, NFPA codes, standards and manufacturer's UL listed installation and service manuals are possessed by the business.

C. The State Fire Marshal or his representative may require that a business or its employee(s) demonstrate a proficiency to use the necessary equipment to properly plan, inspect, install, maintain or service fire protection sprinkler systems/equipment, portable fire extinguishers, fixed fire extinguishing systems/equipment and fire alarm and detection systems/equipment. Proficiency shall be deemed to be achieved if the system or equipment complies with the applicable NFPA code or standard and/or manufacturer's specifications.

D. For those businesses or their employee(s) which do not possess the proper equipment, tools and manuals or who fail to demonstrate the ability to properly perform the required work, then an order of correction shall be made to the contractor or his employee to obtain the required equipment, tools, NFPA codes, standards or manual or to obtain

additional training within a thirty day period. Another inspection shall be conducted by the State Fire Marshal or his representative to verify compliance with the order of correction. Good cause must be shown if proficiency is not shown or the required equipment, tools, NFPA codes, standards or manuals are not obtained by the time of the second inspection. Additional time may be granted for good cause. If good cause is not shown, then administrative action may be pursued.

E. The Office may specifically enumerate required equipment at a later date should it be deemed necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3059. Plan Review

A. Plans for designing or installing fixed fire suppression systems, fire protection sprinkler systems and/or fire detection and alarm systems must be done in accordance with L.R.S. 40:1574 Parts A and B. This procedure is not required for plans that will go in sites, such as offshore drilling platforms that are outside the three mile limit of the state's jurisdiction. For the purpose of computing the Fire Marshal plan review fees, devices shall be defined as follows.

1. For fixed fire suppression systems (Halon, CO2, etc.): the distribution nozzles and the automatic detectors shall be considered as devices.

2. For fire protection sprinkler systems: each sprinkler head per floor shall be considered.

3. For fire detection and alarm systems: the number of floors per building shall be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3061. Advisory Committee

A. The State Fire Marshal may create an advisory committee to assist him or his representative to create new rules or modify existing rules as necessary to reflect changes or new trends in the industry. Associations requested to participate on the committee shall nominate the members to attend. This committee is to be a volunteer committee. No stipends or mileage will be paid to committee members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 25:

§3063. Electrical Contractors

A. All electrical contractors who have met all requirements and passed a prescribed written examination based upon National Fire Protection Association (NFPA) Code 70, the National Electrical Code, that has been given either by a recognized political subdivision of the State of Louisiana or by the State Licensing Board for Contractors, shall be authorized to install fire detection and alarm components or interconnected smoke detectors in accordance with manufacturer's specifications and applicable National Fire Protection Association (NFPA) codes which are listed in §3053.

B. The certifying, inspecting, servicing, maintenance and planning of a fire detection and alarm system shall be performed only by a fire detection and alarm firm that is certified, and its employees licensed with the Office of the State Fire Marshal to perform such work.

C. Electrical contractors shall be limited to the installation of wiring, conduit raceways, and/or devices for fire detection and alarm systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 25:

§3065. Compressed Gas

A. Subject to the requirements contained in §3065.B, persons who engage solely in the activity of filling compressed gas cylinders with gases such as CO₂, pursuant to a contract with a firm which is certified by the Office of State Fire Marshal to plan, service, certify and/or install fire protection equipment or systems shall be exempt from the licensing requirements contained in R.S. 40:1651 et seq.

B. A person meets the qualifications to be exempt from R.S. 40:1651 et seq. if he fills compressed gas cylinders, has a United States (U.S.) Department of Transportation (DOT) certificate to fill these compressed gas cylinders (this requirement in italics is to be deleted because DOT has no such certificate) and does not install, service, plan and/or certify any fire protection equipment and/or systems other than to fill the fire extinguishing cylinders with compressed gas pursuant to a contract with a firm certified by the Office of the State Fire Marshal to plan, certify, service and/or install fire protection equipment and/or systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 25:

§3067 Miscellaneous Provisions

A. Marking of vehicles: Ninety (90) days after the effective date of these rules, all vehicles owned or operated by fire protection sprinkler contractors as defined by R.S. 40:1625(4)(a) and firms as defined by R.S. 40:1652(1) or their employees, used for regulated activities for which the business is certificated, or permitted, shall permanently inscribe, paint, stencil or affix by magnetic means the business name and business certificate or permit number on such vehicles. Such markings shall be a minimum of two and one-half (2 ½) inches in height and not less than one-fourth (1/4) inch in width. Letters and numbers shall be on a contrasting background and be conspicuously seen from the outside of the vehicle. For fire protection sprinkler contractors with multiple qualifying persons, only one permit number is required.

B. Restrictions

1. Certificate holders, licensees and permittees are not agents or representatives of the State of Louisiana, the Department of Public Safety or the Office of the State Fire Marshal. No claims or inferences of such shall be made.

2. A certificate, license or permit does not authorize anyone to enforce these rules or to enter any building without the owner's permission or to plan, certify, service, inspect, install or maintain fire protection equipment and/or systems or

fire protection sprinkler systems and/or equipment without the owner's permission.

3. Certificate holders, licensees and permittees shall not permit the use of their certificate, licenses or permit by other businesses, persons or employees.

4. A certificate holder, licensee or permittee shall not perform any activity relating to portable fire extinguishers, fixed fire extinguishing equipment/system, fire detection and alarm equipment/systems or fire protection sprinkler systems unless employed by and within the course and scope of that employment with a business regulated by the provisions of R.S. 40:1625 et seq. or R.S. 40:1651 et seq..

5. A person shall not perform any act for which a certificate, license or permit is required unless:

- a. first being certified, licensed or permitted to perform such acts; and
- b. is employed by a business certified to perform those acts; and
- c. is performing those acts for the certified business by whom he is employed.

6. An apprentice, as defined in LAC 55:V.3013, shall not perform any activity regulated by R.S. 40:1651 et seq., unless employed by a certified firm, supervised by a licensee authorized to perform such act or acts and both the apprentice and licensee are employed by the same certified firm.

C. Multiple Names. A business which uses multiple names must apply for a separate certificate of registration if each named business has a separate tax number.

D. Required Inspections

1. The following shall be the owners responsibility.
 - a. Portable fire extinguishers shall be inspected and certified annually by a certified firm.
 - b. Fixed fire extinguishing systems, fire alarm and detection systems shall be inspected and certified at a minimum annually by a certified firm.
 - c. Kitchen fire suppression systems shall be inspected and certified at a minimum every six months by a certified firm.
 - d. All non-required and non-conforming systems/equipment shall be inspected and certified at a minimum annually by a certified firm.
 - e. Fire protection sprinkler systems/equipment shall be inspected and certified at a minimum annually by a certified fire protection sprinkler contractor.

E. Service Invoices and Inspection Reports. All service invoices or inspection reports shall reflect the service performed, date of service, the technician who did the service, the manufacturer of the equipment/system and if applicable, the serial number of the equipment/system if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 25:

Interested persons may submit written comments on these proposed rules to Boyd Petty at 5150 Florida Boulevard, Baton Rouge, LA 70806. Comments will be accepted through close of business November 20, 1998.

Lieutenant Colonel Ronald B. Jones
Acting Under Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Fire Protection and Sprinkler Licensing

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs would be limited to the cost of printing the new rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Fee collection would be reduced by approximately \$4000/year due to not requiring a firm/employee to hold a Class B and Class C certificate/license.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Class C firms/employees would save \$4000/year in less fees paid out. Minimum expense would be experienced for marking vehicles and printing of tags.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Firms will be able to compete equally with others in their industry due to clarity in rules and ambiguities removed to allow agency to enforce rules equally.

Lieutenant Colonel Ronald B. Jones
Acting Undersecretary
9810#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Food Stamps—Alien Eligibility (LAC 67:III.1994)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.1994 pertaining to the Food Stamp Program.

Pursuant to provisions of Public Law 105-185, the Agricultural Research, Extension, and Education Reform Act of 1998, a change in food stamp policy regarding the eligibility of certain non-citizens is required. The law extended the eligibility period for certain groups of aliens from five to seven years and made additional groups of aliens eligible for Food Stamps. An emergency rule will also be necessary since amendments to the *United States Code* mandated by the law are effective November 1, 1998.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter K. Action on Households with Special Circumstances

§1994. Alien Eligibility

A. Only the following non-citizens are eligible for benefits for a period not to exceed seven years after they obtain designated alien status:

1. - 4. ...
5. Amerasian immigrants admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related

programs Appropriations Act of 1988 as contained in §101(e) of P.L. 100-202 and amended by the 9th proviso under migration and refugee assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, P.L. 100-461, as amended.

B. 1. - 3. ...

4. individuals who were lawfully residing in the United States on August 22, 1996 and are receiving benefits or assistance for blindness or disability as defined in §3(r) of the Food Stamp Act of 1997;

5. individuals who were lawfully residing in the United States on August 22, 1996 and were 65 years of age or older;

6. individuals who were lawfully residing in the United States on August 22, 1996 and are under 18 years of age.

C. 1. - 4. ...

D. Individuals who are lawfully residing in the United States and were members of a Hmong or Highland Laotians tribe at the time the tribe rendered assistance to the United States personnel by taking part in a military rescue operation during the Vietnam era beginning August 5, 1964 and ending May 7, 1975, as defined in §101 of Title 38, *United States Code*; the spouse or an unmarried, dependent child of such an individual; or the unmarried surviving spouse of such an individual who is deceased.

E. Individuals who are American Indian born in Canada to whom the provisions of §289 of the Immigration and Nationality Act apply or who is a member of an Indian tribe as defined in §4(e) of the Indian Self-Determination and Education Assistance Act.

AUTHORITY NOTE: Promulgated in accordance with P. L. 104-193, P.L. 104-208, P. L. 105-33 and P. L. 105-185.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 24:354 (February 1998), LR 25:

Interested persons may submit written comments by November 24, 1998 to the following: Vera W. Blakes, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana 70804-4065.

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Food Stamps—Alien Eligibility

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs or savings to state or local governmental units associated with this rule. Food stamp benefits are 100% federally funded. An emergency rule to effect these changes beginning November 1, 1998 will prevent the assessment of any federal penalties to the State.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action will affect a small number of applicants who may not have been eligible for food stamp benefits under current

olicy governing alien eligibility and extends the period of eligibility from 5 years to 7 years. The Agency is unable to give an estimate as there is no way to determine the number of persons that would be involved.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9810#027

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Seismic Exploration
(LAC 76.I.301 and 303)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend LAC 76:I.301 regulating seismic exploration and repeal LAC 76:I.303 on permits. Authority for adoption of this Rule is included in R.S. 30:214 and R.S. 36:609. This notice is given pursuant to the Administrative Procedure Act, R.S. 49:950 et seq.

Title 76

WILDLIFE AND FISHERIES

**Part I. Wildlife and Fisheries Commission and
Agencies Thereunder**

Chapter 3. Special Powers and Duties

Subchapter A. Seismic Exploration

§301. Regulations

A. Definitions

Cultivation—any human activity the purpose of which is to enhance the production of oysters.

Oyster Area—those areas of coastal Louisiana which are capable of supporting natural or cultivated oyster populations.

Oyster Bed—an oyster reef or a waterbottom on which oysters are actively being cultivated.

Oyster Reef—a discrete, clearly distinguishable structure which:

1. has been formed primarily by living oysters and other organisms;
2. is not necessarily currently supporting live oysters;
3. at least a portion of which must be above the mud line, (i.e. not covered by mud or silt); and
4. may support live oysters as a result of normal hydrological fluctuations.

B. In order to protect, conserve, and replenish the wildlife of the state of Louisiana, including all aquatic life, and pursuant to the authority conferred by Article IX, Section 7 of the Louisiana Constitution of 1974, R.S. 30:214 et seq. and R.S. 36:609; the following rules shall from and after promulgation date, govern any exploration work involving the discharge of explosives and other energy sources in the state of Louisiana for geophysical exploration.

1. The Wildlife and Fisheries Commission, pursuant to its constitutional and statutory authority, hereby designates how geophysical exploration work shall be conducted insofar as it relates to the fish, seafood, aquatic life, oysters, wildlife and waterbottoms of the state. No geophysical exploration work shall commence without the approval of the Secretary of the Department or his designee. The Department of Wildlife and Fisheries, Marine Fisheries Division, Seismic Section is hereby authorized and directed to enforce and administer these regulations with full power and authority to take all appropriate actions to ensure proper administration and compliance.

2. Application(s) for permission to operate shall be made by letter giving the names of the parishes where the geophysical exploration is to be conducted. Written permission to operate shall be valid for a period of one year from date of approval, unless otherwise specified. In order to obtain and maintain permission to operate, an applicant shall furnish the Department a surety bond in the amount of \$75,000 from a bonding company licensed to do business in the state of Louisiana and to whom A.M. Best and Company has given an "B+/7" or better rating. Bond forms may be obtained from the Seismic Section. The bond shall be filed by the applicant prior to issuance of any permission to operate. Said bond shall guarantee payment of all shot hole fees and mileage fees, inspector fees, all compensation for damage to public lands, and waterbottoms (including, without limitation, damages for failure to remove equipment and trash), oysters, fish and other aquatic life, and/or other natural resources, man-made canals, bulkheads, rights-of-way and structures for which said applicant may be legally liable, and which may be suffered by the state of Louisiana. The bond shall also guarantee any and all fees in whole and in part for services rendered by the Department and its offices in accordance with regulations of the Department of Wildlife and Fisheries or the Wildlife and Fisheries Commission and all applicable penalties, and any other liabilities to the state of Louisiana incurred by the applicant during the geophysical operations. Applicants must also supply the Seismic Section with proof of general liability insurance in the amount of \$1,000,000. The policy must be issued by an insurer approved by the Department, and specifically cover all damage to land, waterbottoms, oysters, fish and other aquatic life, or other natural resources, man-made canals, bulkheads, rights-of-way, and other structures for which Permittee may be legally liable. In addition, Permittees applying for a renewal of the letter of permission to operate must have demonstrated a record of sound business practices by making timely payments of seismic fees to the Department, and by being in complete compliance with the Department's regulations including those regulations requiring notifications and timely submission of seismic exploration data daily reports.

3.a. The Department may, after ten working days written notice to Permittee, suspend or cancel the seismic letter of permission to operate granted pursuant hereto for failure by the Permittee, to make timely payment to the Department for obligations owed to the state of Louisiana for the following:

- i. any adjusted shot hole fees and mileage fees;
- ii. any compensation for damage to public lands, waterbottoms, oysters, fish and other aquatic life, or other natural resources, man-made canals, bulkheads, rights-of-way and structures for which said Permittee may be legally liable;
- iii. any fees for services rendered by LDWF personnel in overseeing geophysical exploration; and
- iv. any applicable penalties.

b. The Permittee shall be entitled to a hearing upon written request, made within the 10 working day notice period, to the Secretary or his designee, to review the circumstances prompting the Department to suspend or cancel his letter of permission to operate. This hearing shall be held as soon as practicable.

4. Permittees shall submit a 1:24,000 scale map showing, at a minimum, the outline of the project for comparison with Department databases of threatened, endangered, or sensitive wildlife and fisheries resources and a similar map on an 8.5" x 11" page. Permittees shall notify the Seismic Section before beginning any geophysical exploration on a "Notification of Beginning of Seismic Operations" furnished by the Seismic Section. The Permittee shall provide the Department with the names and telephone numbers of appropriate designated contact persons. The "Notification of Beginning of Seismic Operations" shall be accompanied by a map on an 8.5" x 11" page showing the outline of the project or line. The Permittee also shall furnish the Seismic Section with a certified copy of the information filed with the appropriate parish clerk of court in accordance with R.S. 30:217. The Permittee shall submit notification to the Seismic Section of interruption or cessation of work. If a change in the prospect or line is necessary, the Permittee will provide a new plat indicating the change. If a change on the prospect or line affects different properties, or leasehold interests, the Permittee will provide a new plat indicating the new prospect or line, and no work will begin until this change has been furnished to the Seismic Section and the Seismic Section has reviewed it with regard to threatened, endangered, or sensitive wildlife and fisheries resources. The granting of permission to operate does not give the Permittee the right to trespass on, or conduct activities on private properties, nor does it relieve the Permittee of the responsibility for damages to private property.

5. A Permittee shall organize a pre-project meeting with the appropriate government agencies, property owners, lessees, residents, and other interested parties in the area of the proposed project. Notice of the meeting shall be advertised in the newspapers or journals designated for legal notices in the geographic areas in which geophysical survey operations are to be conducted. Additional notices should be posted in or on appropriate public places in the area of operations. All such notices shall be issued at a reasonable time before the scheduled meeting and before commencement of geophysical operations. Maps, as provided to the Seismic Section in connection with the Notification of Beginning of Seismic Operations and information designating the Permittee's contact persons during the geophysical operations, shall be made available to the public for review at this meeting.

C. Each geophysical exploration crew working in the state

f Louisiana shall always be under the supervision of the Seismic Section. A Seismic Inspector may be present during the shooting operations of the Permittee to which he or she is assigned.

1. The Seismic Section representative shall have access to all records, including without limitation, shot point location maps, and shooters' logs and tracings, but only to the extent necessary to determine compliance with these regulations. Any and all proprietary or confidential information viewed or obtained by any Seismic Section representative or Seismic Inspector shall be maintained in strict confidence as mandated for disclosures of seismic data under R.S. 30:215. No Permittee shall be required to submit to the Department any document or thing containing such confidential, proprietary information, if such document would, thereby, become a public record.

2. The party chief or party manager shall instruct the members of his party as to the requirements of these rules and regulations, and to the duty and authority of the Seismic Section and the Seismic Inspector.

3. The party chief or party manager shall furnish the Seismic Section's representative with whatever reasonable and appropriate transportation is needed to allow him to visit the working areas and shall transport the Seismic Section's representative to whatever locations he or she requests. The Department acknowledges that, when the Permittee is providing transportation for the Seismic Inspector or other representative of the Department under these regulations or other applicable law, that the Permittee is fulfilling a state mandated function and shall not be responsible, in any way, for any decisions, instructions, actions, or omissions of such Seismic Inspector or other Department representative.

4. The Seismic Inspector has the right to suspend any particular operation (e.g., surveying, drilling, shooting, or picking up equipment) or any portion of an operation, if it violates the Seismic Section's rules and regulations.

a. Written notice of violations shall be provided to the Permittee's designated contact person as soon as practicable. Corrective action taken by the Permittee and approved by the Seismic Section should dissolve the order for suspension issued by the Seismic Inspector.

b. The Permittee may request a hearing from the Secretary or his designee to review the circumstances of any suspension of geophysical survey activities. This hearing shall be convened as soon as practicable, but in any event within ten working days after the written request for a hearing. The Department shall provide the Permittee with due notice and the opportunity to participate.

5. The Department recognizes that conflicts may arise from time to time between parties regarding access to and use of public waters, waterbottoms, public lands and natural resources. In the event that such conflicts cannot be otherwise resolved, the Department may, at the discretion of the Secretary or his designee, restrict, regulate, or suspend such potentially or actually conflicting activities as may be necessary to provide reasonable and safe access to said public resources. The Department shall provide the Permittee's designated contact person at least five working days written notice prior to any suspension, restriction, or regulation of

eophysical survey operations due to user conflicts. The Permittee may request a hearing from the Secretary or his designee to review the circumstances of the Department's restriction, regulation or suspension of geophysical activities. This hearing shall be convened as soon as practicable, but at any event within ten working days after written request for a hearing. The Department shall provide all interested parties with due notice and opportunity to participate.

6. No Seismic Inspector shall have the right to release any Permittee from the obligations imposed by these rules and regulations. Variances from these regulations may be granted by the Department only after written application by the Permittee setting forth reasons therefore. The release, signed by the Secretary or his designee, will designate the particular area and rule affected, and the procedures to be followed in lieu of any established rule. The Secretary or his designee may provide this information to appropriate interested parties upon request.

D. The Permittee must make a separate report for each day, whether or not shooting is in progress. Daily reports must furnish complete information as indicated by the report form, and must be signed by the party chief or party manager.

E. No geophysical exploration work shall be conducted on any wildlife refuge, waterfowl refuge, scenic river or stream, game preserve, fish preserve or hatchery, or oyster seed ground reservation without written permission from the Department through the division in charge of such refuge, preserve, river, stream, hatchery or reservation. While operating on any wildlife refuge, waterfowl refuge, scenic river, stream, game preserve, fish preserve or hatchery or oyster seed ground or reservation, the Permittee must abide by all rules and regulations of said area, in addition to these seismic regulations to the extent they apply.

F. Boats, marsh buggies, airboats, or other types of marsh vehicles, when used, must be used so as to cause the minimum disturbance or damage to the lands, waterbottoms, and wildlife and fisheries resources thereon. When working on wildlife management areas, wildlife refuges, scenic rivers, streams, fish preserves or hatcheries, or public oyster seed grounds or reservations, the Permittee will coordinate with the supervisor in charge of the area as to rules of the area. Rules, regulations and fees may vary from one such area to another.

G. No marsh buggies shall have contact with any oyster reef or bed, including state-owned natural reefs, nor shall any explosives or other energy sources be discharged within 250 feet of any oyster reef or bed, including any state-owned natural reefs, without permission from the lessee of the reef or bed, and the Department. The Seismic Section will review all projects in designated public oyster seed grounds and reservations.

H. Geophysical Permittees are required to furnish an oyster lease plat to each affected oyster lessee showing the proposed number of shot points on line and their proposed location. Geophysical Permittees are required to furnish notice to oyster lease applicants of the proposed crossing of waterbottoms for which said applicant has applied for an oyster lease, provided said application(s) has been plotted on the Departments map(s).

I. All pipe used in geophysical operations must be removed to at least six feet below the surface of the ground, or six feet below the bottom in water areas, before finally leaving the shotpoint. No pipes shall be left unattended on land or in water.

J. All parties using pipe in water areas must have clearly welded or stamped at each end of each joint the name or abbreviation of the name of the Permittee using the pipe. All equipment including cables, boxes, geophones, staff poles, anchors, buoys, etc., must be permanently tagged with the name of the Permittee. All 2 x 2's used for survey lines must be clearly stamped with the name of the Permittee using the stakes at approximately three-foot intervals. These stakes must be removed immediately upon completion of the project. All cane poles must be removed immediately upon completion of the project. Anchors shall be marked, stamped, or tagged to identify the Permittee who deployed them, and shall be secured to an appropriately marked buoy, vessel, or float.

K. Permittees shall comply with the U.S. Coast Guard and/or the U.S. Army Corps of Engineers' rules and regulations for marking and lighting material and/or equipment in navigable waters. In addition, all survey buoys used in geophysical operations should be colored fluorescent green to mark receivers, and fluorescent red to mark the source line or shot line as well as show the name of the Permittee. All such floats in areas of seismic operations shall use floating line.

L. No explosives shall be discharged knowingly within 1,000 feet of a boat without notice being given to such boat so that it may move from the area.

M. Persistent gas and water discharges caused by drilling or shooting operations of seismic crews will be stopped immediately by the Permittee.

N. Explosive charges or multiple charges in the same shot hole in excess of 50 pounds shall not be used except pursuant to express written authorization from the Secretary or his designee. Requests for the use of such charges and other variances from the charge sizes, hole depths, and/or setback requirements must be made in writing, giving the reasons why such charges are needed, the particulars of charge sizes, hole depths, patterns of deployment, and setback from potentially sensitive environments. Such requests should be addressed to the Seismic Section. Variances shall not be unreasonably withheld or delayed. All documents submitted to the Seismic Section in connection with requests for variances shall be public records; therefore, any confidential proprietary information required for review of a variance request may be submitted orally or by demonstrative presentation referenced in the written application, but the underlying confidential information shall not be disclosed in the written request filed with the Department. The Permittee may request a hearing to review all determinations, decisions, and regulations imposed with regard to requested variances, as set forth in §301.C.4.b. above. The Secretary or his designee may provide this information to appropriate interested parties upon request.

O.1. Minimum required depth of charges shall be as follows for shots detonated in holes:

Weight of Charge	Minimum Required Depth
1 pound or less	10 feet
Charges of 1 pound or less may only be used in upland areas. In addition, the hole must be tamped before shooting and the charge must be shot on the same day it is placed.	
Between 1 pound and 2 pounds	25 feet
2 pounds up to 5 pounds	40 feet
5 pounds up to 20 pounds	60 feet
20 pounds up to 30 pounds	70 feet
30 pounds up to 40 pounds	100 feet
40 pounds up to 50 pounds	120 feet
No part of the charge shall be above minimum required depth.	

2. The use of suspended charges as energy sources is prohibited unless a variance is granted by the Secretary or his designee. If permitted, the Secretary or his designee shall then set forth requirements to minimize the effect on wildlife and fisheries resources.

P. Detonation of seismic explosive charges will be allowed only during daylight hours. Variances to this rule may be requested as set forth in §301.N. Permittees shall notify the Seismic Section of 24 hour airgun operations prior to beginning such operations. The Department may, after review of the details of such night operations and areas affected thereby, impose additional restrictions, regulations or requirements upon such operations as may be reasonable and necessary for the protection of public waters, waterbottoms, lands, and wildlife. No shooting will be allowed in heavy fog. The Permittee may request a hearing to review all determinations, decisions, and regulations imposed with regard to night operations and weather conditions, as provided for in §301.C.4.b. above.

Q. In accordance with good industry practice, Permittee shall, after drilling and loading shot holes, backfill holes with cuttings or another material authorized by the Department, and place the shot hole plug near the surface to avoid wash-in.

R. All equipment including boxes, cables, staff poles, poles, anchors, etc., must be cleared from project areas before the Permittee leaves the area. The Permittee shall confirm in writing to the Seismic Section that all its equipment, materials, and refuse have been cleared from the project area. Said letter of confirmation shall be a public record. Variances from this rule may be granted by the Department if accompanied by a written request from an affected landowner or agency. The Secretary or his designee may provide this information to appropriate interested parties upon request.

S. A fee of \$135 per day will be charged to geophysical Permittees. This fee will be reviewed each January. All payments will be made by the Permittees directly to the Department on or before the fifteenth of each month. No payments are to be made to the Seismic Inspectors. Seismic Inspectors shall make and the Seismic Section shall maintain written records of the Inspectors' work in connection with

each geophysical project, identifying the date, time, location, nature of the inspector's work, and the Permittee involved.

T. Permittees making application to work on any designated oyster seed ground or reservation designated by the state of Louisiana as specified in R.S. 56:434 and 435; and LAC Title 76 will be required to pay the following fees in addition to the supervisory fees: \$100 per shot hole, or \$1,000 per linear mile, whichever is greater, for reflective or refractive cable.

Airguns Only

Water Depths	Fees (per linear mile)
Less than or equal to five feet	\$1,000
Greater than five feet and less than or equal to 10 feet deep	\$400
Greater than 10 feet	\$200

3D Airgun Surveys

Water Depths	Fees (per square mile)
Less than or equal to five feet	\$12,500
Greater than five feet and less than or equal to 10 feet deep	\$5,000
Greater than 10 feet	\$2,500

All of these fees are to be paid in advance. All fees will be reviewed each January. It is the intention of the Wildlife and Fisheries Commission and the Department to use any fees collected pursuant to this rule to plant shells for oyster cultch, to rehabilitate areas damaged by operations and as mitigation for any other damages to the coastal area.

U. All geophysical Permittees conducting operations shall exercise reasonable precaution and act in accordance with approved and accepted methods to prevent destruction of, or injury to the fish, oysters, shrimp and other aquatic life, wildlife or other living natural resources of the state of Louisiana, or their habitats.

V. Any violation of these or other rules promulgated by the Commission or the Department for the regulation of geophysical operations, or the refusal of any Permittee or its employees to comply fully with all orders and requirements which may be made by authorized personnel of the Department at the time the exploration is conducted, or any attempt to unduly influence any Seismic Inspector to abstain from the enforcement of these regulations shall constitute cause for suspension or cancellation of the "permission to operate", cessation of all exploration work, and disqualification of the party chief, party manager, field manager, and/or the Permittee involved from future operations in this state. The Permittee may request a hearing from the Secretary or his designee to review the particular circumstances prompting the Department to suspend or cancel his letter of permission to operate per the provisions of §301.C.4.b.

W. These rules and regulations supersede all other rules and regulations issued prior to this date, and are subject to change by the Department and the Wildlife and Fisheries Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:214 and R.S. 36:609.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 4:300 (August 1978), amended LR 10:410 (May 1984), LR 13:115 (February 1987), LR 18:508 (May 1992), LR 25:

§303. Permits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:214 and R.S. 36:609.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 4:300 (August 1987), amended LR 10:410 (May 1984), repealed LR 25:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and the final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Heather Warner Finley, Seismic Section, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 prior to 4 December 1998.

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Seismic Exploration**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no state or local governmental implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenues to any state or local governmental units as a result of the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The rule requires additional public meetings, tagging of equipment, and assurance of site clearance from geophysical operators in the state, which may result in additional cost to some geophysical companies. These costs, however, may be offset by fewer losses in down time and equipment because of commercial and recreational fishers and other boaters getting tangled up in geophysical arrays and/or picking up equipment in fishing gears. Commercial and recreational fishers and other boaters may experience a decrease in costs associated with lost time and damaged fishing gear.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be little or no effect on employment in either the public or private sector as a result of implementation of this proposed rule.

James L. Patton
Undersecretary
9810#018

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY - SEPTEMBER, 1998

LAC Title	Part.Section	Effect	Location LR 24 Month Page	LAC Title	Part.Section	Effect	Location LR 24 Month Page							
4	VII.Chapter 1	Amended	Feb 329	33	I.503	Repromug	Jun 1093							
	VII.911	Amended	May 936		I.3931	Amended	July 1288							
	VII.1231	Amended	Sept 1766		I.Chapters 45-47	Adopted	May 917							
	VII.1239	Amended	Sept 1762		III.Chapters 5-25	Amended	July 1284							
	VII.1237	Amended	Sept 1765		III.509	Amended	Apr 654							
	VII.1319	Amended	Jun 1111		III.511	Adopted	May 913							
7	L.201-205	Adopted	Apr 626	III.1109	Amended	Apr 652								
	V.Chapter 16	Adopted	Apr 627	III.Chapter 14	Amended	July 1279								
	V.2101-2115	Adopted	Jun 1081	III.1431,1434	Amended	Sept 1683								
	XXI.101,305,307,-311	Amended	Sept 1677	III.Chapter 21	Amended	Jan 20								
	XXI.1501-1523	Adopted	Feb 282	III.2117	Amended	Feb 298								
	XXI.1501-1523	Amended	Sept 1671	III.2139	Amended	May 917								
	XXIII.Chapter 1	Amended	Feb 280	III.2801	Amended	Sept 1686								
	XXV.121	Amended	Apr 631	III.5101-5112	Amended	July 1276								
	XXV.163	Adopted	July 1262	III.5116,5122,5311	Amended	July 1277								
	XXVII.101-149	Amended	Apr 624	III.5122	Amended	July 1283								
	XXXV.101,129	Amended	Aug 1495	III.5151	Amended	Jan 27								
	XXXIX.101	Amended	Jun 1081	III.5901	Amended	Apr 652								
	XXXIX.Chapter 13	Adopted	Sept 1678	V.Chapters 1-49	Amended	Apr 655								
	XV.503	Adopted	Jun 1083	V.Chapters 1-49	Amended	Jun 1093								
13	I.Chapter 70	Adopted	Mar 428	V.1-25,29-32,35,41,43,49,53	Amended	Sept 1686								
	16	II.105	Sept 1783	V.105,501	Amended	Feb 298								
				V.105,305,1501,2201	Amended	Sept 1758								
				V.2201,2227	Amended	Feb 300								
				V.3105	Amended	Feb 318								
				V.3105	Repromug	July 1290								
				V.Chapter 38	Amended	Sept 1758								
				V.3801,3915	Amended	Aug 1496								
				V.3881,3883	Adopted	Feb 320								
				V.4901	Amended	Feb 321								
V.4905				Amended	Feb 325									
22	I.103	Feb 342	V.10303	Amended	May 956									
			V.Chapter 301	Amended	July 1313									
			VII.10407	Amended	Jan 27									
			IX.1113	Amended	Apr 688									
			IX.Chapter 13	Amended	Feb 326									
			IX.2201-2213	Amended	Jan 28									
			28	I.103	Aug 1495	34	III.901	Adopted	Feb 333					
							IX.Chapters 1-31	Amended	Jan 30					
IX.103	Repealed	Jan 30												
IX.503	Repromul	Jan 32												
IX.1703-1707	Repromul	Jan 36												
IX.2303	Adopted	Jan 38												
35	I.315	Feb 283					35	I.315	Amended	May 912				
								I.1733	Amended	Sept 1681				
								XI.9937	Amended	May 912				
								37	III.505	Feb 296	37	III.505	Amended	Feb 333
			III.703,707	Amended	Jun 1111									
			IX.101-123	Amended	Apr 625									
			42	III.115,116	Feb 297	42						III.115,116	Adopted	Apr 696
												XI.2405	Amended	May 956
												XI.2415	Adopted	Aug 1504
												XIII.1701,2133	Amended	Feb 344

LAC Title	Part.Section	Effect	Location LR 24 Month	Page	LAC Title	Part.Section	Effect	Location LR 24 Month	Page
	XIII.2141,2169	Amended	Feb	344	50	II.10147	Amended	May	954
	XIII.2329	Adopted	May	956		II.10155	Amended	Mar	457
	XIII.2721	Amended	July	1315					
	XIII.2721	Repromul	Aug	1503	55	I.1511-1543	Amended	Jan	105
	XIII.3301	Amended	May	956		III.171-181	Adopted	July	1316
	XV.105	Amended	Sept	1762		III.351,355,365	Amended	Mar	475
43	XI.Chapter 3	Amended	Feb	340		III.808	Amended	Mar	477
	XIII.Chapters 1-29	Amended	July	1306		III.Chapter 15	Adopted	Feb	345
	XIII.3103,3107,3109	Amended	July	1306		III.Chapter 17	Adopted	Mar	472
	XIX.Chapter 7	Amended	Mar	458		III.Chapter 17	Adopted	Sept	1769
	XIX.Chapter 43	Adopted	Jan	102		V.521-553	Adopted	Apr	695
46	I.1115	Amended	Jan	18		VII.125,127	Repealed	Sept	1769
	I.1117	Amended	May	910		VII.321	Amended	July	1318
	I.1335	Amended	Jan	18		VII.501	Adopted	Apr	702
	V.2701,2703,2901,2905	Amended	Sept	1682		VII.3101-3113	Adopted	July	1320
	V.2810	Repealed	Sept	1682		IX.Chapters 1-2	Amended	Mar	459
	V.8501-8513	Amended	July	1295		IX.Chapter 12	Repealed	Mar	472
	XXXIII.Chapters 1-17	Amended	Jun	1112	58	XIX.101	Amended	Aug	1517
	XXXIII.312	Adopted	Aug	1497		I.101	Amended	Jan	120
	XXXIII.710,714	Repromul	July	1293		III.Chapters 1-13	Amended	Mar	499
	XLI.709	Amended	May	912		III.101,103,105	Repealed	Mar	499
	XLV.1359,1361	Adopted	Aug	1500		III.511,519	Amended	May	961
	XLV.1517	Amended	Aug	1498	61	V.Chapters 1-35	Amended	Mar	477
	XLV.1945,1947,1975	Amended	Aug	1499					
	XLV.3103-3179	Amended	May	937	67	I.101-107	Repealed	Feb	355
	XLV.3741,3743,3763	Amended	Aug	1498		I.1181	Repealed	Feb	355
	XLV.415,417	Amended	Aug	1500		I.2913	Amended	Feb	356
	XLV.2541,2543,2565	Amended	Aug	1502		I.Chapter 51	Adopted	Feb	356
	LIII.1111	Amended	Apr	692		III.402,407	Adopted	July	1322
	LIII.Chapter 14	Adopted	Apr	689		III.403,405	Adopted	Jan	106
	LIII.2929	Amended	Apr	688		III.Chapter 11	Amended	Feb	349
	LIII.3531	Amended	Apr	689		III.1115	Amended	Jan	107
	LVII.512	Amended	Sept	1769		III.1118	Amended	Sept	1781
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	LX.703,705,801	Amended	July	1293		III.1301-1303	Adopted	July	1323
	LX.901	Amended	Mar	448		III.1503	Amended	Feb	353
	LX.Chapter 21	Amended	Mar	438		III.1701,Chapter 19	Amended	Jan	108
	LXVII.3401-3405	Amended	Jan	19		III.1707,Chapter 19	Amended	Sept	1782
	LXVII.3407-3411	Repealed	Jan	19		III.1994,1995	Amended	Feb	354
	LXXXV.106	Amended	May	940		III.Chapter 25	Amended	May	957
	LXXXV.305	Amended	May	941		III.2514	Amended	Apr	703
	LXXXV.700,701	Amended	May	941		III.2751	Repealed	May	958
	LXXXV.700,702	Amended	May	940		III.2901,2913	Amended	Jun	1134
	LXXXV.704	Amended	Feb	334		III.2907	Amended	Sept	1781
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	LXXXV.1103	Amended	July	1293		III.3705	Repealed	Feb	353
	LXXXV.1105	Amended	May	942		III.3707-3710	Adopted	Feb	354
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	III.Chapter 3	Adopted	Apr	703
76	L.149	Amended	Mar	505
	L.327	Adopted	Mar	505
	V.117	Adopted	Jun	1140
	V.117	Repromul	July	1325
	V.335	Amended	June	1138
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	VII.185	Adopted	Aug	1520
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	VII.407	Adopted	Apr	710
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	XVII.101	Amended	Sept	1785
	XIX.101,103	Amended	July	1324

Potpourri

POTPOURRI

Cajun Electric Power Cooperative

Wholesale Rates

Notice is hereby given that Cajun Electric Power Cooperative, Inc., 10719 Airline Highway, Baton Rouge, Louisiana 70816 has applied to the Louisiana Public Service Commission for a change in its wholesale rates to its member cooperatives, pursuant to the provisions of Article IV, Section 21 of the Constitution of the state of Louisiana, L.R.S. 45:1161 et seq., and the rules and regulations of the Louisiana Public Service Commission. A copy of the proposed rates is on file with the Louisiana Public Service Commission.

Clark T. Colvin
Senior Vice President

9810#022

POTPOURRI

Department of Environmental Quality Office of Air Quality and Radiation Protection Air Quality Division

Emissions (LAC 33:III.5116, 5122 and 5311)(AQ174*)

This notice is to correct an error in the abstract for the Air Quality regulations LAC 33:III.5116, 5122, and 5311 (Log Number AQ174*), which was published on pages 972-973 of the May 20, 1998, *Louisiana Register* as a Notice of Intent, and on pages 1277-1278 of the July 20, 1998, *Louisiana Register* as a Rule.

The purpose of the rule is to incorporate by reference the identical federal regulations found in 40 CFR part 61, subparts L, N, O, and P; 40 CFR part 63, subparts L and EE; 62 FR 37720 (subparts U and JJJ) July 15, 1997, Number 135; 62 FR 42918 (subpart N) August 11, 1997, Number 154; 62 FR 52382 (subpart LL) October 7, 1997, Number 194; and 62 FR 64736 (subpart O) December 9, 1997, Number 236, which are applicable in Louisiana, in order to implement the National Emission Standards for Hazardous Air Pollutants (NESHAP) program in Louisiana. The abstract read that the state was delegated authority for the program. This is not correct. The correct language for the abstract is as follows:

This rule incorporates by reference, into LAC 33:III.Chapters 51 and 53, 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 delegation process and the state implementation of the standards being incorporated. Authorization for EPA to delegate authority of that program

to the state is established in the Clean Air Act Amendments of 1990, section 112. This rulemaking is applicable to stationary sources statewide. 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 1997/98 EPA grant objectives related to this rule and to delegation revisions.

Gus Von Bodungen
Assistant Secretary

9810#064

POTPOURRI

Department of Environmental Quality Office of Air Quality and Radiation Protection Air Quality Division

State Implementation Plan for the Low Enhanced Inspection and Maintenance Program

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Air Quality and Radiation Protection will submit the State Implementation Plan (SIP) for the Low Enhanced Inspection and Maintenance (I/M) Program mandated under the requirements of the 1990 Clean Air Act Amendments (CAAA).

In accordance with section 182(c)(3) of the CAAA, any area in the nation designated as serious or above ozone nonattainment and having a 1980 Census-defined urbanized area population of 200,000 or more, must implement an I/M Program.

The public comment period begins on October 20, 1998, and ends at 4:30 p.m. on December 1, 1998. A public hearing will be held at 1:30 p.m., November 24, 1998, in Room 326, Maynard Ketcham Building, 7290 Bluebonnet, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed SIP. Written comments may also be submitted at the time of the public hearing or sent to Ms. Teri Lanoue, Air Quality Division, Box 82135, Baton Rouge, LA 70884-2135. Receipt of written comments must be no later than 4:30 p.m. on December 1, 1998. For other details, you may call Ms. Lanoue at (225) 765-0178.

A copy of the SIP may be viewed at the Air Quality Division from 8 a.m. until 4:30 p.m., Monday through Friday (excluding holidays) at 7290 Bluebonnet, 2nd Floor, Baton Rouge, LA or at the Capital Regional Office, 5222 Summa Court, Baton Rouge, LA.

Gustave Von Bodungen, P.E.
Assistant Secretary

9810#065

POTPOURRI

Department of Environmental Quality Office of Legal Affairs and Enforcement Investigations and Regulation Development Division

Semiannual Regulatory Agenda—Fall 1998

The Department of Environmental Quality (DEQ) announces the availability of the fall 1998 edition of the Semiannual Regulatory Agenda prepared by the Investigations and Regulation Development Division. The current agenda contains information on rules which have been proposed but have not been published as final and rules which are scheduled to be proposed in 1998 and 1999. Check or money order in the amount of \$1.85 is required in advance for each copy of the agenda. Interested persons may obtain a copy by contacting Lula Alexander, Department of Environmental Quality, Office of Legal Affairs and Enforcement, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884-2282 or by calling (225) 765-0399. The agenda is also available on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Tim B. Knight
Administrator

9810#063

POTPOURRI

Office of the Governor Division of Administration Office of Community Development

Fiscal Year 1999 Consolidated Annual Action Plan

As set forth in 24CFR Part 91, the U.S. Department of Housing and Urban Development (HUD) requires state agencies which administer certain HUD programs to incorporate their planning and application requirements into one master plan called the Consolidated Plan. In Louisiana, the four state agencies participating in this consolidated planning process and the HUD funded program administered by each agency include the Division of Administration/Office of Community Development (Small Cities Community Development Block Grant Program), the Louisiana Housing Finance Agency (HOME Investment Partnerships Program), the Department of Social Services/Office of Community Services (Emergency Shelter Grants Program), and the Department of Health and Hospitals/HIV/AIDS Program (Housing Opportunities for Persons with AIDS Program).

A consolidated plan was prepared which outlined the state's overall housing and community development needs and a strategy for meeting those needs for federal fiscal years 1995-1999 and included a one year action plan for FY 1995 federal funds received for the four aforementioned HUD programs. An annual update or action plan for the distribution of funds must be prepared and publicized for each of the subsequent four program years.

A proposed FY 1999 Consolidated Annual Action Plan which identifies the proposed method of distribution of FY 1999 funds under the four HUD programs has been prepared and will be available for review beginning October 21, 1998, at the Office of Community Development, State Capitol Annex, 1051 North Third Street, Room 168, Baton Rouge, LA. Copies of the proposed annual action plan will also be available for review at the Louisiana Housing Finance Agency at 200 Lafayette Street, Suite 300 in Baton Rouge, and the Department of Social Services/Office of Community Services at 333 Laurel Street, Room 606, in Baton Rouge, and the Department of Health and Hospitals/HIV/AIDS Program at 234 Loyola Avenue, Fifth Floor, in New Orleans.

A limited number of the proposed plans will be available for distribution and may be requested in writing or by telephone from any of the four agencies participating in the consolidated planning process. The proposed plan will also be available for viewing and copying on the internet (www.state.la.us/cdbg/cdbg.htm).

The following presents a summary of the FY 1999 Consolidated Annual Action Plan.

The state's anticipated federal allocation for the FY 1999 Louisiana Community Development Block Grant (LCDBG) Program is approximately \$36,000,000 (subject to federal allocation). The Office of Community Development is proposing to establish the following five program areas for the distribution of these funds.

1. Housing—\$2 million will be set aside to provide safe and sanitary living conditions through housing rehabilitation or replacement housing for low/moderate income persons.

2. Public Facilities—approximately \$24 million will be allocated to improve existing or to construct new water and sewer systems and streets.

3. Economic Development—approximately \$6 million will be allocated to provide loans to businesses for job creation or retention projects and/or to provide grants to local governing bodies for infrastructure improvements which will facilitate the location of a particular business.

4. Demonstrated Needs—\$2.7 million will be set aside to alleviate critical/urgent needs involving improvements to existing water, sewer, and gas systems.

5. LaStep—\$600,000 will be set aside to fund one or more water and/or sewer projects which may utilize LCDBG funds for materials, engineering, and administrative costs in conjunction with local resources (human, material, and/or financial).

The Louisiana Housing Finance Agency, as the administrator of the state's HOME Program, expects to receive an estimated allocation of \$13,627,000 in FY 1999 funds. These funds are intended for use in support of the following affordable housing categories.

1. Approximately \$2 million (or fifteen percent of the HOME project allocation) will be set aside for the exclusive use of state designated community housing development organizations in developing home ownership and rental projects.

2. Approximately \$3.5 million will be reserved to provide mortgage financing, down payment and closing cost

assistance for first time home buyers. These funds are to be used in combination with state mortgage revenue bonds which provide below market rates mortgage financing.

3. Approximately \$3 million will be available for primary or secondary financing to for-profit and non-profit developers of multi-family rental housing in Home nonentitlement areas.

4. Approximately \$3 million will be available for funding the SHARE Grant Program to provide monies for the rehabilitation of substandard housing owned and occupied by very low income families. The balance of the grant is to be used by the agency in support of the administration of the various HOME supported programs.

The state's estimated federal allocation for the FY 1999 Emergency Shelter Grants Program (ESGP) is \$1,729,000. ESGP funding is dedicated for the rehabilitation, renovation, or conversion of buildings for use as emergency shelters for the homeless, for payment of certain operating costs and social services expenses in connection with emergency shelter for the homeless and for homeless prevention services. The Louisiana Department of Social Services, administrative agency for the Emergency Shelter Grants Program, proposes to distribute the state's funding allocation to eligible units of general local government which may make all or part of the grant amounts available to private non-profit organizations for use in eligible activities. Eligible applicants are defined as governmental bodies for all parish jurisdictions and those city jurisdictions with a minimum population of 10,000. The Department of Social Services shall continue use of a geographic allocation formula (based on factors for low income population) to ensure that each region of the state is allotted a specified minimum of Emergency Shelter Grant assistance. Within each region, grant distribution will be conducted through a competitive grant award process. Among other evaluation criteria, this selection process will consider the extent to which proposed activities will address local needs to "complete the development of a comprehensive system of services which will provide a continuum of care to assist homeless persons to achieve independent living."

The Louisiana Department of Health and Hospitals, Office of Public Health, HIV/AIDS Program proposes to allocate the estimated FY 1999 Housing Opportunities for Persons with AIDS grant funds through a 50/50 percent funding split. Seven HIV/AIDS residential facilities in eight different regions of the state will be allocated approximately fifty percent of the funds. These funds will be allocated through a competitive statewide HIV/AIDS Residential Facilities Solicitation of Application process. These HOPWA funds are for new construction, renovation, rehabilitation, acquisition, conversion, lease and repair of facilities or purchase of capital equipment. The remaining fifty percent will be allocated through a Request for Proposal through the Ryan White Title II Regional Consortia (this includes the entire state, excluding Region I - the New Orleans EMSA). This allocation will be used to fund emergency short-term rent, mortgage, and utility assistance payments for low income persons living with HIV/AIDS.

Written comments on the proposed plan may be submitted beginning October 21, 1998, and must be received no later

than November 23, 1998. Comments should be submitted to the Office of Community Development, Post Office Box 94095, Baton Rouge, LA 70804-9095.

Mark C. Drennen
Commissioner

9810#068

POTPOURRI

Department of Health and Hospitals Board of Massage Therapists

Retraction of Emergency Rule Regarding Declaratory Order
and Rulings (LAC 46:XLIV.103)

The Louisiana Board of Massage Therapists found the emergency rule published in the August 1998 *Louisiana Register*, LR 24:1485, to be unnecessary because it is already provided for by statute. This, therefore, is a retraction of that emergency rule.

Kayla Aymond
Executive Director

9810#077

POTPOURRI

Department of Insurance Office of the Commissioner Division of Financial Solvency

Public Hearing on Revised Rule 8

As a result of Hurricane Georges, the public hearing on Revised Rule 8, A New Annuity Mortality Table for Use in Determining Reserve Liability for Annuities, scheduled for September 28, 1998 was not held. The public hearing on this topic is rescheduled for Thursday, November 5, 1998 at 9 a.m. in the Plaza Hearing Room of the Insurance Building located at 950 North Fifth Street in Baton Rouge.

James H. "Jim" Brown
Commissioner

9810#072

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.

POTPOURRI

**Department of Social Services
Office of Community Services**

**1999 Low-Income Home Energy Assistance Program
(LIHEAP) Public Hearing**

The Department of Social Services, Office of Community Services will hold a public hearing concerning the use and distribution of federal fiscal year 1999 LIHEAP block grant funds in accordance with the Louisiana State Plan for 1999.

The Low-Income Home Energy Assistance Program provides services to low-income households, and in particular, households in which elderly, handicapped and/or children reside. The purposes of LIHEAP activities are:

1. to reduce the burden of home heating and cooling expenses of low income households through direct payments to home energy suppliers;
2. to conserve energy and reduce energy costs through the weatherization of dwelling units of low-income residents; and,
3. to provide for energy crisis intervention in instances of weather related and supply-shortage emergencies.

The public hearing is scheduled for Friday, November 6, 1998, at 1:30 P. M. in Baton Rouge, LA, at 333 Laurel Street, Room 732. Louisiana's grant for the 1999 program year is estimated to be \$9,415,140.00. Any additional Department of Health and Human Services funds which may become available during the 1999 program year will be expended according to the approved State Plan.

Copies of the plan can be obtained prior to the hearing by contacting the Department of Social Services, Office of Community Services at (504) 342-2288 or by writing to Box 3318, Baton Rouge, LA 70821. Written comments will be accepted through November 13, 1998.

Madlyn B. Bagneris
Secretary

9810#066

Operator	Field	Well Name	Well Number	Serial Number
Advance Industries LLC	Valentine	A Robichaux	001	130555
Advance Industries LLC	Valentine	A Robichaux	1-D	131461
Bateman Drilling Company	Nesser	Frank Campbell	001	056452
Caddo Oil Co., Inc.	Caddo Pine Island	Hobbs A	001	139253
Circle Drilling Company Inc.	Charenton	Margaret Averill et al	001	074367
J. R. Oil Company	Caddo Pine Island	L W Wats	001	054672
J. R. Oil Company	Caddo Pine Island	Caddo Lake Fee	13	990360
K-B Exploration Company	Pecan Lake	Miami Corporation	001	173288
K-B Exploration Company	Delarge	Birdie Winder et al	001	187106
LA Oil Ref. Corp.	Pine Prairie	J C Vidrine	001	006791
LDC Operating, Inc.	Wildcat	William J Melancon	001	220497
St. Mary Oil Company	Charenton	H Robichaux	006	022118
St. Mary Oil Company	Charenton	R Blanchard	005	022670
Senior G & A Operating Co., Inc.	Joyce	Cavenham J.C.-W-10	002	207795
Tennky Petroleum Corporation	Caddo Pine Island	Caddo Levee Board	001	116719

Philip N. Asprodites
Commissioner

9810#067

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