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Executive Orders

EXECUTIVE ORDER KBB 05-17

Louisiana Solutions to Poverty Network Council

WHEREAS, the United States Census Bureau released statistics in August 2004, regarding income, poverty, and health insurance coverage in the United States;

WHEREAS, the state of Louisiana had an increase of residents living in poverty by forty-two thousand, four hundred nineteen (42,419) between 2001 to 2003;

WHEREAS, the state of Louisiana's current poverty rate is 20.3 percent, the highest poverty rate among the fifty (50) states and the second highest poverty rate in the nation for children;

WHEREAS, statistics show that parish-wide community resources that work in collaboration to address the difficult realities of poverty can offer solutions, actions, and strategies to transform the cycle of poverty to a cycle of learning, growth, and development;

WHEREAS, in an effort to turn the tide on poverty, the first Solutions to Poverty Summit was held on December 6 and 7, 2004, in Monroe, Louisiana. The Summit brought participants together in local conversations with national and state public policy experts, civic leaders, employers, city and state elected officials, congressional leadership, consumers, non-profit and faith-based representatives, state and local education officials, media, state employees, concerned citizens, and students to learn, exchange dialogue and develop action plans on solutions to poverty; and

WHEREAS, the interests of the citizens of the state of Louisiana would best be served by the creation of a multifaceted network of partnerships and coalitions which will spur innovations and develop solutions in addressing the needs to end poverty in the state of Louisiana;

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The Louisiana Solutions To Poverty Network Council (hereafter S.T.O.P. Network Council) is hereby established within the executive department, Office of the Governor.

SECTION 2: The duties of the S.T.O.P. Network Council shall include, but are not limited to, the following:

A. Review and analyze laws, rules, regulations, programs and policies of the state and/or any department, commission, board, agency and/or office in the executive branch to ensure their support of poverty reduction in Louisiana;

B. Develop and adopt the *Louisiana Roadmap to Fighting Poverty*, which will include indicators to measure state, regional, and local levels of progress on poverty reduction strategies;

C. Propose and implement initiatives, programs, policies and incentives that encourage family and individual well-being and support self-sufficiency;

D. Engage and support local communities in their efforts to reduce poverty;

E. Build capacity of local communities and citizens to seek root causes and solutions to poverty in the state of Louisiana;

F. Provide information to citizens about available resources through a community network accessible to everyone; and

G. Seek necessary resources and funding for strategies which have been successful in other communities in reducing poverty.

SECTION 3: The S.T.O.P. Network Council shall be composed of specific groups and/or components, each with individualized duties and responsibilities described below:

A. STATE STEERING COMMITTEE (hereafter "Committee"):

1. The duties of the Committee shall include, but are not limited to, the following:

a. Develop and oversee the S.T.O.P. model of the working relationship between the state, regional, and community organizations;

b. Provide written notice to the governor of the progress made by the various coalitions and initiatives undertaken to address poverty;

c. Serve as the administrative arm to the council and as convener and organizer of council meetings; and

d. Make recommendations for legislation and funding in support of the overall strategy.

2. The Committee shall be composed of the following individuals:

a. The assistant chief of staff to the governor;

b. The secretary of the Department of Social Services;

c. The assistant secretary of the Office of Family Support, Department of Social Services;

d. The deputy assistant secretary of Family Assistance, Office of Family Support, Department of Social Services;

e. The deputy assistant secretary for Community Mobilization, Office of Family Support, Department of Social Services;

f. The budget director of the Office of Family Support, Department of Social Services;

g. One (1) representative of the Division of Administration;

h. The governor's policy advisor on social services, housing and community development;

i. The coordinator of the S.T.O.P. Network Council; and

j. One (1) representative from a community based organization providing services to address poverty in the state.

B. STATE DEPARTMENTS AND AGENCIES (hereafter "Departments"):

The duties of the Departments shall include, but are not limited to, the following:

1. Develop poverty reduction performance goals and indicators with strategic and operational plans, along with legislative recommendations, which must address:

- 1) specific issues;
- 2) outcomes desired;
- 3) performance indicators; and
- 4) resources and funding dedicated to ensure success;

2. Submit a comprehensive written report to the Office of the Governor and the Louisiana Legislature outlining the deadline for poverty reduction indicators for inclusion in the Louisiana Roadmap for Fighting Poverty by adjournment sine die of the regular legislative session;

3. Designate staff to serve as members of and fully participate on the national and state stakeholders council, regional councils and local coalitions as needed; and

4. Incorporate community mobilization and targeted outreach strategies in the Solutions to Poverty plans and designate staff to provide such support to the overall S.T.O.P. Network Council community mobilization strategy.

SECTION 4: The Department of Social Services shall work in collaboration to address the difficult realities of poverty with the following specific groups and/or components:

- A. Regional Stakeholders;
- B. National and State Stakeholders;
- C. Community Coalitions;
- D. Community Specialist; and
- E. S.T.O.P. Coordinator.

SECTION 5: The Council shall be composed of a maximum of twenty-eight (28) members who shall be appointed by and serve at the pleasure of the governor. The membership of Council shall be selected as follows:

- A. The governor or the governor's designee;
- B. The speaker of the Louisiana House of Representatives, or the speaker's designee;
- C. The president of the Louisiana State Senate, or the president's designee;
- D. The secretary of the Department of Social Services, or the secretary's designee;
- E. The secretary of the Department of Health and Hospitals, or the secretary's designee;
- F. The secretary of the Department of Labor, or the secretary's designee;
- G. The secretary of the Department of Public Safety and Corrections, or the secretary's designee;
- H. The secretary of the Department of Transportation and Development, or the secretary's designee;
- I. The secretary of the Department of Economic Development, or the secretary's designee;
- J. The superintendent of the Department of Education, or the superintendent's designee;
- K. The commissioner of Higher Education, or the commissioner's designee;
- L. The executive director of the Office of Elderly Affairs, Office of the Governor, or the executive director's designee;

M. The chairman of the Louisiana Women's Policy and Research Commission, or the chairman's designee;

N. The chairman of the Governor's Advisory Council on Disability Affairs, or the chairman's designee;

O. The chairman of the Louisiana Commission on Marriage and Family; or the chairman's designee;

P. The chairman of the Child Care and Development Block Grant Advisory Council, or the chairman's designee;

Q. One (1) mayor representing the Louisiana Municipal Association;

R. The executive director of the Council for A Better Louisiana (CABL), or the executive director's designee;

S. One (1) representative from the National Association of Social Workers;

T. One (1) representative from the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO);

U. One (1) representative from the Louisiana Association of Business & Industry (LABI);

V. One (1) student representative of the Board of Regents.

W. One (1) representative each from the following national expert organizations:

1. Center for Law and Social Policy (CLASP);
2. Children's Defense Fund (CDF); and
3. Ford Foundation.

X. Three (3) representatives from consumer organizations with expertise in the following fields:

1. Housing and community development;
2. Juvenile justice; and
3. Consumer rights.

SECTION 6: The chair of the Council shall be appointed by the governor. All other officers, if any, shall be elected by and from the membership of the Council.

SECTION 7: On or before August 30, 2005, the Council shall hold its first scheduled meeting, thereafter, the Council shall meet twice annually and at the call of the chair.

SECTION 8: By January 1, 2006, and annually thereafter, the Council shall submit a written comprehensive report to the governor detailing the state's progress on fighting poverty.

SECTION 9:

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

B. Council members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

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

SECTION 10: Support staff, facilities, and resources for the Council shall be provided by the Department of Social Services.

SECTION 11: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Council in implementing the provisions of this Order.

SECTION 12: 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 11th day of July, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0508#094

EXECUTIVE ORDER KBB 05-18

Louisiana Emergency Operations Plan

WHEREAS, the state of Louisiana must be prepared to respond in a coordinated, effective, and efficient manner to all emergencies and disasters to which it is subjected;

WHEREAS, effective preparations, including the development of an emergency operations plan, which is coordinated among all the departments and agencies of the state of Louisiana, increases the ability of the state to mitigate the adverse effects of emergencies and/or disasters; and

WHEREAS, the state of Louisiana will best achieve effective coordinated emergency planning by updating the state's current emergency operations order through the replacement of Executive Order No. KBB 2004-20, issued on August 12, 2004, and by the Military Department, Office of Homeland Security and Emergency Preparedness updating its emergency operations plan;

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1:

A. The director of the Office of Homeland Security and Emergency Preparedness, Military Department, state of Louisiana, (hereafter "director") shall direct the state of Louisiana's emergency and/or disaster operations.

B. The director, or the director's designee, shall also coordinate the activities of all non-state agencies, departments, and/or organizations involved in emergency management within the state of Louisiana.

SECTION 2:

A. The director shall supplement the provisions of this Order by prescribing rules, regulations, and procedures, which combined with the revisions of this Order, shall constitute the Louisiana Emergency Operations Plan (hereafter "Plan").

B. The Plan shall provide for the emergency operations that may be implemented should an emergency and/or disaster strike the state of Louisiana or an area within the state of Louisiana.

C. The Plan shall be binding on all departments, commissions, boards, agencies, organizations and employees of the state of Louisiana, and on all local governments or political subdivisions of the state authorized or directed to conduct homeland security and emergency management operations.

SECTION 3:

A. The director shall control the activation and/or implementation of the Plan and the conclusion and/or deactivation of the Plan.

B. The director shall also control the activation and deactivation of the State Emergency Operations Center (hereafter "Center").

C. The activation of the Center shall constitute the implementation of the Plan.

SECTION 4: The departments, offices, agencies and organizations of the state of Louisiana government have primary and support responsibilities for the following Emergency Support Functions (ESF):

Primary/Esf	Annex	Department/Agency	Support
ESF 1	Transportation	Department of Transportation and Development	P
		Louisiana National Guard	S
		Department of Corrections	S
		Office of the Governor--Office of Elderly Affairs	S
		Department of Health and Hospitals	S
		Board of Regents	S
		Louisiana State Police	S
		Department of Wildlife and Fisheries	S
		Volunteer Organizations	S
ESF 2	Communications	Louisiana Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Environmental Quality	S
		Office of the Governor--Division of Administration	S
		Office of the Governor--Office of Elderly Affairs	S
		Office of the Governor--Oil Spill Coordinator	S
		Louisiana State University Health Sciences Center	S
		Department of Health and Hospitals	S
		Department of Justice	S
		Department of Labor	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Board of Regents	S
		Department of Revenue	S
		Department of Social Services	S
		Louisiana State Police	S
Department of Transportation and Development	S		
Department of Wildlife and Fisheries	S		
Volunteer Organizations	S		
ESF 3	Public Works &Engineering	Department of Transportation and Development	P
		Louisiana National Guard	S
		Office of the Governor--Division of Administration	S
		Department of Health and Hospitals	S
ESF 4	Firefighting	Department of Natural Resources	S
		Department of Agriculture and Forestry	P
		Louisiana National Guard	S
		Department of Culture, Recreation and Tourism	S
		Department of Natural Resources	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S

Primary/Esf	Annex	Department/Agency	Support
ESF 5	Emergency Management	Louisiana Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		Office of the Governor--Division of Administration	S
		Office of the Governor--Office of Elderly Affairs	S
		Office of the Governor--Office of Indian Affairs	S
		Office of the Governor--Oil Spill Coordinator	S
		Louisiana State University Health Sciences Center	S
		Department of Health and Hospitals	S
		Department of Justice	S
		Department of Labor	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Board of Regents	S
		Department of Revenue	S
		Secretary of State	S
		Department of Social Services	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of the Treasury	S
Department of Wildlife and Fisheries	S		
Volunteer Organizations	S		
ESF 6	Mass Care, Housing and Human Services	Department of Social Services	P
		Department of Corrections	P
		Louisiana Office of Homeland Security and Emergency Preparedness	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Culture, Recreation and Tourism	S
		State Fire Marshall	S
		Office of the Governor--Office of Elderly Affairs	S
		Department of Health and Hospitals	S
		Louisiana State University Health Sciences Center	S
		Board of Regents	S
Volunteer Organizations	S		
ESF 7	Resource Support	Louisiana Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Office of the Governor--Division of Administration	S

Primary/Esf	Annex	Department/Agency	Support
		Louisiana State University Health Sciences Center	S
		Department of Health and Hospitals	S
		Department of Labor	S
		Department of Natural Resources	S
		Board of Regents	S
		Department of Social Services	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of the Treasury	S
		Volunteer Organizations	S
ESF 8	Public Health & Medical Services	Department of Health and Hospitals	P
		Louisiana State University Health Science Center	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Environmental Quality	S
		Board of Regents	S
		Department of Transportation and Development	S
		Volunteer Organizations	S
ESF 9	Search & Rescue	Department of Wildlife and Fisheries	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Volunteer Organizations	S
ESF 10	Oil Spill, Hazardous Materials and Radiological	Office of the Governor--Oil Spill Coordinator	P
		Louisiana State Police	P
		Department of Environmental Quality	P
		Louisiana Office of Homeland Security and Emergency Preparedness	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Louisiana State University Health Sciences Center	S
		Department of Health and Hospitals	S
		Department of Natural Resources	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
ESF 11	Agriculture	Department of Agriculture and Forestry	P
		Louisiana National Guard	S
		Department of Culture, Recreation and Tourism	S
		Department of Environmental Quality	S
		Department of Health and Hospitals	S
		Department of Natural Resources	S
		Board of Regents	S
		Department of Transportation and Development	S

Primary/Esf	Annex	Department/Agency	Support
		Department of Wildlife and Fisheries	S
		Volunteer Organizations	S
ESF 12	Energy	Department of Natural Resources/Intrastate Natural Gas	P
		Louisiana Public Service Commission/Power	P
		Louisiana National Guard	S
ESF 13	Public Safety & Security	Louisiana State Police	P
		Department of Justice	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Office of the Governor--Division of Administration	S
		Board of Regents	S
		Department of Revenue	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
ESF 14	Community, Recovery, Mitigation and Economic Stabilization	Louisiana Office of Homeland Security and Emergency Preparedness	P
		Department of Economic Development	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Environmental Quality	S
		Office of the Governor--Division of Administration	S
		Office of the Governor--Office of Financial Institutions	S
		Louisiana State University Health Sciences Center	S
		Department of Health and Hospitals	S
		Department of Labor	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Board of Regents	S
		Department of Revenue	S
		Department of Social Services	S
		Secretary of State	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of the Treasury	S
		Volunteer Organizations	S
ESF 15	Emergency Public Information	Louisiana Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S

Primary/Esf	Annex	Department/Agency	Support
		State Fire Marshall	S
		Office of the Governor--Division of Administration	S
		Office of the Governor--Office of Elderly Affairs	S
		Office of the Governor--Office of Financial Institutions	S
		Office of the Governor--Office of Indian Affairs	S
		Office of the Governor--Oil Spill Coordinator	S
		Louisiana State University Health Sciences Center	S
		Department of Health and Hospitals	S
		Department of Justice	S
		Department of Labor	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Board of Regents	S
		Department of Revenue	S
		Department of Social Services	S
		Secretary of State	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of the Treasury	S
		Department of Wildlife and Fisheries	S
		Volunteer Organizations	S

SECTION 5: The head of each department, office, agency, and organization (hereafter "department") identified in Section 4 of this Order shall designate both an emergency coordinator and an alternate emergency coordinator to act on the department's behalf during an emergency situation, and furnish the director with their names and all telephone numbers. The head of each department shall also designate a Continuity of Operations Plan (COOP) coordinator who will prepare and maintain plans, procedures, arrangements, and agreements to ensure that the organization will continue to carry out its mission in an emergency or disaster.

SECTION 6: The head of each department assigned a primary ESF responsibility in Section 4 of this Order shall submit implementing procedures to the director that set forth the department's procedures for carrying out its assigned emergency support functions. The head of each department shall submit annual updates of their implementing procedures to the director.

SECTION 7: The head of each department assigned a support ESF responsibility in Section 4 of this Order shall assist its primary department in the preparation of their procedures and/or any other documents necessary to support the Plan.

SECTION 8: The head of each department assigned a primary and/or a support ESF responsibility in Section 4 of this Order will:

A. Staff the Center with personnel during training exercises and emergencies as requested by the director;

B. Maintain and operate a 24-hour response capability in the department headquarters, or in the department's designated emergency operations center, when the Plan is implemented;

C. Participate in exercises of the Plan when scheduled by the director;

D. Participate in, and conduct, training essential to implementation of the department's assigned emergency service;

E. Conduct an annual internal review to update the details of the department's implementing procedures and advise the director of any needed modifications to the department's implementing procedures; and

F. Maintain logs, records, and reporting system required by all state and federal laws, rules, and regulations.

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

SECTION 10 Executive Order No. KBB 2004-20, issued on August 12, 2004, is hereby terminated and rescinded.

SECTION 11: 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 11th day of July, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0508#095

EXECUTIVE ORDER KBB 05-19

Bond Allocation Louisiana Public Facilities Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. KBB 2005-12 was issued to establish:

- (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2005 (hereafter "the 2005 Ceiling");
- (2) the procedure for obtaining an allocation of bonds under the 2005 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 2005 Ceiling to finance student loans which, if the student meets certain timely payment requirements, will have interest rates below the interest rates established by the United States Department of Education and which

- (1) have been made
 - (a) to residents of the state of Louisiana attending a post-secondary school located within or without the state of Louisiana, or
 - (b) to an out-of-state resident attending a post-secondary school located within the state of Louisiana;
- (2) are guaranteed;
- (3) are "eligible student loans" within the meaning of the Higher Education Act of 1965; and
- (4) meet certain additional requirements under the financing documents, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

WHEREAS, the governor is committed to making education available to all Louisiana citizens throughout their lifetime and is working to establish a comprehensive statewide lifelong learning program in partnership with Louisiana Public Facilities Authority (hereafter "LPFA") and other organizations; and

WHEREAS, it is expected that, as the lifelong learning program is developed, a portion of the LPFA's SuperTop student loan program will be used to offer low interest or no interest loans as part of said program, in addition to the other benefits currently offered to borrowers by the LPFA;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2005 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$90,300,000	Louisiana Public Facilities Authority	Student Loan Revenue Bonds

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

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2005, provided that such bonds are delivered to the initial purchasers thereof on or before October 10, 2005.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 12th day of July, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0508#096

EXECUTIVE ORDER KBB 05-20

Flags At Half Staff

WHEREAS, the Honorable Walter Fox McKeithen, Secretary of State, state of Louisiana, from 1987 to 2005, died July 16, 2005, at the age of 58; and

WHEREAS, Secretary of State McKeithen was a dedicated public servant who will be forever remembered for his leadership in modernizing the Secretary of State's Office and bringing it into the 21st century;

NOW THEREFORE, I KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana by virtue of

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

SECTION 1: As an expression of respect of the citizens of the state of Louisiana for Secretary of State Walter Fox McKeithen, effective immediately, the flags of the United States and the state of Louisiana shall be flown at half-staff over the State Capitol and all public buildings and institutions of the state of Louisiana until sunset on Tuesday, July 19, 2005.

SECTION 2: 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 18th day of July, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0508#080

EXECUTIVE ORDER KBB 05-21

The Hudson Initiative

WHEREAS, pursuant to Act No. 440 of the 2005 Regular Session of the Louisiana Legislature, the Louisiana Initiative for Small Entrepreneurship (hereafter "The Hudson Initiative") was established to facilitate the growth and stability of Louisiana's economy by fostering utilization by state interests of the business offerings available for state procurement and public contracts from Louisiana's small entrepreneurship;

WHEREAS, the Department of Transportation and Development has served as a model for disadvantaged business enterprises by creating an open and transparent process, increasing participation goals on construction projects, and addressing the level of fairness and equality in consultant selections;

WHEREAS, an inclusive economic development initiative for all state agencies aimed at developing and

enhancing opportunities for small and emerging businesses will successfully promote the state goal of wealth creation and poverty reduction; and

WHEREAS, the success of small and emerging businesses will ultimately enhance the stability of Louisiana's economy by providing opportunities for self-sufficiency, wealth creation, retention, and job growth; and

WHEREAS, the interest of the citizens of the state of Louisiana would best be served by the expansion of business development programs that will encourage the continued growth of small and emerging business;

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct consistently with Act No. 440 of the 2005 Regular Session of Louisiana Legislature as follows:

SECTION 1: All departments, commissions, boards, offices, entities, agencies, and offices of the state of Louisiana, or any political subdivision thereof, shall include small and emerging businesses in the business offerings available for state procurement and public contracts.

SECTION 2: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with implementation the provisions of this Order.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of July, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0508#097

Emergency Rules

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.Chapter 10, 1901 and 1903)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re promulgate the Rules of the Scholarship/Grant Programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17.3042.1.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)].

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

This declaration of Emergency is effective July 12, 2005 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

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

Chapter 10. TOPS-TECH Early Start Award

§1001. General Provisions

A. Legislative Authority. The TOPS-TECH Early Start Award was created by Act 348 of the 2005 Regular Session of the Louisiana Legislature.

B. Description, History and Purpose. The TOPS-TECH Early Start Award is established as part of the Tuition Opportunity Program for Students (TOPS) to provide grants for Louisiana residents pursuing occupational or vocational training while being dually enrolled in a state public high school at the eleventh and twelfth grade levels and at a Louisiana public postsecondary institution that offers an occupational or vocational education credential in a Top Demand Occupation. The purpose of TOPS-TECH Early Start is to provide an incentive for qualified Louisiana public high school students to prepare for and pursue an industry-based occupational or vocational education credential in a Top Demand Occupation while still in high school.

C. Effective Date. The TOPS-TECH Early Start Award shall be first awarded beginning with the 2005-2006 award year to eleventh and twelfth grade students meeting the eligibility criteria set forth in this Chapter.

D. Eligible Terms. The TOPS-TECH Early Start Award is limited to six credit hours per semester and twelve credit hours each Academic Year (College). TOPS-TECH Early Start is not payable for summer semesters or sessions.

E. Award Amount. The TOPS-TECH Early Start Award provides a payment not to exceed \$300 for up to six credit hours each semester or \$600 each Academic Year (College) at a rate of \$50 per credit hour.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:

§1003. Top Demand Occupation

A. For the purposes of this Chapter, a credential in a "Top Demand Occupation":

1. is a credential defined by the Board of Regents; and
2. is identified by the Occupation Forecasting Conference as a credential for an occupation in top demand in Louisiana; and
3. is recognized by the State Industry-Based Certification Council; and
4. is approved by the State Board of Elementary and Secondary Education; and
5. is approved by the Board of Supervisors of Community and Technical Colleges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:

§1005. Establishing Eligibility

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

1. be in the eleventh or twelfth grade in a Louisiana public school;
2. have prepared a five-year education and career plan, including a sequence of related courses with a career focus as provided by the High School Career Option Subchapter in LSA-R.S. 17:183.2 et seq.;
3. have a cumulative high school grade point average on all courses attempted of not less than 2.0 when calculated on a 4.0 scale;
4. have at least the minimum scores required to pass the mathematics and English portions of the graduation exit exam established by the State Board of Elementary and Secondary Education;
5. score at least fifteen on the English subsection and fifteen on the mathematics subsection of the ACT PLAN assessment administered as part of Louisiana's Educational Planning and Assessment System;
6. enroll in a course in an industry-based occupational or vocational education credential program in a Top Demand Occupation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:

§1007. Maintaining Eligibility

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

1. agree that the award will be used exclusively for educational expenses; and
2. be a student in good standing in a Louisiana public high school; and
3. maintain a cumulative high school grade point average on all courses attempted of not less than 2.0 when calculated on a 4.0 scale; and
4. continue to pursue one or more courses leading to an industry-based credential in a Top Demand Occupation; and
5. be a student in good standing while enrolled in a Louisiana public postsecondary education institution; and
6. maintain Steady Academic Progress as defined in §301; and
7. maintain, by the end of the spring term, a cumulative college grade point average of at least 2.50 on a 4.00 maximum scale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:

§1009. Eligibility Determination

A. LOSFA shall determine the initial eligibility of students for the TOPS-TECH Early Start Award and provide a list of eligible students to public postsecondary institutions.

B. Upon receipt of bills from institutions submitted in accordance with §1903.B, LOSFA will reimburse the institution for each eligible student in accordance with §1903.

C. LOSFA shall determine the continuing eligibility of students for the TOPS-TECH Early Start Award and provide a list of eligible students to public postsecondary institutions.

D. LOSFA shall conduct audits of the participating Louisiana public postsecondary institutions to ensure compliance with program requirements.

E. LOSFA shall provide the information necessary to fully inform Louisiana public high school students and their parents on the requirements of and procedures for applying for and maintaining the award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:

§1011. Responsibilities of High Schools and School Boards

A. The high school and school board shall comply with the reporting requirements of §1703 for all students enrolled in high school.

B. The high school shall determine whether the student is in good standing in that high school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:

§1013. Responsibilities of Louisiana Public Postsecondary Institutions

A. Each Louisiana public postsecondary institution that offers an industry based occupational or vocational education credential in a Top Demand Occupation shall:

1. determine whether an eligible student has enrolled in a course at that institution to pursue an industry based occupational or vocational education credential in a Top Demand Occupation in accordance with §1903.D;
2. determine whether the student is in good standing at that institution;
3. submit bills in accordance with §1903.B for each eligible student so enrolled;
4. comply with the reporting and records retention requirements of §1903.A. and F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:

§1015. Responsibilities of the Board of Regents

A. The Board of Regents shall provide data in its possession to LOSFA as needed to determine initial eligibility for the TOPS-TECH Early Start Award.

B. The Board of Regents shall define and maintain a list of industry based occupational or vocational education credentials.

C. In the event that the funds appropriated for the TOPS-TECH Early Start Award are insufficient to pay all awards for all eligible students, the Board of Regents shall develop, approve and deliver a plan to LOSFA to limit the awards to the amount appropriated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:

§1017. Responsibilities of the Board of Elementary and Secondary Education (BESE) and the Louisiana Department of Education (LDE)

A. BESE shall provide data in its possession to LOSFA as needed to determine initial eligibility for the TOPS-TECH Early Start Award.

B. LDE shall provide data in its possession to LOSFA as needed to determine initial eligibility for the TOPS-TECH Early Start Award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 31:

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A. Undergraduate degree granting schools which are components of Louisiana public university medical centers and two- and four-year public colleges and universities are authorized to participate in the Tuition Opportunity Program for Students (TOPS), TOPS-TECH, TOPS-TECH Early

Start, Rockefeller State Wildlife Scholarship, Leveraging Educational Assistance Partnership (LEAP) Program and the GO-Youth ChalleNGe Program.

B. ...

C. Campuses of Louisiana Technical College are authorized to participate in TOPS, TOPS-TECH, TOPS-TECH Early Start, LEAP and the GO-Youth ChalleNGe Program.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 (September 2000), LR 28:1864 (November 2001), LR 28:448 (March 2002), LR 30:784 (April 2004), LR 31:

§1903. Responsibilities of Postsecondary Institutions

A. - B.9. ...

10.a. upon the school's certification that a student who is eligible for a TOPS-TECH Early Start Award is enrolled in an industry based occupational or vocational education credential program in a Top Demand Occupation institutions shall bill for and LASFAC will pay the institution for each such recipient according to the following schedule.

Credit Hours	Payment
1	\$50
2	\$100
3	\$150
4	\$200
5	\$250
6	\$300

b. The maximum that may be billed is \$300 per semester and \$600 per Academic Year (College).

Institutions may not bill for summer semesters or sessions.

C. - D.4. ...

5. for TOPS-TECH Early Start Awards:

a. verify the student is eligible and enrolled in a course in an industry based occupational or vocational education credential program in a Top Demand Occupation; and

b. verify the student is in good standing.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, 17:3041.10-3041.15, 17:3041.21-3041.26 and R.S. 17:3048.1 and R.S. 17:3050.1 -3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:

George Badge Eldredge
General Counsel

0508#003

DECLARATION OF EMERGENCY

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

Scholarship/Grant Programs 2005 Legislation
(LAC 28:IV.301, 703, 803, 1901, and 1903)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and repromulgate the Rules of the Scholarship/Grant Programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)).

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

This declaration of emergency is effective July 12, 2005 if the Governor has signed House Bills 103 and 102 by this date, otherwise the effective date is the date the last bill is signed by the governor, or the date of the time for bills to become law without signature of the governor, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

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

Chapter 3. Definitions

§301. Definitions

A. ...

Award Amount Can amount equal to Tuition at the school attended, for those students attending a Louisiana public college or university, as determined by the Commission, which may be used by the student to pay any educational expense included in that student's "Cost of Attendance." The amount paid for TOPS and TOPS-Tech Awards shall be as follows:

a. ...

b. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or an out-of-state college or university if all of the conditions of §703.I are met and enrolled in an academic degree program, the amount shall equal the Weighted Average Award Amount.

c. - h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993 and 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), repromulgated LR 27:1842 (November 2001), amended LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330 and 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:

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

§703. Establishing Eligibility

A.1.a. - A.5.a.i.(b). ...

(c). for students graduating in Academic Year (High School) 2004-2005 through 2006-2007, at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work documented on the student's official transcript as approved by the Louisiana Department of Education 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 Mathematics * Trigonometry cannot be used to fulfill this requirement for students graduating in Academic Year (High School) 2005-2006 and thereafter
1	Biology
1	Chemistry
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, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, 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	Foreign Language, both units in the same language
1/2	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 (BESE); or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included):

Units	Course
1/2	Advanced Technical Drafting (1/2 or 1 credit) Business Computer Applications (1/2 or 1 credit) Computer Applications or Computer/Technology Applications (1/2 or 1 credit) Computer Architecture (1/2 or 1 credit) Computer Electronics I (1/2 or 1 credit) Computer Electronics II (1/2 or 1 credit) Computer/Technology Literacy (1/2 or 1 credit) Computer Science I (1/2 or 1 credit) Computer Science II (1/2 or 1 credit) Computer Systems and Networking I (1/2 or 1 credit) Computer Systems and Networking II (1/2 or 1 credit) Desktop Publishing (1/2 or 1 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1/2 or 1 credit) Multimedia Productions or Multimedia Presentations (1/2 or 1 credit) Technology Education Computer Applications (1/2 or 1 credit) Telecommunications (1/2 credit) Web Mastering or Web Design (1/2 credit) Word Processing (1/2 or 1 credit) Independent Study in Technology Applications (1/2 or 1 credit)

(d). Beginning with the graduates of Academic Year (High School) 2007-2008, at the time of high school graduation, an applicant must have successfully completed 17.5 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education 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, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for one unit; provided however, that such Agriscience unit shall not be considered a science elective for the purpose of the math or science elective requirement below)
1	An elective from among the following math subjects: Geometry, Calculus, Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III, Advanced Mathematics I, Advanced Mathematics II, Integrated Mathematics III or the following science subjects: Biology II, Chemistry II, Physics or Physics II
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or
1	Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, 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	Foreign Language, both units in the same language

1/2	<p>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 (BESE) or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum). BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included):</p> <ul style="list-style-type: none"> Advanced Technical Drafting (1/2 or 1 credit) Business Computer Applications (1/2 or 1 credit) Computer Applications or Computer/Technology Applications (1/2 or 1 credit) Computer Architecture (1/2 or 1 credit) Computer Electronics I (1/2 or 1 credit) Computer Electronics II (1/2 or 1 credit) Computer/Technology Literacy (1/2 or 1 credit) Computer Science I (1/2 or 1 credit) Computer Science II (1/2 or 1 credit) Computer Systems and Networking I (1/2 or 1 credit) Computer Systems and Networking II (1/2 or 1 credit) Desktop Publishing (1/2 or 1 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1/2 or 1 credit) Multimedia Productions or Multimedia Presentations (1/2 or 1 credit) Technology Education Computer Applications (1/2 or 1 credit) Telecommunications (1/2 credit) Web Mastering or Web Design (1/2 credit) Word Processing (1/2 or 1 credit) Independent Study in Technology Applications (1/2 or 1 credit)
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A.5.a.ii. - 6.a.iii. ...

b. if qualifying under §703.A.5.c;

i. the state's reported prior year average plus 3 points, rounded, but never less than 23 for the Opportunity Award; or

ii. a 26 for the Performance Award; or

iii. a 30 for the Honors Award; and

c.i. if completed the twelfth grade level of an approved home study program during or before the Academic Year (High School) 2003-2004 or during or after the Academic Year (High School) 2008-2009 and qualifying under §703.A.5.d;

(a). the state's reported prior year average plus 3 points, rounded, but never less than 23 for the Opportunity Award; or

(b). a 26 for the Performance Award; or

(c). a 30 for the Honors Award; and

ii. if completed the twelfth grade level of an approved home study program during or after the Academic Year (High School) 2004-2005 and through the Academic Year (High School) 2007-2008 and qualifying under §703.A.5.d;

(a). the state's reported prior year average plus 2 points, rounded, but never less than 22 for the Opportunity Award; or

(b). a 25 for the Performance Award; or

(c). a 29 for the Honors Award; and

d.i. if qualifying under §703.A.5.e by graduating from a high school defined in §1701.A.5; which is limited to the Opportunity Award only; the state's reported prior year average plus 3 points, rounded, but never less than 23;

ii. if qualifying under §703.A.5.e by successfully completing the twelfth grade level a home study program approved by BESE and conducted outside the United States and its territories during or before the Academic Year (High School) 2003-2004 or during or after the Academic Year (High School) 2008-2009; which is limited to the Opportunity Award only; the state's reported prior year average plus 3 points, rounded, but never less than 23;

iii. if qualifying under §703.A.5.e by successfully completing the twelfth grade level a home study program approved by BESE and conducted outside the United States and its territories during or after the Academic Year (High School) 2004-2005 and through the Academic Year (High School) 2007-2008; which is limited to the Opportunity Award only; the state's reported prior year average plus 2 points, rounded, but never less than 22;

e. if qualifying under §703.A.5.f; which is limited to the Performance Award only; a 24; and

A.7 - H.3. ...

I. Deaf and Hard-of-Hearing Students. Any student who graduates from high school or completes an approved home study program during and after Academic Year (High School) 2004-2005 and who is eligible for a TOPS Opportunity, Performance, or Honors Award may use the award at an out-of-state college or university if all the following conditions are met:

1. the college or university is nonpublic, and

2. the college or university is accredited by a regional accrediting organization recognized by the United States Department of Education, and

3. all programs and services at the college or university are specifically designed to accommodate deaf and hard-of-hearing students, and

4. deaf and hard-of-hearing students comprise the majority of students enrolled at the college or university at the undergraduate level, and

5. the award recipient meets the admission requirements of the college or university that are applicable to deaf and hard-of-hearing students, and

6. the award recipient must enroll as First-Time Freshman as defined in §301, unless granted an exception for cause by LASFAC, in the out-of-state college or university by the deadlines established in §703.A.4, and

7. the award recipient must meet the requirements of Section 705 to continue receiving the TOPS Opportunity, Performance or Honors Awards, and

8. the college or university complies with the requirements for postsecondary institutions provided in §1903.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 and 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999 and 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219 and 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330 and 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR

30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A - A.6.b. ...

7. have achieved an ACT Score, as defined in §301, of at least:

a. if qualifying under §803.A.5.a, an ACT composite score of at least 17;

b. if qualifying under §803.A.5.b or c, an ACT composite of at least 20; and

c. if qualifying under §803.A.5.d and successfully completing the twelfth grade level a home study program approved by BESE during or before the Academic Year (High School) 2003-2004 or during or after the Academic Year (High School) 2008-2009, an ACT composite of at least 20; and

d. if qualifying under §803.A.5.d and successfully completing the twelfth grade level a home study program approved by BESE during or after the Academic Year (High School) 2004-2005 or during the Academic Year (High School) 2007-2008, an ACT composite of at least 19; and

8. - 10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31;

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A.- D. ...

E. Out-of-state colleges and universities may participate in TOPS if all the conditions of §703.I are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1 - 3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 30:784 (April 2004), LR 31:

§1903. Responsibilities of Postsecondary Institutions

A. - B.6.b. ...

c. LAICU member colleges and universities or an out-of-state college or university if all of the conditions of §703.I are met may bill for students enrolled in academic programs an amount up to the Weighted Average Award Amount, as defined in §301;

B.6.d. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, 17:3041.10-3041.15, 17:3041.21-3041.26 and R.S. 17:3048.1 and R.S. 17:3050.1 - 050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:

George Badge Eldredge
General Counsel

0508#005

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of Environmental Assessment

Remediation of Sites with Contaminated Media (LAC 33:V.109)(HW084E6)

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

This is a renewal of Emergency Rule HW084E5, which was effective April 1, 2005, and published in the *Louisiana Register* on April 20, 2005. The department is drafting a Rule to promulgate these regulation changes.

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

This Emergency Rule is effective on July 30, 2005, and shall remain in effect for a maximum of 120 days or until a final Rule is promulgated, whichever occurs first. For more information concerning HW084E6 you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street,

Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality Hazardous Waste

Chapter 1. General Provisions and Definitions

§109. Definitions

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

* * *

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

1. - 2.c.vii. ...

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

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

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

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

3. - 6.b. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003), amended by the Office of Environmental Assessment, LR 31:

Mike D. McDaniel, Ph.D.

Secretary

0508#019

DECLARATION OF EMERGENCY

Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice

Peace Officer Training (LAC 22:III.4705 and 4709)

The following amendment is published in accordance with the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, which allows the Council on Peace Officer Standards and Training (POST) to promulgate rules necessary to carry out its business or the provision of Chapter 47.

This Emergency Rule is effective on June 29, 2005 to prevent any conflict with the provisions of Act 279 of 2005 and will remain in effect for 120 days or until a final rule takes effect through the normal rule making process, whichever occurs first.

Title 22
CORRECTIONS, CRIMINAL JUSTICE
AND LAW ENFORCEMENT

Part III. Commission on Law Enforcement and
Administration of Criminal Justice

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4705. Registration of Officers

A. - B.4.c. ...

d. Grandfathering/registration shall become invalid if officer experiences a five year or more break in full time law enforcement service and has less than five years full-time experience.

C. Officers, who were hired prior to January 1, 1986, and who experience a five-year or more break in full time law enforcement, and had at least five years of full-time service, can reinstate their grandfathering by successfully completing:

1. the "Firearms" section of the Louisiana Law Enforcement Training Manual (40 minimum hours);

2. the "Legal Aspects" section of the Louisiana Law Enforcement Basic Training Manual (40 minimum hours);

3. the necessary requirements for POST registration in accordance with the provisions of §4705.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 31:

§4709. Interruption of Full-Time Service

A. Any peace officer hired prior to January 1, 1986 who interrupts his full-time law enforcement for a period in excess of five years and is thereafter rehired, shall be required to meet the basic training requirements for new peace officers unless the officer had:

1. at least a minimum of five years experience, then the officer must meet the requirement of §4705.C; or

2. had already completed a POST certified basic training course, he shall then be required to complete the Legal Aspects and firearms portion of the course, qualify on the POST firearms qualification course, and pass the statewide examination, at an accredited training center. Proof of basic training will be required. If the students fails the statewide examination, the student must complete a full basic training course.

B. Any officer hired after January, 1986, who interrupts his full-time law enforcement service for a period not to exceed five years and had at least a minimum of two years full-time experience, must qualify with his/her firearms to reinstate their certification. If the officer fails to requalify, then the officer must attend a full 40-hour training course with firearms, and successfully requalify to reinstate their certification. If the officer had interrupted his full time service for a period of five years but had less than two years full time experience, then the officer must meet the requirements for "refreshers" outlined in §4709.A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), LR 25:664 (April 1999), LR 31:

Michael A. Ranatza
Executive Director

0508#048

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Board of Veterinary Medicine

Veterinary Practice
(LAC 46:LXXXV.700 and 711)

The Louisiana Board of Veterinary Medicine readopts the following Emergency Rule effective August 4, 2005, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, and the Veterinary Practice Act, R.S. 37:1569, and it shall be in effect for the maximum period allowed under law or until adoption of the Rule, whichever occurs first. The Emergency Rule was initially adopted by the board on April 11, 2005, which was published in the April 20, 2005 issue of the Louisiana Register. It is necessary to readopt the Emergency Rule which is being done so within the initial 120 day period required by law. There is no lapse in the application of the Emergency Rule which will remain in effect for the next 120 days from August 4, 2005 or until adoption of the final Rule, whichever comes first.

The board has developed and adopted this emergency rule clarifying and implementing the regulatory requirements of a licensed veterinarian conducting a wellness or preventative care clinic in keeping with its function as defined by the State Legislature in the Veterinary Practice Act. The immediate clarification and implementation of the requirements of a wellness or preventative care clinic and related matters are in the best interest for the protection of the public health and safety. The Rule will allow a veterinarian licensed by the board to administer vaccines, perform examinations, and/or diagnostic procedures to promote good health, excluding treatment for a diagnosed disease, illness or medical condition, at a location other than a veterinary hospital, clinics, or mobile clinic. The Emergency Rule does not limit or adversely impact the practices of licensed veterinarians in hospitals, clinic or mobile clinics, or from conducting programs at a location for the administration of rabies vaccination solely for the specific purpose of rabies prevention. The proposed Rule amendment has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§700. Definitions

* * *

Wellness or Preventative Care Clinic A service in which a veterinarian licensed by the board administers vaccine, performs examinations, and/or diagnostic procedures to promote good health, excluding treatment for a diagnosed disease, illness or medical condition, at a location other than a veterinary hospital, clinic, or mobile clinic. A program for the administration of rabies vaccination conducted at a location solely for the specific purpose of rabies prevention shall not be considered a wellness or preventative care clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1328 (October 1993), amended LR 20:660 (June 1994), LR 20:1381 (December 1994), LR24:940 and 941 (May 1998), LR 24:1932 (October 1998), LR 24:2257 (December 1998), LR 27:51 (January 2001), LR 27:543 (April 2001), LR 31:

§711. Definitions and Classification of Practice

Facilities

A. - D.2. ...

E. A wellness or preventative care clinic shall have a published physical address for the specific location, telephone facilities for responding to emergency situations, and the following.

1. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall have a prior written agreement with a local veterinary hospital or clinic, within a 30 mile or 30 minutes travel time, to provide laboratory services, hospitalization, surgery, and/or radiology, if these services are not available at the wellness or preventative care clinic.

2. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall have a prior written agreement with a local veterinary hospital or clinic, within a 30 mile or 30 minutes travel time, to provide emergency care services. A notice of available emergency care services, including the telephone number and physical address of the local veterinary hospital or clinic, shall be posted in a conspicuous place at the wellness or preventative care clinic, and a copy of the notice or information shall be given to each client prior to the administration of a vaccine, the performance of an examination and/or a diagnostic procedure to promote good health.

3. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall physically remain on site until all patients are discharged to their respective owners, or authorized agents.

4. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall comply with the requirements for record keeping regarding the storage, maintenance and availability to the client of the medical records for the patients as set forth in the board's rules on record keeping. The veterinarian operating or providing permissible services in a wellness or preventative

care clinic shall be the owner of the medical records of the patients.

5. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall be responsible for consultation with clients and the prompt referral of patients when disease, illness or a medical condition is diagnosed.

6. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall be responsible for the information and representations provided to the clients by the staff at the wellness or preventative care clinic.

7. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall have his license or current renewal, in good standing, to practice veterinary medicine in Louisiana on display in a conspicuous place at each location of a wellness or preventative care clinic.

8. Operation of a wellness or preventative care clinic shall also have the following on site at each location:

- a. a clean, safe location;
- b. meet local and state sanitation requirements;
- c. lined waste receptacles;
- d. fresh, running water for cleaning purposes and first aid;
- e. an examination area with good lighting and smooth, easily disinfected surfaces;
- f. all drugs, medicines, or chemicals shall be stored, inventoried, prescribed, administered, dispensed, and/or used in accordance with federal, state and local laws and rules;
- g. all equipment shall be kept clean and in proper working order;
- h. the ability to address sudden life-threatening emergencies which may arise, including the availability, on site, of oxygen, resuscitation drugs, treatment for shock, and fluid administration materials; and
- i. the proper disposal of biomedical waste and the required facilities, on site, for such disposal, as well as documentation on site to verify the proper disposal of biomedical waste.

9. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall make all decisions which involve, whether directly or indirectly, the practice of veterinary medicine and will be held accountable for such decisions in accordance with the Veterinary Practice Act, the board's rules, and other applicable laws.

10. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall be responsible for compliance with all standards and requirements set forth in the Veterinary Practice Act, the board's rules, and other applicable laws.

11. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall provide a copy of any signed written agreement, including renewal, extension or amendment, required by this rule to the board prior to commencement of the terms of the agreement.

12. The veterinarian operating or providing permissible services in a wellness or preventative care clinic shall provide the board, upon written demand, a copy of the

written agreement with the local veterinary hospital or clinic required by this rule.

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 23:969 (August 1997), LR 24:2123 (November 1998), LR 31:

Wendy D. Parrish
Administrative Director

0508#023

DECLARATION OF EMERGENCY

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

Medical Transportation Program
Emergency Ambulance Services
Certification for Ambulance Services

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to increase the reimbursement paid for designated emergency ambulance procedures by 1.4 percent (*Louisiana Register*, Volume 27, Number 11). The bureau subsequently adopted a Rule which established the provisions governing the medical certification of emergency and non-emergency ambulance services (*Louisiana Register*, Volume 29, Number 11). The bureau promulgated an Emergency Rule effective July 25, 2005 to amend the November 20, 2001 and November 20, 2003 rules governing reimbursement methodology and medical certification of emergency ambulance services. The bureau now proposes to repeal the July 25, 2005 Emergency Rule and amend the November 20, 2003 Rule to discontinue the requirement for completion of a medical certification form for reimbursement of emergency ambulance services.

This action is being taken to assure continued access to emergency ambulance services for Medicaid recipients by encouraging the continued participation of ambulance services providers in the Medicaid Program. It is estimated that the implementation of this proposed Emergency Rule will increase expenditures for emergency ambulance services by approximately \$3,641,657 for state fiscal year 2005-2006.

Emergency Rule

Effective for dates of service on or after August 3, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing discontinues the requirement for completion of the medical transportation certification form for reimbursement of emergency ambulance services. In order to submit a claim for Medicaid

reimbursement, the emergency ambulance trip must meet the definition of emergency response as defined by the Centers for Medicare and Medicaid Services. All claims for emergency ambulance services are subject to post pay review.

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

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

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

0508#009

DECLARATION OF EMERGENCY

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

Medical Transportation Program
Emergency Ambulance Services
Reimbursement Reduction and Certification for Services

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to increase the reimbursement paid for designated emergency ambulance procedures by 1.4 percent (*Louisiana Register*, Volume 27, Number 11). The bureau subsequently adopted a rule which established the provisions governing the medical certification of emergency and non-emergency ambulance services (*Louisiana Register*, Volume 29, Number 11). The bureau has now determined it is necessary to amend the November 20, 2001 and November 20, 2003 rules to reduce the reimbursement paid for certain designated emergency ambulance procedures and to discontinue the requirement for completion of a medical certification form for reimbursement of emergency ambulance services.

This action is being taken to assure continued access to emergency ambulance services for Medicaid recipients by encouraging the continued participation of ambulance services providers in the Medicaid Program. It is estimated that the implementation of this proposed emergency rule will increase expenditures for emergency ambulance services by approximately \$2,593,096 for state fiscal year 2005-2006.

Emergency Rule

Effective for dates of service on or after July 25, 2005, the Department of Health and Hospitals, Office of the Secretary,

Bureau of Health Services Financing reduces the reimbursement paid for the following designated emergency ambulance procedures to 60 percent of the rate in effect as of June 30, 2005:

- ALS Spec Serv Disposable Supplies IV;
- ALS Routine Disposable Supplies;
- Ambulance 02 Life Sustaining.

In addition, the bureau discontinues the requirement for completion of the medical transportation certification form for reimbursement of emergency ambulance services. In order to submit a claim for Medicaid reimbursement, the emergency ambulance trip must meet the definition of emergency response as defined by the Centers for Medicare and Medicaid Services. All claims for emergency ambulance services are subject to post pay review.

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

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

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

0508#018

DECLARATION OF EMERGENCY

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

Mental Health Rehabilitation Program
Medical Necessity Criteria
(LAC 50:XV.Chapters 1-7)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule hereby amends LAC 50:XV.Chapters 1-7 in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to adopt the revised provisions governing the administration of the Mental Health Rehabilitation Program (*Louisiana Register*, Volume 31, Number 5). The bureau now proposes to amend the May 20, 2005 Rule to adopt revised medical necessity criteria for mental health rehabilitation services and to clarify Medicaid policy governing provision of services in off-site locations and staffing requirements.

This action is being taken to promote the health and well being of Medicaid recipients who are receiving mental health rehabilitation services by assuring continuity of

services during the transition period to the restructured Mental Health Rehabilitation Program. It is anticipated that the implementation of this Emergency Rule will decrease expenditures in the Mental Health Rehabilitation Program by approximately \$25,528,470 for state fiscal year 2005-2006.

Effective August 1, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions contained in the May 20, 2005 Rule to adopt revised medical necessity criteria for mental health rehabilitation services and to clarify Medicaid policy governing provision of services in off-site locations and staffing requirements.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 1. Mental Health Rehabilitation

Chapter 1. General Provisions

§103. Definitions and Acronyms

Off-Site Service Delivery Location Locations of service that are publicly available for, and commonly used by, members of the community other than the MHR provider and site or locations that are directly related to the recipient's usual environment, or those sites or locations that are utilized in a non-routine manner. This can also include a location used solely for the provision of allowable off-site service delivery by a certified MHR provider.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1082 (May 2005), amended LR 31:

§105. Prior Authorization

A. Every mental health rehabilitation service shall be prior authorized by the bureau or its designee. Services provided without prior authorization will not be considered for reimbursement. There shall be no exceptions to the prior authorization requirement.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1083 (May 2005), amended LR 31:

Chapter 3. Covered Services and Staffing Requirements

Subchapter A. Service Delivery

§301. Introduction

A. - B. ...

C. Children's Services. There shall be family and/or legal guardian involvement throughout the planning and delivery of MHR services for children and adolescents. The agency or individual who has the decision making authority for children and adolescents in State custody must request and approve the provision of MHR services to the recipient. The case manager or person legally authorized to consent to medical care must be involved throughout the planning and delivery of all MHR services and such involvement must be documented in the recipient's record maintained by the MHR agency.

1. The child or adolescent shall be served within the context of the family and not as an isolated unit. Services shall be appropriate for:

- a. age;
- b. development;
- c. education; and
- d. culture.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1083 (May 2005), amended LR 31:

Subchapter B. Mandatory Services

§311. Assessment

A. - B.1. ...

2. A licensed mental health professional (LMHP) shall:

- a. have a face-to-face contact with the recipient for the purpose of completing the assessment;
- b. score the LOCUS/CALOCUS if he/she has been approved to be a clinical evaluator by Office of Mental Health (OMH); and
- c. sign and date the assessment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1083 (May 2005), amended LR 31:

§317. Community Support

A. Community support services is the provision of mental health rehabilitation services and supports necessary to assist the recipient in achieving and maintaining rehabilitative, resiliency and recovery goals. The service is designed to meet the educational, vocational, residential, mental health treatment, financial, social and other treatment support needs of the recipient. Community support is the foundation of the recovery-oriented ISRP and is essential to all MHR recipients. Its goal is to increase and maintain competence in normal life activities and to gain the skills necessary to allow recipients to remain in or return to naturally occurring supports. This service includes the following specific goals:

- 1. achieving the restoration, reinforcement, and enhancement of skills and/or knowledge necessary for the recipient to achieve maximum reduction of his/her psychiatric symptoms;
- 2. minimizing the effect of mental illness;
- 3. maximizing the recipient's strengths with regard to the mental illness;
- 4. increasing the level of the recipient's age-appropriate behavior;
- 5. increasing the recipient's independent functioning to an appropriate level.
- 6. enhancing social skills;
- 7. increasing adaptive behaviors in family, peer relations, school and community settings;
- 8. maximizing linkage and engagement with other community services, including natural supports and resources;
- 9. applying decision-making methods in a variety of skill building applications; and
- 10. training caregivers to address the needs identified in the ISRP using preventive, developmental and therapeutic interventions designed for direct individual activities.

B. ...

C. Service Exclusions. This service may not be combined on an ISRP with Parent/Family Intervention (Intensive). Community support is an individualized service and is not billable if delivered in a group setting or with more than one recipient per staff per contact.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1084 (May 2005), amended LR 31:

§319. Group Counseling

A. Group counseling is a treatment modality using face-to-face verbal interaction between two to eight recipients. It is a professional therapeutic intervention utilizing psychotherapy theory and techniques. The service is directed to the goals on the approved ISRP.

B.1. - 2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1084 (May 2005), amended LR 31:

§321. Individual Intervention/Supportive Counseling

A. Individual intervention and supportive counseling are verbal interactions between the counselor therapist and the recipient receiving services that are brief, face-to-face, and structured. Individual intervention (child) and supportive counseling (adult) are services provided to eliminate the psychosocial barriers that impede the skills necessary to function in the community.

A.1. - B.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1084 (May 2005), amended LR 31:

§325. Psychosocial Skills Training Group (Youth)

A. Psychosocial Skills Training Group (Youth) is a therapeutic, rehabilitative, skill building service for children and adolescents to increase and maintain competence in normal life activities and gain the skills necessary to allow them to remain in or return to their community. It is an organized service based on models incorporating psychosocial interventions.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1085 (May 2005), amended LR 31:

Subchapter C. Optional Services

§335. Parent/Family Intervention (Intensive)

A. Parent/Family Intervention (Intensive) is a structured service involving the recipient and one or more of his/her family members. It is an intensive family preservation intervention intended to stabilize the living arrangement, promote reunification, or prevent utilization of out of home therapeutic placement (i.e., psychiatric hospitalization, therapeutic foster care) for the recipient. These services focus on the family and are delivered to children and adolescents primarily in their homes. This service is comprehensive and inclusive of certain other rehabilitative services as noted in the "Services Exclusions" sections of those services.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1085 (May 2005), amended LR 31:

§337. Psychosocial Skills Training Group (Adult)

A. Psychosocial Skills Training Group (Adult) is a therapeutic, rehabilitative, skill building service for individuals to increase and maintain competence in normal life activities and gain the skills necessary to allow them to remain in or return to their community. It is designed to increase the recipient's independent functioning in his/her living environment through the integration of recovery and rehabilitation principles into the daily activities of the recipient. It is an organized program based on a psychosocial rehabilitation philosophy to assist persons with significant psychiatric disabilities, to increase their functioning to live successfully in the natural environments of their choice.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1085 (May 2005), amended LR 31:

Chapter 5. Medical Necessity Criteria

§501. General Provisions

A. When a recipient requests MHR services, an initial screening must be completed to determine whether the recipient potentially meets the medical necessity criteria for MHR services. If it determined that the recipient potentially meets the criteria for services, an initial assessment shall be completed and fully documented in the recipient's record no later than 30 days after the request for services. Information in an assessment shall be based on current circumstances (within 30 days) and face-to-face interviews with the recipient. If the recipient is a minor, the information shall be obtained from a parent, legal guardian or other person legally authorized to consent to medical care.

B. At the point of initial screening, if the recipient and MHR provider staff determines that the recipient does not meet the medical necessity criteria for MHR services, the MHR provider shall refer the recipient to his/her primary care physician and document the referral.

C. If it is determined during the assessment process that the recipient does not meet the medical necessity criteria for MHR services, the MHR provider shall refer the recipient to his/her primary care physician or to the appropriate medically necessary services, and document the referral.

D. In order to qualify for MHR services, a recipient must meet the medical necessity criteria for services outlined in §503 or §505. These medical necessity criteria shall be utilized for authorization and reauthorization requests received on or after August 1, 2005.

E. Initially all recipients must meet the medical necessity criteria for diagnosis, disability, duration and level of care. MHR providers shall rate recipients on the CALOCUS/LOCUS at 30 day intervals, and these scores and supporting documentation must be submitted to the Bureau or its designee upon request. Ongoing services must be requested every 90 days based on progress towards goals, individual needs, and level of care requirements which are consistent with the medical necessity criteria.

F. For authorization and reauthorization requests received on or after August 1, 2005, lengths of stay in the MHR Program beyond 270 days (nine months) shall be independently reviewed by the bureau or its designee for reconsideration of appropriateness, efficacy, and medical necessity for continuation of MHR services.

G. The bureau or its designee reserves the right to require a second opinion evaluation by a licensed mental health professional that is not associated with the MHR provider that is seeking authorization or reauthorization of services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1086 (May 2005), amended LR 31:

§503. Adult Criteria for Services

A. In order to qualify for MHR services, Medicaid recipients age 18 or older must meet the following criteria:

1. diagnosis. The recipient must currently have or, at any time during the past year, had a diagnosable mental behavioral or emotional disorder of sufficient duration to meet the diagnostic criteria specified within the *Diagnostic and Statistical Manual of Mental Disorders (DSM-IV-TR)* or the *International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM)*; or subsequent revisions of these documents. The diagnostic criteria specified under DSM-IV-TR "V" codes for substance use disorders and developmental disorders are excluded unless these disorders co-occur with another diagnosable serious mental illness; and

2. disability. In order to meet the criteria for disability, the recipient must exhibit emotional, cognitive or behavioral functioning which is so impaired, as a result of mental illness, as to substantially interfere with role, occupational and social functioning as indicated by a score within levels four or five on the LOCUS that can be verified by the bureau or its designee; and

3. duration. The recipient must have a documented history of severe psychiatric disability which is expected to persist for at least a year and requires intensive mental health services, as indicated by one of the following:

a. psychiatric hospitalizations of at least six months duration in the last five years (cumulative total); or

b. two or more hospitalizations for mental disorders in the last 12-month period; or

c. structured residential care, other than hospitalization, for a duration of at least six months in the last five years; or

d. documentation indicating a previous history of severe psychiatric disability of at least six months duration in the past year.

NOTE: Recipients who are age 18 and up to 21 and who have been determined not to meet the adult medical necessity criteria for MHR services, initial or continued care, shall be reassessed by the bureau or its designee using the children/adolescent medical necessity criteria for services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§505. Child/Adolescent Criteria for Services

A. In order to qualify for MHR services, Medicaid recipients age 17 or younger must meet the following criteria:

1. diagnosis. The recipient must currently have or, at any time during the past year, had a diagnosable mental, behavioral or emotional disorder of sufficient duration to meet the diagnostic criteria specified within the *Diagnostic and Statistical Manual of Mental Disorders (DSM-IV-TR)* or the *International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM)*, or subsequent revisions of these documents. The diagnostic criteria specified under DSM-IV-TR "V" codes for substance use disorders and developmental disorders are excluded unless these disorders co-occur with another diagnosable serious mental illness; and

2. disability. In order to meet the criteria for disability, the recipient must exhibit emotional, cognitive or behavioral functioning which is so impaired, as a result of mental illness, as to substantially interfere with role, educational, and social functioning as indicated by a score within levels four or five on the CALOCUS that can be verified by the bureau or its designee; and

NOTE: Youth returning to community living from structured residential settings or group homes under the authority of the Office of Community Services or the Office of Youth Services may be considered to meet the disability criteria for admission with a level three on the LOCUS or CALOCUS.

3. duration. The recipient must have a documented history of severe psychiatric disability that is expected to persist for at least a year and requires intensive mental health services, as indicated by at least one of the following:

- a. past psychiatric hospitalization(s);
- b. past supported residential care for emotional/behavioral disorder;
- c. past structured day program treatment for emotional/behavioral disorder; or
- d. documentation indicating that an impairment or pattern of inappropriate behaviors has persisted for at least three months and is expected to persist for at least six months.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§507. Exclusionary Criteria

A. Mental health rehabilitation services are not considered to be appropriate for recipients whose diagnosis is mental retardation, developmental disability or substance abuse unless they have a co-occurring diagnosis of severe mental illness or emotional/behavioral disorder as specified within DSM-IV-TR or ICD-9-CM, or its subsequent revisions of these documents.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§509. Discharge Criteria

A. Discharge planning must be initiated and documented for all recipients at time of admission to MHR services. For those recipients who are receiving MHR services as of July

31, 2005, discharge planning must be initiated and documented prior to the end of the then current 90 day service plan. Discharge from mental health rehabilitation services for current and new recipients shall be initiated if at least one of the following situations occurs:

- 1. the recipient's treatment plan/ISRP goals and objectives have been substantially met;
- 2. the recipient meets criteria for higher level of treatment, care, or services;
- 3. the recipient, family, guardian, and/or custodian are not engaging in treatment or not following program rules and regulations, despite attempts to address barriers to treatment;
- 4. consent for treatment has been withdrawn;
- 5. supportive systems that allow the recipient to be maintained in a less restrictive treatment environment have been arranged; or
- 6. the recipient receives three successive scores within level three or less on the CALOCUS/LOCUS. If this situation occurs, the provider shall implement a written discharge plan which includes a plan for the arrangement of services required to transition the recipient to a lower level of care within the community.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

Chapter 7. Provider Participation Requirements

Subchapter A. Certification and Enrollment

§701. Provider Enrollment Moratorium

- A. ...
- B. Exception. MHR providers may be allowed to enroll and obtain a new Medicaid provider number for existing satellite offices. In order to obtain a provider number for a satellite office, the MHR provider must have disclosed the satellite office to DHH before August 20, 2004. The MHR provider must provide clear and convincing proof, in the discretion of the department, that any listed satellite office or off-site location was operational prior to the moratorium.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:668 (March 2005), amended LR 31:

§703. Application

A. To be certified or recertified as a mental health rehabilitation provider requires that the provisions of this Subpart 1, the provider manual and the appropriate statutes are met. A prospective provider who elects to provide MHR services shall apply to the Bureau of Health Service Financing or its designee for certification. The prospective provider shall create and maintain documents to substantiate that the provider meets all prerequisites in order to qualify as a Medicaid provider of MHR services.

B. - B.10. ...

11. proof of an adult day care license issued by the Department of Social Services or its successor when psychosocial skills training for adults is offered by the MHR provider. All licenses and certificates shall be in the name of the MHR provider and shall contain the provider's correct name and address;

12. - 14. ...

C. The MHR provider shall have a separate Medicaid provider number for each location where it routinely conducts business and provides scheduled services. This does not include those sites or locations that meet the definition of an off-site service delivery location. Satellite offices or off-site locations must have been operational before August 20, 2004 or they will not be allowed to provide MHR services after August 1, 2005.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1086 (May 2005), amended LR 31:

§705. Application and Site Reviews

A. A prospective MHR provider shall undergo one or more reviews by BHSF or its designee before certification:

1. an application review;
2. a first site review; and if necessary
3. a second site review.

B. BHSF or its designee will conduct a review of all application documents for compliance with MHR requirements. If the documentation is approved, the applicant will be notified and an appointment will be scheduled for a first site review of the prospective MHR provider's physical location. If the first site review is successful, the certification request will be approved and forwarded to Provider Enrollment for further processing.

C. If the application documentation furnished by the prospective MHR provider is not acceptable, a meeting will be scheduled to discuss the deficiencies. The applicant has 30 days to correct the documentation deficiencies and to request a site visit at their physical location.

1. If the prospective MHR provider requests a site visit in a timely manner, a site review of their physical location will be scheduled. At the onsite review, BHSF or its designee will review the corrected documents and make an assessment of the physical location. If the prospective provider has corrected the application document deficiencies and the physical location is deemed acceptable and sufficient to operate as a mental health rehabilitation provider, BHSF or its designee will approve the certification request and forward the necessary paperwork to Provider Enrollment for further processing.

C.2. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:802 (April 2004), amended LR 31:1087 (May 2005) amended LR 31:

Subchapter C. Provider Responsibilities

§731. General Provisions

A. - A.1. ...

B. The MHR provider shall immediately report any suspected or known violations of any state or federal criminal law to the Bureau.

C. Each MHR provider shall maintain written procedures and implement all required policies and procedures immediately upon acceptance of recipients for services.

D. The MHR provider shall develop a policy and procedure for hospitalization that is in conformity with the single point of entry (SPOE) policy and procedure.

E. The MHR provider shall request an expedited prior authorization review for any recipient whose discharge from a 24 hour care facility is dependent on follow-up mental health services.

F. The MHR provider shall develop a quality improvement procedure (QIP) plan as outlined in the current MHR provider manual. It should address all aspects of the MHR provider operation.

G. If, as a result of a monitoring review, a written notice of deficiencies is given to the MHR provider, the provider shall submit a written corrective action plan to the Bureau within 10 days of receipt of the notice from the Department. If the MHR provider fails to submit a corrective action plan within 10 days from the receipt of the notice, sanctions may be imposed against the MHR provider.

H. The MHR provider must establish regular business office hours for all enrolled office locations. Business office locations must be fully operational at least eight hours a day, five days a week between the hours of 7 a.m. and 7 p.m. This requirement does not apply to off-site service delivery locations. Each office shall contain office equipment and furnishings requisite to providing MHR services including, but not limited to, computers, facsimile machines, telephones and lockable file cabinets. Offices shall be located in a separate building from the residence of the MHR provider's owner.

1. An office location is fully operational when the provider:

- a. has met all the requirements for and becomes certified to offer mental health rehabilitation services;
- b. has at least five active recipients at the time of any monitoring review, other than the initial application review;
- c. is capable of accepting referrals at any time during regular business hours;
- d. retains adequate staff to assess, process and manage the needs of current recipients;
- e. has the required designated staff on site (at each location) during business hours; and
- f. is immediately available to its recipients and BHSF by telecommunications 24 hours per day.

2. MHR services may be delivered in off site service delivery locations that are:

- a. publicly available for and commonly used by members of the community other than the provider (e.g., libraries, community centers, YMCA, church meeting rooms, etc.);
- b. directly related to the recipient's usual environment (e.g., home, place of work, school); or
- c. utilized in a non-routine manner (e.g., hospital emergency rooms or any other location in which a crisis intervention service is provided during the course of the crisis).

NOTE: Services may not be provided in the home(s) of the MHR provider's owner, employees or agents. Group counseling and psychosocial skills training (adult and youth) services may not be provided in a recipient's home or place of residence.

NOTE: Services may not be provided in the professional practitioner's private office.

3. Every location where services are provided shall be established with the intent to promote growth and development, client confidentiality, and safety.

4. The MHR provider accepts full responsibility to ensure that its office locations meet all applicable federal, state and local licensing requirements. The transferring of licenses and certifications to new locations is strictly prohibited. It is also the responsibility of the MHR provider to immediately notify the Bureau of any office relocation or change of address and to obtain a new certification and license (if applicable).

I. As part of the service planning process, when it is determined that MHR discharge criteria has been met, the MHR provider shall refer the recipient to his/her primary care physician or to the appropriate medically necessary services, and document the referral.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1088 (May 2005) amended LR 31:

§735. Orientation and Training

A. Orientation and training shall be provided to all employees, volunteers, interns and student workers. This orientation should be comprised of no less than five face-to-face hours and may be considered as part of the overall requirement of 16 hours orientation.

A.1 - 5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1089 (May 2005) amended LR 31:

§737. Staffing Qualifications

A. MHR services shall be provided by individuals who meet the following education and experience requirements.

1. Licensed Mental Health Professional (LMHP). A LMHP is a person who has a graduate degree in a mental health-related field from an accredited institution and is licensed to practice in the state of Louisiana by the applicable professional board of examiners. In order to qualify as a mental health-related field, an academic program must have curriculum content in which at least 70 percent of the required courses for the major field of study are based upon the core mental health disciplines. The following professionals are considered to be LMHPs.

a. Psychiatrist. Each MHR provider shall implement and maintain a contract with a psychiatrist(s) to provide consultation and/or services on site as medically necessary. The psychiatrist must be a licensed medical doctor (M.D. or D.O.) who is board-certified or board-eligible, authorized to practice psychiatry in Louisiana and enrolled to participate in the Louisiana Medicaid Program. A board eligible psychiatrist may provide psychiatric services to MHR recipients if he/she meets all of the following requirements.

i. The physician must hold an unrestricted license to practice medicine in Louisiana and unrestricted DEA and state and federal controlled substance licenses. If licenses are held in more than one state or jurisdiction, all licenses held by the physician must be documented in the employment record and also be unrestricted.

ii. The physician must have satisfactorily completed a specialized psychiatric residency training program accredited by the Accreditation Council for Graduate Medical Education (ACGME), as evidenced by a

copy of the certificate of training or a letter of verification of training from the training director which includes the exact dates of training and verification that all ACGME requirements have been satisfactorily met. If training was completed in child and adolescent psychiatry, the training director of the child and adolescent psychiatry program must document the child and adolescent psychiatry training.

NOTE: All documents must be maintained and readily retrieved for review by the bureau or its designee.

b. Psychologist—an individual who is licensed as a practicing psychologist under the provisions of R.S. 37:2351-2367;

c. Registered Nurse—a nurse who is licensed as a registered nurse or an advanced practice registered nurse in the State of Louisiana by the Board of Nursing. An advanced practice registered nurse, who is a clinical nurse specialist in psychiatry, must operate under an OMH approved collaborative practice agreement with an OMH approved board certified psychiatrist. A registered nurse must:

i. be a graduate of an accredited program in psychiatric nursing and have two years of post-master's supervised experience in the delivery of mental health services; or

ii. have a master's degree in nursing or a master's degree in a mental health-related field and two years of supervised post master's experience in the delivery of mental health services; and

NOTE: Supervised experience is experience in mental health services delivery acquired while working under the formal supervision of a LMHP.

iii. six CEUs regarding the use of psychotropic medications, including atypicals, prior to provision of direct service to MHR recipients.

NOTE: Every registered nurse providing MHR services shall have documented evidence of five CEUs annually that are specifically related to behavioral health and medication management issues.

d. Social Worker—an individual who has a master's degree in social work from an accredited school of social work and is a licensed clinical social worker under the provisions of R.S. 37:2701-2723.

e. Licensed Professional Counselor—an individual who has a master's degree in a mental health related field, is licensed under the provisions of R.S. 37:1101-1115 and has two years post-masters experience in mental health.

2. Mental Health Professional (MHP). The MHP is an individual who has a master's degree in a mental health-related field, with a minimum of 15 hours of graduate-level course work and/or practicum in applied intervention strategies/methods designed to address behavioral, emotional and mental disorders as a part of, or in addition to, the master's degree.

NOTE: The MHP must be an employee of the MHR provider and work under the supervision of a LMHP.

3. Mental Health Specialist (MHS). The MHS is an individual who meets one or more of the following criteria:

a. a bachelor's degree in a mental health related field; or

b. a bachelor's degree, enrolled in college and pursuing a graduate degree in a mental health-related field, and have completed at least two courses in that identified field; or

c. a high school diploma or a GED, and at least four years experience providing direct services in a mental health,

physical health, social services, education or corrections setting.

NOTE: The MHR must be an employee of the MHR provider and work under the supervision of a LMHP.

4. Nurse. A registered nurse who is licensed by the Louisiana Board of Nursing or a licensed practical nurse who is licensed by the Louisiana Board of Practical Nurse Examiners may provide designated components of medication management services if he/she meets the following requirements.

a. A registered nurse must have:

i. a bachelor's degree in nursing and four years of supervised experience as a psychiatric nurse which must have occurred no more than five years from the date of employment or contract with the MHR provider; or

ii. an associate degree in nursing and six years of supervised experience as a psychiatric nurse which must have occurred no more than five years from the date of employment or contract with the MHR provider; and

NOTE: Supervised experience is experience in mental health services delivery acquired while working under the formal supervision of a LMHP.

iii. six CEUs regarding the use of psychotropic medications, including atypicals, prior to provision of direct service to MHR recipients.

b. A licensed practical nurse may perform medication administration if he/she has:

i. one year of experience as a psychiatric nurse which must have occurred no more than five years from the date of employment/contract with the MHR provider; and

ii. six CEUs regarding the use of psychotropic medications, including atypicals, prior to provision of direct service to any recipient.

NOTE: Every registered nurse and licensed practical nurse providing MHR services shall have documented evidence of five CEUs annually that are specifically related to behavioral health and medication management issues.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1089 (May 2005), amended LR 31:

Subchapter D. Records

§757. Personnel Records

A. A complete personnel records creation and retention policy shall be developed, implemented and maintained by the MHR provider. The MHR provider shall maintain documentation and verification of all relevant information necessary to assess qualifications for all staff, volunteers and consultants. All required licenses as well as professional, educational and work experience must be verified and documented in the employee's or agent's personnel record prior to the individual providing billable Medicaid services. The MHR provider's personnel records shall include the following documentation.

1. Employment Verification. Verification of previous employment shall be obtained and maintained in accordance with the criteria specified in the MHR Provider Manual.

2. Educational Verification. Educational documents, including diplomas, degrees and certified transcripts shall be maintained in the records. Résumés and documentation of qualifications for the psychiatrist and LMHPs, including verification of current licensure and malpractice insurance, must also be maintained in the records.

3. Criminal Background Checks. There shall be documentation verifying that a criminal background check was conducted on all employees prior to employment. If the MHR provider offers services to children and adolescents, it shall have background checks performed as required by R.S. 15:587.1 and R.S. 15:587.3. The MHR provider shall not hire an individual with a record as a sex offender or permit these individuals to work for the provider.

4. Drug Testing. All prospective employees who apply to work shall be subject to a drug test for illegal drug use. The drug test shall be administered after the date of the employment interview and before an offer of employment is made. If a prospective employee tests positive for illegal drug use, the MHR provider shall not hire the individual. The MHR provider shall have a drug testing policy that provides for the random drug testing of employees and a written plan to handle employees who test positive for illegal drug use, whether the usage occurs at work or during off duty hours. This documentation shall be readily retrievable upon request by the bureau or its designee.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1090 (May 2005), amended LR 31:

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

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

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

0508#014

DECLARATION OF EMERGENCY

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

Pharmacy Benefits Management Program
Parenteral Therapy

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to adopt the provisions governing the Parenteral Nutrition Therapy (*Louisiana Register*, Volume 31, Number 1). In compliance with guidelines established by the U.S.

Department of Health and Human Services, Centers for Medicare and Medicaid Services, the bureau promulgated an Emergency Rule to repeal the provisions governing parenteral therapy in the Durable Medical Equipment Program and repromulgated these provisions under the Pharmacy Benefits Management Program (*Louisiana Register*, Volume 31, Number 6). The bureau hereby amends the June 20, 2005 Emergency Rule to include reimbursement methodology for parenteral nutrition therapy.

This action is being taken to avoid federal sanctions. It is anticipated that implementation of this emergency rule will be cost neutral for state fiscal year 2005-2006.

Emergency Rule

Effective August 20, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing parenteral nutrition therapy under the Pharmacy Benefits Management Program.

Parenteral Nutrition Therapy

A. Parenteral nutrition (PN) therapy is the introduction of nutrients by some means other than through the gastrointestinal tract, in particular intravenous, subcutaneous, intramuscular, or intramedullary injection. Intravenous nutrition is also referred to as TPN (Total Parenteral Nutrition) or Hyperalimentation Therapy.

Medical Necessity Criteria

A. Parenteral nutrition is covered for a recipient with permanent, severe pathology of the alimentary tract which does not allow absorption of sufficient nutrients to maintain weight and strength commensurate with the recipient's general condition.

B. Parenteral nutrition is considered to be medically necessary when any of the following conditions exists. The conditions must be deemed to be severe enough that the recipient would not be able to maintain his/her weight and strength on only oral intake or tube enteral nutrition. The recipient:

1. has undergone recent (within the past three months) massive small bowel resection leaving less than or equal to 5 feet of small bowel beyond the ligament of Treitz; or
2. has a short bowel syndrome that is severe enough that the recipient has net gastrointestinal fluid and electrolyte malabsorption such that on an oral intake of 2.5-3 liters/day the enteral losses exceed 50 percent of the oral/enteral intake and the urine output is less than 1 liter/day; or
3. requires bowel rest for at least three months and is receiving intravenously 20-35 cal/kg/day for treatment of symptomatic pancreatitis with/without pancreatic pseudocyst, severe exacerbation of regional enteritis, or a proximal enterocutaneous fistula where tube feeding distal to the fistula is not possible; or
4. has complete mechanical small bowel obstruction where surgery is not an option; or
5. is significantly malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl) and has very severe fat malabsorption (fecal fat exceeds 50 percent of oral/enteral intake on a diet of at least 50 gm of fat/day as measured by a standard 72 hour fecal fat test); or
6. is significantly malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl) and has a severe motility disturbance

of the small intestine and/or stomach which is unresponsive to prokinetic medication. Prokinetic medication is defined as the presence of daily symptoms of nausea and vomiting while taking maximal doses and is demonstrated either:

- a. scintigraphically (solid meal gastric emptying study demonstrates that the isotope fails to reach the right colon by six hours following ingestion); or
- b. radiographically (barium or radiopaque pellets fail to reach the right colon by six hours following administration).

NOTE: These studies must be performed when the recipient is not acutely ill and is not on any medication which would decrease bowel motility.

C. Maintenance of weight and strength commensurate with the recipient's overall health status must require intravenous nutrition and must not be possible utilizing all of the following approaches:

1. modifying the nutrient composition of the enteral diet (e.g., lactose free, gluten free, low in long chain triglycerides, substitution with medium chain triglycerides, provision of protein as peptides or amino acids, etc.); and
2. utilizing pharmacologic means to treat the etiology of the malabsorption (e.g., pancreatic enzymes or bile salts, broad spectrum antibiotics for bacterial overgrowth, prokinetic medication for reduced motility, etc.).

D. Recipients who do not meet the criteria in B.1-6 must meet criteria in C.1-2 (modification of diet and pharmacologic intervention) in addition to the following criteria:

1. the recipient is malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl); and
2. a disease and clinical condition has been documented as being present and it has not responded to altering the manner of delivery of appropriate nutrients (e.g., slow infusion of nutrients through a tube with the tip located in the stomach or jejunum).

E. The following are some examples of moderate abnormalities which would require a failed trial of tube enteral nutrition before PN would be covered:

1. moderate fat malabsorption - fecal fat exceeds 25 percent of oral/enteral intake on a diet of at least 50 gm fat/day as measured by a standard 72 hour fecal fat test;
2. diagnosis of malabsorption with objective confirmation by methods other than 72 hour fecal fat test (e.g., Sudan stain of stool, dxylose test, etc.);
3. gastroparesis which has been demonstrated:
 - a. radiographically or scintigraphically as described in Subsection B above with the isotope or pellets failing to reach the jejunum in three to six hours; or
 - b. by manometric motility studies with results consistent with an abnormal gastric emptying, and which is unresponsive to prokinetic medication.
4. a small bowel motility disturbance which is unresponsive to prokinetic medication, demonstrated with a gastric to right colon transit time between three to six hours.
5. small bowel resection leaving greater than 5 feet of small bowel beyond the ligament of Treitz.
6. short bowel syndrome which is not severe (as defined in B.2);
7. mild to moderate exacerbation of regional enteritis, or an enterocutaneous fistula;

8. partial mechanical small bowel obstruction where surgery is not an option.

F. Documentation must support that a concerted effort has been made to place a tube. For gastroparesis, tube placement must be post-pylorus, preferably in the jejunum. Use of a double lumen tube should be considered. Placement of the tube in the jejunum must be objectively verified by radiographic studies or luoroscopy. Placement via endoscopy or open surgical procedure would also verify location of the tube.

G. A trial with enteral nutrition must be documented, with appropriate attention to dilution, rate, and alternative formulas to address side effects of diarrhea.

H. PN can be covered in a recipient with the ability to obtain partial nutrition from oral intake or a combination of oral/enteral or oral/enteral/parenteral intake as long as the following criteria are met:

1. a permanent condition of the alimentary tract is present which has been deemed to require parenteral therapy because of its severity;

2. a permanent condition of the alimentary tract is present which is unresponsive to standard medical management; and

3. the person is unable to maintain weight and strength.

I. If the medical necessity criteria for parenteral nutrition are met, medically necessary nutrients, administration supplies and equipment are covered. PN solutions containing little or no amino acids and/or carbohydrates would be covered only in situations stated in B.1, 2, or 4 above.

J. Documentation Requirements

1. Recipients covered under Paragraph B.4 must have documentation of the persistence of their condition. Recipients covered under B.5–D.2 must have documentation that sufficient improvement of their underlying condition has not occurred which would permit discontinuation of parenteral nutrition. Coverage for these recipients would be continued if the treatment has been effective as evidenced by an improvement of weight and/or serum albumin. If there has been no improvement, subsequent claims will be denied unless the physician clearly documents the medical necessity for continued parenteral nutrition and any changes to the therapeutic regimen that are planned, e.g., an increase in the quantity of parenteral nutrients provided.

2. A total caloric daily intake (parenteral, enteral and oral) of 20-35 cal/kg/day is considered sufficient to achieve or maintain appropriate body weight. The ordering physician must document in the medical record the medical necessity for a caloric intake outside this range in an individual recipient.

3. Parenteral nutrition would usually be noncovered for recipients who do not meet criteria in H.1-3, but will be considered on an individual case basis if detailed documentation is submitted.

4. Recipients covered under criteria in B.1 or 2 must have documentation that adequate small bowel adaptation had not occurred which would permit tube enteral or oral feedings.

5. Recipients covered under B.3 must have documentation of worsening of their underlying condition during attempts to resume oral feedings.

6. The ordering physician must document the medical necessity for protein orders outside of the range of 0.8-1.5 gm/kg/day, dextrose concentration less than 10 percent, or lipid use greater than 15 units of a 20 percent solution or 30 units of a 10 percent solution per month.

7. If the medical necessity for special parenteral formulas is not substantiated, authorization of payment will be denied.

Exclusionary Criteria

A. Parenteral nutrition will be denied as non-covered in situations involving temporary impairments. The recipient must have:

1. a condition involving the small intestine and/or its exocrine glands which significantly impairs the absorption of nutrients; or

2. a disease of the stomach and/or intestine which is a motility disorder and impairs the ability of nutrients to be transported through the GI system. There must be objective evidence supporting the clinical diagnosis.

B. Parenteral nutrition is non-covered for the recipient with a functioning gastrointestinal tract whose need for parenteral nutrition is only due to:

1. a swallowing disorder;

2. a temporary defect in gastric emptying such as a metabolic or electrolyte disorder;

3. a psychological disorder impairing food intake such as depression;

4. a metabolic disorder inducing anorexia such as cancer;

5. a physical disorder impairing food intake such as the dyspnea of severe pulmonary or cardiac disease;

6. a side effect of a medication; or

7. renal failure and/or dialysis.

Prior Authorization

A. Parenteral nutrition therapy may be approved by the Prior Authorization Unit (PAU) at periodic intervals not to exceed six months. However, Medicaid will pay for no more than one month's supply of nutrients at any one time. All requests to the PAU shall include:

1. the prognosis as well as the diagnosis;

2. the date the recipient was first infused;

3. whether the recipient has been trained to use parenteral equipment;

4. a statement that the recipient is capable of operating the parenteral equipment;

5. either the Medicaid certificate of medical necessity form for TPN, or the Medicare certificate of medical necessity form, Form DMERC 10.02A, completed and signed by the treating physician;

6. documentation showing that the recipient has a permanent impairment. Permanence does not require a determination that there is no possibility that the recipient's condition may improve sometime in the future. Medical documentation must substantiate that the condition is expected to last a long and indefinite duration (at least three months).

B. Additional documentation must be included with the initial request for parenteral nutrition.

1. In the situations addressed in B.1-4 under Medical Necessity Criteria, the documentation must include copies of the operative report and/or hospital discharge summary

and/or x-ray reports and/or a physician letter which document the condition and the necessity for PN therapy.

2. For the situations addressed in B.5 and D.2 under Medical Necessity Criteria (when appropriate), include the results of the fecal fat test and dates of the test.

3. For the situations addressed in B.6 and D.2 under Medical Necessity Criteria, include a copy of the report of the small bowel motility study and a list of medications that the recipient was on at the time of the test.

4. For the situations addressed in B.5-D.2 under Medical Necessity Criteria, include the results of serum albumin and the date of the test (within one week prior to initiation of PN) and a copy of a nutritional assessment by a physician, dietitian or other qualified professional within one week prior to initiation of PN, to include the following information:

- a. current weight with date and weight one-three months prior to initiation of PN;
- b. estimated daily calorie intake during the prior month and by what route (e.g., oral, tube);
- c. statement of whether there were caloric losses from vomiting or diarrhea and whether these estimated losses are reflected in the calorie count;
- d. description of any dietary modifications made or supplements tried during the prior month (e.g., low fat, extra medium chain triglycerides, etc.).

5. For situations described in D.2 under Medical Necessity Criteria, include:

- a. a statement from the physician;
- b. copies of objective studies; and
- c. excerpts of the medical record giving the following information:
 - i. specific etiology for the gastroparesis, small bowel dysmotility, or malabsorption;
 - ii. a detailed description of the trial of tube enteral nutrition including the beginning and ending dates of the trial, duration of time that the tube was in place, the type and size of tube, the location of tip of the tube, the name of the enteral nutrient, the quantity, concentration, and rate of administration, and the results;
 - iii. a copy of the x-ray report or procedure report documenting placement of the tube in the jejunum;
 - iv. prokinetic medications used, dosage, and dates of use;
 - v. nondietary treatment given during prior month directed at etiology of malabsorption (e.g., antibiotic for bacterial overgrowth); and
 - vi. any medications used that might impair GI tolerance to enteral feedings (e.g., anticholinergics, opiates, tricyclics, phenothiazines, etc.) or that might interfere with test results (e.g., mineral oil, etc.) and a statement explaining the need for these medications.

6. Any other information which supports the medical necessity for parenteral nutrition may also be included.

Intradialytic Parenteral Nutrition

A. Intradialytic Parenteral Nutrition Therapy (IDPN) is parenteral nutrition therapy provided to a recipient with end stage renal disease (ESRD) while the recipient is being dialyzed.

B. In order to cover IDPN, documentation must be clear and precise to verify that the recipient suffers from a permanently impaired gastrointestinal tract and that there is

insufficient absorption of nutrients to maintain adequate strength and weight. The supporting documentation must substantiate that the recipient cannot be maintained on oral or enteral feedings and that due to severe pathology of the alimentary tract, the recipient must be intravenously infused with nutrients.

C. Infusions must be vital to the nutritional stability of the recipient and not supplemental to a deficient diet or deficiencies caused by dialysis. Physical signs, symptoms and test results indicating severe pathology of the alimentary tract must be clearly evident in any documentation submitted. Recipients receiving IDPN must also meet the criteria for parenteral nutrition.

D. If the medical necessity criteria for parenteral nutrition are met, one supply kit and one administration kit will be covered for each day that parenteral nutrition is administered, if such kits are medically necessary and used.

Additional Documentation

A. For the initial request and for revised requests or reconsiderations involving a change in the order, there must be additional documentation to support the medical necessity of the following orders, if applicable.

1. the need for special nutrients;
2. the need for dextrose concentration less than 10 percent;
3. the need for lipids more than 15 units of a 20 percent solution or 30 units of a 10 percent solution per month.

B. After the first six months, the PA request must include a physician's statement describing the continued need for parenteral nutrition. For situations described in B.5-D.2 under Medical Necessity Criteria, the PA request must include the results of the most recent serum albumin (within two weeks of the request date) and the recipient's most recent weight with the date of each. If the results indicate malnutrition, there should be a physician's statement describing the continued need for parenteral nutrition and any changes to the therapeutic regimen that are planned.

Equipment and Supplies

A. An infusion pump is used to deliver nutritional requirements intravenously. Infusion pumps are covered for the delivery of parenteral nutrition for those recipients who cannot absorb nutrients by the gastrointestinal tract. Only one pump (ambulatory or stationary) will be covered at any one time. Additional pumps will be denied as not medically necessary.

1. An external ambulatory infusion pump is a small portable electrical device that is used to deliver parenteral nutrition. It is designed to be carried or worn by the recipient.

2. A stationary infusion pump is an electrical device, which serves the same purpose as an ambulatory pump, but is larger and typically mounted on a pole.

B. An IV pole is a device to suspend fluid to be administered by gravity or pump. An IV pole will be covered when a recipient is receiving parenteral fluids and the recipient is not using an ambulatory infusion pump.

C. Infusion pumps, ambulatory and stationary, are indicated for the administration of parenteral medication in the home when parenteral administration of the medication in the home is reasonable and medically necessary, and an

infusion pump is necessary to safely administer the medication.

D. An external ambulatory infusion pump is a small portable electrical device that is used to deliver parenteral medication. It is designed to be carried or worn by the recipient.

Reimbursement Methodology

A. The reimbursement rate for parenteral nutrition formula is 80 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount.

B. The reimbursement rate for parenteral equipment and supplies is 70 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount. If an item is not available at seventy 70 percent of the Medicare Fee Schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

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

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

0508#082

DECLARATION OF EMERGENCY

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

Private and Non-State Public Hospitals Inpatient Psychiatric Services Reimbursement Methodology

Editor's Note: This Emergency Rule is being repromulgated to correct submission errors. The original Emergency Rule may be viewed on pages 1454-1455 of the July 20, 2005 edition of the Louisiana Register.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and Act 182 of the 2005 Regular Session of the Louisiana Legislature. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, Volume 19, Number 6). The June 20, 1993 Rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the

reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5). The May 1999 Rule was subsequently amended to increase the reimbursement rates for inpatient psychiatric hospital services provided in private and public non-state owned and operated free-standing psychiatric hospitals and distinct part psychiatric units based on the weighted average costs reported on the cost report ending in SFY 2002 (*Louisiana Register*, Volume 30, Number 11).

Act 182 of the 2005 Regular Session of the Louisiana Legislature, enacted as the Healthcare Affordability Act, established the Louisiana Healthcare Affordability Trust Fund as a special fund in the state treasury for the purposes of preserving and enhancing the availability of inpatient and outpatient hospital care for all patients, enhancing the stability of Medicaid funding by capturing a reliable source of funding for a portion of the state's obligation, and easing "cost-shifting" to employers and private insurers by providing reimbursement for a portion of hospitals' uncompensated care and Medicaid underpayment. The monies in the fund shall be generated by a provider fee levied on all hospitals licensed by the state under R.S. 40:2100 et seq., except for those hospitals specifically exempted by the provisions contained in Act 182. In order to comply with the directives of the Act, the bureau proposes to amend the methodology for reimbursements paid for inpatient psychiatric services provided in distinct part psychiatric units.

This action is being taken to enhance federal revenues. It is expected that the implementation of this Emergency Rule will increase expenditures for inpatient psychiatric services by approximately \$2,464,980 for state fiscal year 2005-2006.

Emergency Rule

Effective for dates of service on or after July 1, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology to increase the per diem rate paid to distinct part psychiatric units in the current fiscal year to at least \$60 greater than the base year Medicaid hospital rate for inpatient psychiatric services provided in private acute care hospitals. The amount of the increase to the per diem rate will be adjusted if the total reimbursement rate increases exceed the \$170,000,000 total additional annual costs to the state set forth in Act 182 of the 2005 Regular Session of the Louisiana Legislature.

Non-state public hospitals, except small rural hospitals, shall certify to the Department of Health and Hospitals the state nonfederal share of expenditures for all of their Medicaid claims that constitute public expenditures that are eligible for financial participation under Title XIX of the Social Security Act. The certification shall be submitted in a form satisfactory to the department at the earliest possible date after July 1, but no later than October 1 of each fiscal year beginning July 1, 2005. The reimbursement methodology for the hospitals participating in the certification, except small rural hospitals, shall be 100 percent of their allowable costs.

Implementation of the provisions of this rule shall be contingent upon the approval of the U.S. Department of

Health and Human Services, Centers for Medicare and Medicaid Services.

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

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

0508#010

DECLARATION OF EMERGENCY

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

Private and Non-State Public Hospitals Inpatient Services Reimbursement Methodology

Editor's Note: This Emergency Rule is being repromulgated to correct submission errors. The original Emergency Rule may be viewed on page 1455 of the July 20, 2005 edition of the Louisiana Register.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and Act 182 of the 2005 Regular Session of the Louisiana Legislature. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology was subsequently amended to establish a weighted average per diem for each hospital peer group and discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volumes 22 and 25, Numbers 1 and 5). The May 20, 1999 Rule was later amended to reduce the reimbursement paid to private (non-state) acute hospitals for inpatient services (*Louisiana Register*, Volume 30, Number 6).

Act 182 of the 2005 Regular Session of the Louisiana Legislature, enacted as the Healthcare Affordability Act, established the Louisiana Healthcare Affordability Trust Fund as a special fund in the state treasury for the purposes of preserving and enhancing the availability of inpatient and

outpatient hospital care for all patients, enhancing the stability of Medicaid funding by capturing a reliable source of funding for a portion of the state's obligation, and easing "cost-shifting" to employers and private insurers by providing reimbursement for a portion of hospitals' uncompensated care and Medicaid underpayment. The monies in the fund shall be generated by a provider fee levied on all hospitals licensed by the state under R.S. 40:2100 et seq., except for those hospitals specifically exempted by the provisions contained in Act 182. In order to comply with the directives of the Act, the bureau proposes to amend the methodology for reimbursements paid for inpatient services rendered in private and public (non-state) acute hospitals.

This action is being taken to enhance federal revenues. It is expected that the implementation of this Emergency Rule will increase expenditures for inpatient services by approximately \$68,868,320 for state fiscal year 2005-2006.

Emergency Rule

Effective for dates of service on or after July 1, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology for inpatient hospital services rendered in private (non-state) acute hospitals to increase the per diem rate paid in the current fiscal year to at least \$160 greater than the base year Medicaid hospital rate for inpatient services. The amount of the increase to the per diem rate will be adjusted if the total reimbursement rate increases exceed the \$170,000,000 total additional annual costs to the state set forth in Act 182 of the 2005 Regular Session of the Louisiana Legislature.

Non-state public hospitals, except small rural hospitals, shall certify to the Department of Health and Hospitals the state nonfederal share of expenditures for all of their Medicaid claims that constitute public expenditures that are eligible for financial participation under Title XIX of the Social Security Act. The certification shall be submitted in a form satisfactory to the department at the earliest possible date after July 1, but no later than October 1 of each fiscal year beginning July 1, 2005. The reimbursement methodology for the hospitals participating in the certification, except small rural hospitals, shall be 100 percent of their allowable costs.

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

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

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

0508#079

DECLARATION OF EMERGENCY

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

Private and Non-State Public Hospitals Outpatient Services Reimbursement Methodology

Editor's Note: This Emergency Rule is being repromulgated to correct submission errors. The original Emergency Rule may be viewed on page 1456 of the July 20, 2005 edition of the Louisiana Register.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and Act 182 of the 2005 Regular Session of the Louisiana Legislature. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in January of 1996 which established the reimbursement methodology for outpatient hospital services at an interim rate of 60 percent of billed charges and cost settlement adjusted to 83 percent of allowable costs documented in the cost report, except for laboratory services subject to the Medicare fee schedule, outpatient rehabilitation and outpatient surgeries (*Louisiana Register*, Volume 22, Number 1). The January 20, 1996 Rule was subsequently amended to reduce the reimbursement paid for outpatient services (*Louisiana Register*, Volume 26, Number 12). Rules were later promulgated to increase the reimbursement paid for outpatient hospital rehabilitation services rendered to Medicaid recipients who are age three and older, outpatient clinic services, and outpatient laboratory services (*Louisiana Register*, Volume 29, Number 7).

Act 182 of the 2005 Regular Session of the Louisiana Legislature, enacted as the Healthcare Affordability Act, established the Louisiana Healthcare Affordability Trust Fund as a special fund in the state treasury for the purposes of preserving and enhancing the availability of inpatient and outpatient hospital care for all patients, enhancing the stability of Medicaid funding by capturing a reliable source of funding for a portion of the state's obligation, and easing "cost-shifting" to employers and private insurers by providing reimbursement for a portion of hospitals' uncompensated care and Medicaid underpayment. The monies in the fund shall be generated by a provider fee levied on all hospitals licensed by the state under R.S. 40:2100 et seq., except for those hospitals specifically exempted by the provisions contained in Act 182. In order to comply with the directives of the Act, the Bureau proposes to amend the methodology for reimbursements paid for outpatient services rendered in private and public (non-state) acute hospitals.

This action is being taken to enhance federal revenues. It is expected that the implementation of this Emergency Rule will increase expenditures for outpatient services by approximately \$20,885,350 for state fiscal year 2005-2006.

Emergency Rule

Effective for dates of service on or after July 1, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology for outpatient hospital services rendered in private (non-state) acute hospitals to increase the reimbursement paid in the current fiscal year by at least 13 percent greater than the base year Medicaid hospital rate. If the hospital outpatient payment is based on costs reported on the Medicaid cost report, the cost settlement in the current fiscal year is at least 13 percent greater than the base year Medicaid hospital cost settlement rate. The amount of the increase to the per diem rate will be adjusted if the total reimbursement rate increases exceed the \$170,000,000 total additional annual costs to the state set forth in Act 182 of the 2005 Regular Session of the Louisiana Legislature.

Non-state public hospitals, except small rural hospitals, shall certify to the Department of Health and Hospitals the state nonfederal share of expenditures for all of their Medicaid claims that constitute public expenditures that are eligible for financial participation under Title XIX of the Social Security Act. The certification shall be submitted in a form satisfactory to the department at the earliest possible date after July 1, but no later than October 1 of each fiscal year beginning July 1, 2005. The reimbursement methodology for the hospitals participating in the certification, except small rural hospitals, shall be 100 percent of their allowable costs.

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

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

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

0508#078

DECLARATION OF EMERGENCY

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

Third Party Liability Newborn Notification

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

Procedure Act, R.S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Federal laws and regulations require states to assure that Medicaid recipients utilize all other available resources to pay for all or part of their medical care needs before seeking payment through the Medicaid Program. This may involve health insurance, casualty coverage resulting from an accidental injury, or payments received directly from an individual who has either voluntarily accepted or been assigned legal responsibility for the health care of one or more recipients. The Medicaid Program will only make payments after the third party has met its legal obligation to pay for the medical services. Medicaid is the payer of last resort. The purpose of establishing and maintaining an effective Third Party Liability Program is to reduce Medicaid expenditures. Act 269 of the 2004 Regular Session of the Louisiana Legislature mandated the establishment of reasonable requirements and standards for the enrollment of newborns as dependents for health insurance coverage by health insurance issuers. In addition, the Act mandated that health insurance issuers give 90-day written notice to the secretary of the Department of Health and Hospitals prior to the cancellation of health insurance coverage for nonpayment of any additional premium for a newborn child who may also be eligible for Medicaid medical benefits. In compliance with Act 269, the bureau adopted by Emergency Rule provisions governing newborn notification requirements for hospitals (*Louisiana Register*, Volume 31, Number 5). This Emergency Rule is being promulgated to continue provisions contained in the May 20, 2005 Rule. This action is being taken to avoid a budget deficit.

Emergency Rule

Effective September 18, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions under the Third Party Liability Program governing newborn notification requirements for hospitals.

A. Definitions

Effective Date of Birth—the date of live birth of a newborn child.

Health Insurance Issuer—an insurance company, including a health maintenance organization as defined and licensed to engage in the business of insurance under Part XII of Chapter 2 of Title 22, unless preempted as a qualified employee benefit plan under the Employee Retirement Income Security Act of 1974.

Third Party Liability (TPL) Notification of Newborn Child(ren) Form—the written form developed by the Department of Health and Hospitals that must be completed by the hospital to report the birth and health insurance status of a newborn child.

Qualifying Newborn Child—a newborn child who meets the eligibility provisions for the Medicaid Program.

B. Notification Requirements

1. A hospital shall complete the Third Party Liability (TPL) Notification of Newborn Child(ren) form to report the birth and health insurance status of a qualifying newborn child either delivered in their facility, delivered under their care, or transferred to their facility after birth. The notification shall only be completed when the hospital reasonably believes that the following entities would

consider the child to be a qualified newborn and insurance coverage is available to said child(ren):

a. the health insurance issuer that has issued a policy of health insurance under which the newborn child may be entitled to coverage; and

b. the Department of Health and Hospitals.

2. The TPL Notification of Newborn Child(ren) form shall be completed by the hospital and submitted to any and all applicable health insurance issuers within seven days of the birth of a newborn child. Delivery of the notification form may be established via the U.S. Mail, fax, or email.

3. The TPL Notification of Newborn Child(ren) form shall be sent to the Department of Health and Hospitals, Bureau of Health Services Financing, Third Party Liability/Medicaid Recovery within seven days of the birth of the child.

4. This notification shall not be altered, in any respect, by the hospital and shall be in addition to any other notification, process or procedure followed by the hospital. The notification shall not be done in lieu of any other required notice, process or procedure established in any other rule, manual, or policy.

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

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

0508#083

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

**Military Personnel Automobile Liability Insurance
Premium Discount and Insurer Premium Tax Credit Program
(LAC 37:XIII.Chapter 95)**

Under the authority of the Louisiana Insurance Code, R.S. 22:1, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and specifically R.S. 49:953.(B), the Department of Insurance gives notice that, pursuant to R.S. 22:1425, as amended, it has made an amendment to Regulation 81 to implement changes to the premium discount program for active military personnel based in Louisiana, and to establish an insurer premium tax credit program for those insurers who properly provide the automobile liability insurance premium discount to active military personnel based in Louisiana, and to establish eligibility criteria, and to publish an approved Louisiana Application for Military Discount form as the documentary proof required for a person to verify eligibility for the discount, and to provide for the procedure whereby participating insurers can apply for and obtain a tax credit against the payment of premium taxes levied pursuant to R.S. 22:1061 and 1065, and to provide for other related matters as per the mandates of R.S. 22:1425. This intended action complies with the statutory law administered by the Department of Insurance. The amendment to Regulation 81

is authorized by Act 408 of the 2005 Regular Legislative Session.

This emergency regulation is effective August 8, 2005 and will remain in effect for 120 days. A copy of the emergency amendment to Regulation 81 may be obtained from the Department of Insurance by contacting Warren Byrd, Attorney, in writing c/o the Louisiana Department of Insurance, 1702 N. Third Street, Baton Rouge, LA 70802, or by telephone at (225)219-7841, or by electronic e-mail at wbyrd@ldi.state.la.us.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 95. Regulation 81 Military Personnel
Automobile Liability Insurance Premium
Discount and Insurer Premium Tax
Credit Program**

§9503. Purpose

A. The purpose of this regulation is to implement the provisions of Acts 2004, No. 770 of the Louisiana Legislature, Regular Session, as well as to implement the amendment thereto as set forth in Acts 2005, No. 408 of the Louisiana Legislature, Regular Session. The original law created an insurance premium discount program for active military personnel based in Louisiana. The amendment creates a program whereby an insurer is entitled to a tax credit against the premium taxes imposed under R.S. 22:1061 and 1065 for the amount of the military discount provided to qualified active military personnel for the liability portion of their personal automobile liability policy. Both laws require the commissioner to adopt a regulation to implement the military discount program and to develop procedures for the insurer to follow to claim a tax credit and for other related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 31:

§9505. Scope and Applicability

A. This regulation applies to all motor vehicle insurers authorized to engage in the business of writing personal automobile liability insurance in this state. It is also applicable to any personal automobile liability insurance policy purchased in this state from an authorized insurer by active military personnel based in Louisiana to cover personal motor vehicles owned and/or insured by such active military personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 31:

§9509. Definitions

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise:

Active Military Personnel

a. a single or married person who is based in this state and serving on full time active duty status in the military as a member of

- i. the Army, Navy, Marine Corps or Air Force; or
- ii. the Reserve or National Guard; or

iii. the Coast Guard.

Automobile Liability Insurance Policy A policy of insurance acquired in this state, insuring personal motor vehicles of the types described in R.S. 22:636.1.A.(1)(a)-(b), with the exception that for the purposes of this regulation, it shall also include coverage for motorcycles, which provides coverage for bodily injury and property damage liability, medical payments and uninsured motorists coverage as provided in R.S. 22:636.1.A.(2). It includes a renewal policy if, at the time of the renewal, the named insured retains the status of *active military personnel* as defined above. Golf carts, go-carts, off-road vehicles, all-terrain vehicles and other similar motorized vehicles are not motor vehicles for the purposes of R.S. 22:636.1.A.(1)(a)-(b).

Insured The individual who qualifies as *active military personnel*. The spouse and/or any dependents who are under the age of 18 or unmarried full time students under the age of 24 who are insured under the same policy as the *active military personnel* are also included in this definition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 31:

§9511. Premium Discount; Proof of Eligibility

A. ...

B. The initial obligation to demonstrate eligibility for the premium discount rests with the applicant/AMP. Thus, prior to the insurer applying the premium discount mandated by R.S. 22:1425.A, the applicant/AMP shall provide to the insurer a properly executed Louisiana Application for Military Discount on the current form approved by the Louisiana Department of Insurance (LDOI).

C. An insurer who obtains from an applicant/AMP a properly executed Louisiana Application for Military Discount shall be eligible for a rebuttable presumption that the insurer is entitled to claim a tax credit against the premium taxes levied pursuant to R.S. 22:1061 and 1065.

D. An insurer shall be barred from claiming the benefit of the rebuttable presumption if the insurer knew or should have known that the applicant/AMP provided false or fraudulent information on the Louisiana Application for Military Discount and/or the insurer fails, neglects or refuses to report said false or fraudulent information regarding the applicant/AMP to the LDOI.

E. The initial Louisiana Application for Military Discount shall be properly executed by the applicant/AMP and shall be attested to by the AMP's unit commander or the military officer authorized to administer oaths to the AMP and delivered to the insurer. The insurer is required to maintain the original and all subsequent renewals on file for inspection, verification and audit by the LDOI to ensure that the applicant/AMP is entitled to the premium discount mandated by R.S. 22:1425.A.

F. Active military personnel who is deployed out-of-state or overseas and who is

1. single, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1425 and §9515 of this regulation; or

2. married, and has a spouse and dependents who remain in this state, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1425 and §9515 of this regulation; or

3. is single, and who has dependents who remain in this state, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1425 and §9515 of this regulation.

G. If single or married AMP are deployed out-of-state or overseas, the insurer is authorized to accept the Louisiana Application for Military Discount if it is properly filled out by any one of the persons who is in a filial relationship to the AMP, to wit: spouse, mother, or father, or any brother, sister, aunt or uncle who has attained the age of majority. The Louisiana Application for Military Discount must still be attested to by the AMP's unit commander or the military officer authorized to administer oaths to AMP.

H. Although it is the obligation of the applicant/AMP to demonstrate eligibility for the premium discount, the insurer has the obligation to act with due diligence with regard to the premium discount program. In furtherance of this due diligence obligation, the insurer may request additional documentation or proof from an applicant/AMP to determine initial or continuing eligibility for the discount if the insurer has a legitimate concern with regard to the authenticity or accuracy of any of the information provided by the applicant/AMP.

I. At each renewal AMP shall be required to re-execute the Louisiana Application for Military Discount in all respects as required by Regulation 81.

J. The Louisiana Application for Military Discount that must be properly executed by the applicant and/or AMP is set forth in §9519, Louisiana Application for Military Discount, Appendix, of this regulation and is incorporated herein as if set forth herein *in extenso*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 31:

§9513. Requests for Tax Credit; Documentation; Dispute Resolution

A. The tax credit authorized by R.S. 22:1425(A), as amended, will be requested by the eligible insurer on an annual calendar year basis. The tax credit will be calculated based upon direct written premium. An insurer is eligible to receive a tax credit against the premium tax levied pursuant to R.S. 22:1061 and 1065 if it is an authorized insurer and the insurer makes a timely request for the tax credit.

B. Insurers seeking a tax credit shall submit a request for premium tax credit to the LDOI in accordance with the reporting schedule for premium taxes levied pursuant to R.S. 22:1061 and 1065 as set forth in the reporting form(s) designed by the commissioner. Insurers shall submit the information required to be maintained by §9515.B of this regulation. A premium tax filing with the tax credit authorized hereunder that does not include the proof required by this regulation will be considered untimely.

C. If the commissioner approves the premium tax filing as being both timely filed and containing all proof required by this regulation, there shall be a rebuttal presumption in favor of the insurer that the insurer is entitled to the tax

credit against the premium taxes levied pursuant to R.S. 22:1061 and 1065.

D. The commissioner may disapprove a tax credit either in whole to the extent that the entire premium tax filing is defective, untimely or improperly documented, or in part to the extent that one portion of the premium tax filing is defective, untimely or improper, but the other portion of the premium tax filing is in compliance with §9513 of this regulation. The commissioner shall use the following criteria with regard to the disapproval, in whole or in part, of a premium tax filing, to wit:

1. the premium tax filing is submitted late, unless the insurer can show good cause for the delay;

2. the premium tax filing is incomplete or required documents are missing;

3. the premium tax filing is excessive because a military discount was given to a person who was not eligible to receive said military discount.

E. As explained above, if the commissioner disapproves, in whole or in part, a tax credit filed by an insurer, he shall give written notice to the insurer, stating the grounds for disapproval. The notice shall be sent to the address shown on the records of the LDOI. An insurer shall have 30 days from the date of the notice to dispute the disapproval by the commissioner. If, within this initial 30 day period the insurer can demonstrate, in writing to the commissioner, good cause for not being able to provide the required documents to dispute the disapproval, the commissioner may grant one 60 day extension to dispute the disapproval by the commissioner. No other extensions shall be granted. Any documents submitted by the insurer in rebuttal to the commissioner's disapproval notice shall be verified as true and accurate by an officer of the insurer.

F. Within 30 days of submission of the verified rebuttal, the commissioner shall enter an order either approving or disapproving, in whole or in part, the request by the insurer for a tax credit against the premium taxes levied pursuant to R.S. 22:1061 and 1065.

1. If the tax credit is approved, in whole or in part, the commissioner shall grant to the insurer the amount of the tax credit so approved by the commissioner.

2. If the tax credit is disapproved in its entirety, the commissioner shall enter an order denying the entirety of the requested tax credit. The commissioner's order of disapproval shall be given, in writing, to the insurer by certified mail, return receipt requested. The insurer shall have 30 days from the date of receipt of the commissioner's order of disapproval to request an adjudicatory hearing as provided for by Part XXIX of Title 22 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 20, 2005), amended LR 31:

§9515. Recordkeeping; Annual Report

A. Any insurer issuing an automobile liability insurance policy to an individual who qualifies for the military discount program shall maintain the following records:

1. The items obtained in compliance with §9511 of this regulation.

2. A copy of the Declarations Page for each policy for which a tax credit is sought.

B. The request for the tax credit shall be made on a form(s) designed by the commissioner. The request for the tax credit form shall require, among other things, that the insurer provide the following information to the LDOI with regard to the personal automobile liability insurance coverage issued to an AMP and that this information be provided to the LDOI in either an electronic format as per R.S. 22:2.1 or written format.

1. A detailed listing of all policies for which the tax credit is sought. The listing shall include, at a minimum:

- a. the policy number of each policy;
- b. the effective date of the policy;
- c. the term of the policy;
- d. the gross direct written premium prior to application of the military discount;
- e. the net direct written premium following application of the military discount; and
- f. the dollar value of the military discount applied to the policy.

2. The total number of policies written on active military personnel.

3. The total gross direct written premium prior to application of the military discount.

4. The total net direct written premium following application of the military discount.

5. The total end-of-year tax credit sought relative to the military discount.

C. The insurer shall keep the records required by this section in either electronic or written form and the records shall be maintained by the insurer for a period of five years from the date of issuance of the insurance policy to which the military discount has been applied. Upon request, the insurer shall produce such records for examination or audit by the commissioner or any person acting on behalf of the commissioner. The records required by this section shall be considered confidential and are exempt from the Public Records Act found at R.S. 44:4.

D. The initial tax credit filing made by the insurer shall cover the calendar year ending December 31, 2005 and shall be filed on or before March 1, 2006, and thereafter for each subsequent calendar year ending December 31 and filed on or before March 1 thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 20, 2005), amended LR 31:

§9517. Overpayments; Collection Proceedings; Fines and Hearings

A. If an insurer is examined or audited by the commissioner and it is determined that the insurer received a tax credit in excess of the amount actually due and owing, then the commissioner shall have authority to order the insurer to refund the overpayment to the commissioner. The commissioner shall promptly notify his staff of his determination and provide his staff with a copy of his order.

B. The commissioner shall have standing to institute legal proceedings to collect the amount of any tax credit overpayment and any such proceedings shall be brought in the Nineteenth Judicial District Court. The commissioner's order shall be prima facie proof of the amount due and owing. If legal proceedings are instituted, the commissioner shall be entitled to an additional 20 percent of the amount of the tax credit overpayment found to be due and owing for the cost of collection.

C. An insurer's failure or refusal to refund a tax credit overpayment shall constitute grounds for the commissioner to suspend the insurer's certificate of authority, or to impose a fine not to exceed 10 percent of the tax credit overpayment or \$2,500.00, whichever is more, or both. The insurer shall have 30 days from the date of receipt of the notice of the commissioner's proposed action to request an adjudicatory hearing as provided for by Part XXIX of Title 22 of the Louisiana Revised Statutes.

D. No insurer shall be allowed to withdraw from the state or have its certificate of authority canceled if it has outstanding tax credit overpayments.

E. Nothing in this regulation shall be construed as a limitation on any powers or duties otherwise vested in the commissioner by operation of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 31:

§9519. Louisiana Application for Military Discount - Appendix

LOUISIANA APPLICATION FOR MILITARY DISCOUNT

NAME OF INSURANCE COMPANY:

POLICY NO. or APPLICATION NO.:

READ THIS DOCUMENT CAREFULLY BEFORE SIGNING. If you have any questions about this "Louisiana Application For Military Discount" form ask your agent for an explanation or contact the Louisiana Department of Insurance at (800) 259-5300 or (225) 342-5900. You must complete all sections of this "Louisiana Application For Military Discount" form. If a section is not applicable enter "N/A."

Full Name of Active Military Personnel: _____ Date: _____

Date of Birth: _____ Home Phone: _____

Home Address: _____

Name of Spouse: _____ Spouse Date of Birth: _____

Name and Date of Birth of Dependents: _____

Year, Make, Model & VIN of Car(s): _____

Branch of Service: _____ Rank: _____

Name of Unit: _____ Unit Commander: _____

Unit Address: _____ Unit Phone: _____

Order No: _____ Date of Order: _____

Active Duty Station: _____ Military Job: _____

The undersigned hereby certifies that he/she is on active duty and permanently based in Louisiana and qualifies as "active military personnel" ("AMP") as defined by LSA-R.S. 22:1425 and Regulation 81, and is eligible for the military discount set forth in LSA-R.S. 22:1425 for personal automobile liability insurance policy. The AMP further certifies that the information provided in this "Louisiana Application For Military Discount" form is true and correct and that he/she will promptly notify his/her automobile insurer of any change in the above information. The AMP acknowledges that any false, fraudulent or misleading statement may subject him/her to civil and criminal penalties, including those penalties set forth in LSA-R.S. 22:1243, and any applicable provisions of Title 14, the Louisiana Criminal Code.

Signature of Active Military Personnel ("AMP")

Signature of Commanding Officer or
Military Officer Authorized to Administer Oaths

Print Name of Active Military Personnel

Print Name and Title of Commanding Officer or
Military Officer Authorized to Administer Oaths

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 31:

§9521. Effective Date; Implementation

A. This regulation, as amended, shall take effect on August 8, 2005. Insurers shall take steps to timely implement the military discount program so that it is available for all new and renewal business effective July 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 31:

J. Robert Wooley
Commissioner

0508#052

DECLARATION OF EMERGENCY

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

SES Child Support Collections Distributions
(LAC 67:III.2514)

The Department of Social Services, Office of Family Support, Support Enforcement Services (SES) has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, §2514 in the Child Support Enforcement Program effective August 23, 2005. This Rule shall remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule effective April 25, 2005, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in September 2005).

Pursuant to 42USC,664(a)(3)(B), amendments are necessary to the SES Program in order to identify when delayed payment of Federal Offsets for child support arrears is appropriate.

Additionally 42USC,654b(c) requires amendments to specify the distribution time frame for child support payments received in a foreign currency.

Emergency action in this matter is necessary as failure to promulgate the Rule in a timely manner could result in the imposition of sanctions or penalties by the Administration for Children and Families, Office of Child Support Enforcement, the governing authority of the Support Enforcement Program in Louisiana.

Title 67

SOCIAL SERVICES

Part III. 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. - 5. ...

6. Effective April 25, 2005, the state may delay distribution of Federal Offsets for child support arrears until the state has been notified by the U.S. Secretary of the

Treasury that the other person filing the joint return has received his or her proper share of the offset. The delay may not exceed six months.

B. ...

C. Effective April 25, 2005, when child support is collected in the form of a foreign currency, the state shall send the child support payment to the custodial parent within two business days of receipt of the converted U. S. dollar payment.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33, OCSE-AT-98-24, 42USC,664(a)(3)(B), 42USC,654b(c).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:304 (March 1994, amended LR 24:703 (April 1998), LR 25:320 (February 1999), LR 31:

Ann Silverberg Williamson
Secretary

05085#074

DECLARATION OF EMERGENCY

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

2005-06 Early Migratory Bird Hunting Season

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

The hunting seasons for early migratory birds during the 2005-2006 hunting season shall be as follows:

Mourning Doves: Split Season, Statewide, 70 days
September 3-September 11
October 8-November 13
December 17-January 9

Mourning Dove and fully dressed Eurasian Collared-Doves and Ringed Turtle-Doves: Daily bag limit 12 in aggregate, Possession 24 but note: Eurasian Collared-Doves and Ringed Turtle-Doves **B** Eurasian collared-doves and ringed turtle-doves may only be hunted or taken during the open mourning dove season. There is no bag limit on Eurasian collared-doves or ringed turtle-doves provided that a fully feathered wing *and* head remain attached to the carcass of the bird. Fully dressed Eurasian-collared doves and ringed turtle-doves (those without a fully feathered wing *and* head naturally attached to the carcass) shall be included in the daily bag limit for mourning doves.

Teal: September 17-September 25

Daily bag limit 4, possession limit 8, blue-winged, green winged and Cinnamon teal only. Federal and state waterfowl stamps required.

Rails: Split Season, Statewide, 70 days
September 17-September 25

Remainder to be set in August with the duck regulations.

King and Clapper: Daily bag limit 15 in the aggregate and possession 30 in the aggregate. Sora and Virginia: Daily and possession bag 25 in the aggregate.

Gallinules: Split Season, Statewide
September 17-September 25

Remainder to be set in August with the duck regulations.

Common and Purple: Daily bag limit 15 in the aggregate, possession 30 in the aggregate.

Woodcock: December 18 - January 31

Daily bag limit 3, possession 6.

Snipe: Deferred to be set in August with the duck regulations.

Extended Falconry Season:

Mourning Dove: Split Season, Statewide

September 12-October 7

November 14-November 24

Woodcock: Split Season, Statewide

October 29-December 17

February 1-February 12

Falconry daily bag and possession limits for all permitted migratory game birds must not exceed 3 and 6 birds, respectively, singly or in the aggregate, during the extended falconry seasons and regular hunting seasons.

Remainder of extended falconry seasons for ducks, rails and gallinules to be set in August with the duck regulations.

Shooting and Hawking Hours:

Teal, Rail, Woodcock and Gallinule: One-half hour before sunrise to sunset.

Mourning Dove: One-half hour before sunrise to sunset except on September 3-4, October 8-9 and December 17-18 when shooting hours will be 12:00 noon to sunset.

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 140,000 sportsmen, selection of season dates, bag limits, and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective on September 1, 2005 and extend through February 28, 2006.

Dwight Landreneau
Secretary

0508#039

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2005-06 Oyster Season

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 967(D), and under the authority of R.S. 56:433, R.S. 56:435.1, and R.S. 56:435.1.1 notice is hereby given that the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declare:

The oyster season in the primary public oyster seed grounds east of the Mississippi River as described in Louisiana Administrative Code (LAC) 76:VII.511 and LAC 76:VII.513 including the sacking only area of the public grounds which is generally Lake Fortuna and Lake Machias to a line from Mozambique Point to Point Gardner to Grace Point at the Mississippi River Gulf Outlet, and including the Bay Gardene Public Oyster Seed Reservation will open one-half hour before sunrise on September 7, 2005 and close

one-half hour after sunset on September 16, 2005. This area will then open at one-half hour before sunrise on October 17, 2005 and close at one-half hour after sunset on April 1, 2006.

The oyster season in the Hackberry Bay Public Oyster Seed Reservation as described in R.S. 56:434(E) will open one-half hour before sunrise on October 17, 2005 and will close one-half hour after sunset on November 1, 2005, except the 2004 cultch plant locations within the following coordinates which will open one-half hour before sunrise on October 17, 2005 and close one-half hour after sunset on October 19, 2005:

Hackberry Bay north cultch plant

1. 29 degrees 25 minutes 05.03 seconds N
90 degrees 01 minutes 57.01 seconds W
2. 29 degrees 25 minutes 00.39 seconds N
90 degrees 01 minutes 58.34 seconds W
3. 29 degrees 24 minutes 58.22 seconds N
90 degrees 01 minutes 48.45 seconds W
4. 29 degrees 25 minutes 02.86 seconds N
90 degrees 01 minutes 47.12 seconds W

Hackberry Bay south cultch plant

1. 29 degrees 23 minutes 20.15 seconds N
90 degrees 03 minutes 14.15 seconds W
2. 29 degrees 23 minutes 24.01 seconds N
90 degrees 03 minutes 05.55 seconds W
3. 29 degrees 23 minutes 12.77 seconds N
90 degrees 02 minutes 58.98 seconds W
4. 29 degrees 23 minutes 08.92 seconds N
90 degrees 03 minutes 07.58 seconds W

The oyster season in the Barataria Bay, Lake Felicity, Lake Chien, Lake Tambour, Deep Lake, and Lake Mechant Public Oyster Seed Grounds as described in LAC 76:VII.517 will open one-half hour before sunrise on October 17, 2005 and close one-half hour after sunset on October 19, 2005.

The oyster season in the Sister Lake Public Oyster Seed Reservation as described in R.S. 56:434(E) will open one-half hour before sunrise on October 17, 2005 and close one-half hour after sunset on November 18, 2005, except the 2004 cultch plant located within the following coordinates which will remain closed:

1. 29 degrees 13 minutes 36.49 seconds N
90 degrees 54 minutes 59.89 seconds W
2. 29 degrees 13 minutes 32.29 seconds N
90 degrees 54 minutes 43.89 seconds W
3. 29 degrees 13 minutes 15.72 seconds N
90 degrees 55 minutes 05.51 seconds W
4. 29 degrees 13 minutes 12.58 seconds N
90 degrees 54 minutes 46.94 seconds W

The Vermilion/East and West Cote Blanche/Atchafalaya Bay Public Oyster Seed Ground as described in LAC 76:VII.507 and LAC 76:VII.509 will open one-half hour before sunrise on September 7, 2005 and close one-half hour after sunset on April 1, 2006.

The oyster season in the Calcasieu Lake public oyster area as described in R.S. 56:435.1 and R.S. 56:435.1.1 is detailed as follows:

Calcasieu Lake West Cove Conditional Management Area (west side of Calcasieu ship channel) will open one-half hour before sunrise on October 8, 2005 and close one-half hour after sunset on April 30, 2006.

Calcasieu Lake Conditional Management Area (east side of Calcasieu ship channel) will open one-half hour before sunrise on October 15, 2005 and close one-half hour after sunset on April 30, 2006.

The sack limit for Calcasieu Lake is set at 15 sacks per day as provided for in R.S. 56:435.1.1. However, these conservation actions will not supercede public health closures.

The following areas will remain closed for the 2005/2006 oyster season: the Bay Junop Public Oyster Seed Reservation [s described in R.S. 56:434(E)] and the Sabine Lake public oyster tonging area (as described in R.S. 56:435.1).

The Secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of non-living reef material in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered.

The secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource has ended, or may open areas if substantial oyster resources are located.

Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Terry Denmon
Vice-Chairman

0508#040

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2005 Fall Inshore Shrimp Season **Zone 2**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters, and a resolution adopted by the Wildlife and Fisheries Commission on July 7, 2005 which authorized the Secretary of the Department of Wildlife and Fisheries to open and close the 2005 fall shrimp season in inside waters provided technical and biological data indicate that marketable shrimp, in sufficient quantities are available for harvest and to change the closing dates if biological and technical data indicate the need to do so or if enforcement problems develop and to close and reopen all or parts of state outside waters if significant numbers of small white shrimp are found in these waters the Secretary of the Department of Wildlife and Fisheries does hereby set the

2005 Fall Shrimp Season in Louisiana waters to open as follows:

State inside waters within that portion of Shrimp Management Zone 2, from the eastern shore of South Pass of the Mississippi River to the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel red buoy line, to open at official sunrise August 1, 2005.

The secretary also hereby sets the closing date for the 2005 Fall Inshore Shrimp Season in Zone 2 at official sunset December 20, 2005.

Dwight Landreneau
Secretary

0508#017

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2005 Fall Shrimp Season **Zones 1, 3 and Portion of Zone 2**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or parts of state inside waters and shall have the authority to open or close state outside waters, the Wildlife and Fisheries Commission does hereby set the 2005 Fall Shrimp Season in inside waters to open as follows:

Shrimp Management Zone 1, that portion of Louisiana inside waters from the Mississippi-Louisiana state line to the eastern shore of South Pass of the Mississippi River, to open at official sunrise August 15, 2005; and

Shrimp Management Zone 3, that portion of state inside waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island to the Louisiana-Texas state line, to open at official sunrise August 15, 2005; and

That portion of Shrimp Management Zone 2 currently closed to shrimping from the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel red buoy line the western shore of Vermilion Bay and Southwest Pass at Marsh Island, to open at official sunrise August 15, 2005.

The commission also hereby sets the closing date for the 2005 Fall Shrimp Season in inside waters in Zone 1 and Zone 3 at official sunset December 20, 2005 except in the open waters of Breton and Chandeleur Sounds as described by the double-rig line [R.S.56:495.1(A)2] which shall remain open until 6:00 a.m., March 31, 2006. The commission also grants authority to the Secretary of the Department of Wildlife and Fisheries to change the closing dates if biological and technical data indicate the need to do so or if enforcement problems develop and to close and reopen all or parts of state inside and outside waters if significant numbers of small white shrimp are found in these waters.

Terry Denmon
Vice-Chairman

0508#041

Rules

RULE

Department of Agriculture and Forestry Livestock Sanitary Board

Scrapie in Sheep and Goats
(LAC 7:XXI.1105 and 1303)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:2093 and R.S. 3:2095, the Department of Agriculture and Forestry, Livestock Sanitary Board adopts regulations regarding the identification of Scrapie in sheep and goats.

In order to be in compliance with federal regulations regarding the identification of Scrapie (spongiform encephalopathy) in sheep and goats, the Louisiana Department of Agriculture and Forestry is adopting the following regulations requiring sheep and goats that have either tested positive for Scrapie, a transmissible disease found in sheep and goats, or are considered to have been exposed to the disease be identified. This identification will allow for the movement of sheep and goats to be traced so that further spread of the disease can be controlled or eliminated.

This Rule complies with and is enabled by R.S. 3:2093 and 3:2095.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 11. Sheep

§1105. Identification of Sheep

A. All sheep changing ownership shall be individually identified by means of an official identification for Scrapie as defined in §101.

B. The following sheep shall be individually identified with Official Identification for Scrapie:

1. live Scrapie positive sheep;
2. suspect Scrapie positive sheep;
3. all sheep considered as high risk for developing Scrapie, as defined by USDA;
4. all sheep exposed to Scrapie.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and 2095.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 31:1971 (August 2005).

Chapter 13. Goats

§1303. Identification of Goats

A. The following goats shall be individually identified by means of an Official Identification for Scrapie and defined in §101:

1. live Scrapie positive goats;
2. suspect Scrapie positive goats;
3. all goats considered as high risk for developing Scrapie, as defined by USDA;
4. all goats exposed to Scrapie.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and 2095.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 31:1971 (August 2005).

Bob Odom
Commissioner

0508#047

RULE

Board of Elementary and Secondary Education

Bulletin 746 **C** Ancillary School Librarian Certification
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746 **C** Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy allows the issuance of an ancillary certificate to an individual who has a master's degree in library science from a regionally accredited college or university and a passing score on the PRAXIS exam 0310. At present, for an individual in Louisiana to serve in the position of school librarian, he/she must be certified as a classroom teacher. Individuals who are not certified teachers, yet have completed master's degree programs in library science, are not eligible for certification; to serve as school librarians, these individuals would need an ancillary certificate. Issuance of an ancillary certificate would allow an individual with a master's degree in library science to serve as a school librarian without having first completed an undergraduate degree in education. The proposed ancillary certificate would increase the number of certified librarians available to school districts and would align renewal of the Ancillary School Librarian certification with other certified personnel.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:121 (February 2003), LR 31:1971 (August 2005).

* * *

Ancillary School Librarian **C** Valid for five years.

1. Eligibility Requirements

A. Hold a master's degree in library science from a regionally accredited institution; and

B. earn a passing score on the PRAXIS Library Media Specialist examination (0310).

2. **Renewal Guidelines** Completion of 150 continuing learning units of district approved and verified professional development over the five-year time period during which the teacher holds the certificate. The Louisiana employing authority must request renewal of an Ancillary School Librarian Certificate.

* * *

Weegie Peabody
Executive Director

0508#006

RULE

Board of Elementary and Secondary Education

Bulletin 1196 Louisiana Food and Nutrition Programs,
Policies of Operation
(LAC 28:XLIX.335, 337, 343, and 737)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1196 Louisiana Food and Nutrition Programs, Policies of Operation* (LAC 28:XLIX). Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. This bulletin was developed as a result of the necessity to incorporate all federal and state policy changes, which have already been implemented by the sponsors. This is an update of federal and state policies.

Title 28

EDUCATION

Part XLIX. Bulletin 1196 Louisiana Food and Nutrition Programs, Policies of Operation

Chapter 3. Financial Management and Accounting

§335. Computing Average Meal Cost

A. Each school system must use the average meal cost from the prior school year to establish meal charges for the current year of operation. If the school system sells extra food items, the cost and income generated from the extra sales must be taken into consideration when calculating the average cost of producing a breakfast and a lunch.

B. Computing Average Meal Cost for the Year

1. The following procedure is used to compute the average cost of lunch, breakfast and snacks:

a. determine the total lunches served during the prior year;

b. determine the total breakfasts served during the prior year and divide by two. Add this number to the total lunches served for the prior year;

c. determine the total snacks served during the prior year and divide by five. Add this number to the total lunches and breakfast served for the prior year;

d. if the school system sold extra food items, divide the extra sales income for the year by the meal equivalent factor (which is the average cost of the meal) (refer to §339, Meal Equivalent Factor);

e. add the meal equivalents obtained in Subparagraph d to the number of lunches, breakfasts and snacks served in Subparagraph c. The sum of these numbers will be the number recognized as total meals served for the year;

f. divide the total expenses (including the cost of purchased food and the value of commodities) for the prior school year by the total number of meals served in Subparagraph e to obtain the average lunch cost;

B.1.g. - C.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2114 (December 2001), amended LR 29:2024 (October 2003), LR 31:1972 (August 2005).

§337. Establishing Meal/Snack Charges and Extra Sales Prices

A. Meal and Snack Pricing Procedures

1. School systems shall use the following methods to calculate meal and snack charges.

a. Student

i. Full-Price Student Meals

(a). Different meal charges may be established for elementary and secondary grade levels and for variation meals. No student shall be requested to pay more than the actual cost of the lunch, breakfast, and/or snack, less the amount of reimbursement paid to the sponsor from federal funds.

ii. Reduced Price Student Meals

(a). The price charged for a reduced price lunch shall be less than the full price of the lunch and shall be \$0.40 or lower. The price charged for a reduced price breakfast shall be less than the full price of breakfast and shall be \$0.30 or lower.

(b). The price of a reduced price meal may vary within the maximum limit of \$0.40, provided there is no discrimination in the establishment of the charge. For example, it is permissible for the charge in high schools to be higher than the charge in elementary schools.

b. Student Snacks

i. Full Price Student Snacks

(a). A student not qualifying for the free rate shall pay the snack price established by the SFA. No student shall be requested to pay more than the actual cost of the snack, less the amount of reimbursement paid to the sponsor from federal funds.

ii. Reduced Price Student Snacks

(a). The amount charged for a reduced price snack shall be less than the full price of the snack and shall be \$0.15 or lower.

c. - i.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2114 (December 2001), amended LR 29:2024 (October 2003), LR 31:1972 (August 2005).

§343. Severe-Need Breakfast

A. The USDA established severe-need funding for breakfast for schools serving a large percentage of needy students with the idea that the increased funding would

permit the serving of more nutritious breakfasts. Severe-need funding is approved on a school-by-school basis. Within the SFA, some schools may be eligible to apply for severe-need funding and others may not.

B. SFAs may apply to receive severe-need funding for schools meeting the severe-need criteria.

C. The state agency shall pay the severe-need reimbursement rate throughout the school year to schools approved to participate.

1. Criteria for Application

a. Each school must meet the criteria provided below.

i. Forty percent or more of the lunches served to students during the second preceding year shall have been served free or at a reduced price.

ii. The school is participating in or desiring to initiate a breakfast program.

2. Application Form

a. Application for severe-need rates for schools already on the breakfast program, or for those schools now eligible for severe-need breakfast programs, must be made by completing the annual Schedule A Form. This form is submitted on the Child Nutrition Program website with the online application process.

3. Reimbursement Payments

a. For any school year, severe need reimbursement payments shall be the number of free and reduced price breakfasts, respectively, served to children in eligible schools, multiplied by the applicable severe need reimbursement rates.

b. Schools approved for severe-need funding shall file claims monthly and will receive funding on a monthly basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2118 (December 2001), amended LR 31:1972 (August 2005).

Chapter 7. Meal Planning and Service

§737. Extra Sales

A. Extra items may be sold only to those who have received a complete meal. The purchase of extras must occur at the time the meal is received unless the SFA has a procedure in place to determine that a student has received a complete meal. À-la-carte meal service is prohibited. Extra sale items must meet component requirements as defined by Enhanced Food-Based Menu regulations for the Child Nutrition Programs or must be an item offered on the menu that day. The only exceptions are that milkshakes, yogurt, frozen yogurt, ice cream, and ice milk (as defined by the Louisiana Sanitary Code) may be sold as extras. Full-strength juice, and milk, and bottled water (unflavored with no additives) may be sold at any time during the day to students and adults whether or not they have purchased a meal.

B. Schools must maintain proper accountability for extra sale items and must recover the full cost of producing the extra items plus a profit. At a minimum, these costs shall include food, labor (wages plus benefits), paper and nonfood supplies, transportation and utilities. (Refer to §327.A.1.i: Pricing for Extra Sales Items, for specific information concerning pricing procedures.) All monies earned or received must accrue to the school food service account.

C. Adults must be charged for all second servings. If extra sales are available at the school, each item would be sold to the adult at the appropriate price. If extra sales are not available, the adult must pay the at cost price of the meal regardless of the number of menu items served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2151 (December 2001), amended LR 29:2029 (October 2003), LR 31:1973 (August 2005).

Weegie Peabody
Executive Director

0508#007

RULE

Board of Elementary and Secondary Education

Bulletin 1566 **CGuidelines for Pupil Progression**
High Stakes Testing Policy
(LAC 28:XXXIX.503, 905, 911, 1101, 1301, and 1501)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education has amended *Bulletin 1566 **CGuidelines for Pupil Progression*** (LAC 28, Part Number XXXIX). The State Board of Elementary and Secondary Education at its January 2005 meeting made revisions to the High Stakes Testing Policy, which is an addendum to *Bulletin 1566 **CGuidelines for Pupil Progression***, and to Bulletin 1566 itself. The rule changes include:

- A revision in the High Stakes Testing Policy as it relates to the passing standard for eighth grade students. Beginning in the spring of 2006, eighth graders will have to score *Basic* on either the English Language Arts or Mathematics component of LEAP 21 and *Approaching Basic* on the other to move to the ninth grade.
- A revision in the eighth grade retention policy as contained in the High Stakes Testing Policy. As a result of the policy change:
 - After the summer retest, a school system, through its superintendent, may consider a waiver for an eighth grade student who has scored at the *Approaching Basic* level on both the English Language Arts and Mathematics component of LEAP 21. The LEA may grant the waiver in accordance with the local Pupil Progression Plan provided the following criteria are met.
 - The student may be promoted to the ninth grade, provided that he or she has scored at the *Approaching Basic* level on both the English Language Arts and Mathematics components of LEAP 21, has attended the LEAP 21 summer remediation program offered by the District, and has taken the summer retest administered at the conclusion of the summer program.
 - The student must retake the component(s) (English Language Arts and/or Mathematics) of the retest on which a score of *Approaching Basic* or below was attained on the spring test. At a minimum, the student shall score *Approaching*

Basic on the English Language Arts and the Mathematics component(s) of the summer retest.

- Any student who scores less than *Approaching Basic* on either component of the summer retest is ineligible for the waiver consideration.
- The student who has repeated the eighth grade may be either:
 - retained again in the eighth grade;
 - promoted to the ninth grade, provided that the student has scored at the *Approaching Basic* level on either the English Language Arts or Mathematics component of LEAP 21, has attended the LEAP 21 summer remediation program offered by the District in, at a minimum, the *Unsatisfactory* subject, and has taken the summer retest administered at the conclusion of the summer program. If promoted with an *Unsatisfactory* on the English Language Arts or Mathematics component of LEAP 21, the student must enroll in and pass a high school remedial course in the *Unsatisfactory* subject (English language arts or mathematics) before enrolling in or earning Carnegie credit for English or mathematics; or
 - placed in the Pre-GED/Skills Options Program that shall be available to students who meet criteria as outlined in *Bulletin 741 Louisiana Handbook for School Administrators*, §2907.
- Students in the Pre-GED/Skills Options Program will take the ninth grade *i*LEAP.
- As a result of the eighth grade waiver consideration, the appeals process as contained in the High Stakes Testing Policy was eliminated as an option for eighth grade students.

**Title 28
EDUCATION**

Part XXXIX. Bulletin 1566 Guidelines for Pupil Progression

Chapter 5. Placement Policies; State Requirements

§503. Regular Placement

A. Promotion Grades K-12

1. Promotion from one grade to another for regular students and students with disabilities shall be based on the following statewide evaluative criteria.

a. - b.i. ...

ii.(a). No fourth or eighth grade student shall be promoted until he or she has scored at or above the "Basic" achievement level on the English Language Arts or Mathematics components of the LEAP for the 21st century (LEAP 21) and at the "Approaching Basic" achievement level on the other (hereafter referred to as the "Basic/Approaching Basic" combination).

(b). Exceptional students participating in LEAP 21 must be provided with accommodations as noted in the students' IEPs.

c. Exceptions to this policy include:

i. Policy Override. A given student scores at the "Unsatisfactory" level in English Language Arts or Mathematics and scores at the "Mastery" or "Advanced" level in the other; and participates in the summer school and retest offered by the LEA. The decision to override is made in accordance with the local Pupil Progression Plan, which

may include referral to the School Building Level Committee (SBLC).

ii. Retention Limit (Fourth Grade). The decision to retain a student in the fourth grade more than once as a result of failure to score at or above the "Basic/Approaching Basis" combination on the English Language Arts and Mathematics components of LEAP 21 shall be made by the LEA in accordance with the local Pupil Progression Plan which shall include the following.

(a). A student who has repeated the fourth grade may be promoted to only the fifth grade. A district may apply for a waiver from this part of the policy if their specific plan is presented to the Department of Education and it is approved by the State Superintendent of Education. (See Appendix C, Chapter 15).

(b). A student who has repeated the fourth grade and who is 12 years old on or before September 30 may be promoted according to the Local Pupil Progression Plan.

(c). Students retained in the fourth grade shall retake all four components of the LEAP 21.

(d). For promotional purposes, a student must score at or above the "Basic/Approaching Basic" combination on the English Language Arts and Mathematics components of the LEAP 21 only one time.

iii. Appeal Process (Fourth Grade). After the summer retest, a school system, through its superintendent, may consider granting an appeal on behalf of individual students, provided that all of the following criteria have been met.

(a). The student's highest score in English Language Arts and/or Mathematics on either the spring or summer LEAP 21 must fall within 20 scaled score points of the cutoff score for "Basic."

(b). The student shall have a 3.0 grade point average on a 4.0 scale in the subject(s) for which the appeal is being considered.

(c). The student must have attended the LEAP 21 summer remediation program.

(d). The student must have taken the LEAP 21 retest given after the LEAP 21 summer remediation program has been concluded.

(e). The student must have met state-mandated attendance regulations during the regular school year and any locally mandated regulations during the summer remediation program.

(f). The principal and the School Building Level Committee (SBLC) must review student work samples and attest that the student exhibits the ability of performing at or above the *Basic* achievement level in the subject for which the appeal is being considered.

iv. Retention Limit (Eighth Grade). After the summer retest, a school system, through its superintendent, may consider a waiver for an eighth grade student who has scored at the "Approaching Basic" level on both the English Language Arts and Mathematics components of LEAP 21. The LEA may grant the waiver in accordance with the local Pupil Progression Plan provided the following criteria are met.

(a). The student may be promoted to the ninth grade, provided that he or she has scored at the "Approaching Basic" level on both the English Language Arts and Mathematics components of LEAP 21, has attended

the LEAP 21 summer remediation program offered by the district, and has taken the summer retest administered at the conclusion of the summer program.

(b). The student must retake the component(s) (English Language Arts and/or Mathematics) of the retest on which a score of "Approaching Basic" or below was attained on the spring test. At a minimum, the student shall score "Approaching Basic" on the English Language Arts and the Mathematics component(s) of the summer retest.

(c). Any student who scores less than "Approaching Basic" on either component of the summer retest is ineligible for the waiver consideration.

v. The student who has repeated the eighth grade may either be:

(a). retained again in the eighth grade;

(b). promoted to the ninth grade, provided that the student has scored at the "Approaching Basic" level on either the English Language Arts or Mathematics component of LEAP 21, has attended the LEAP 21 summer remediation program offered by the District in, at a minimum, the "Unsatisfactory" subject, and has taken the summer retest administered at the conclusion of the summer program. If promoted with an "Unsatisfactory" on the English Language Arts or Mathematics component of LEAP 21, the student must enroll in and pass a high school remedial course in the "Unsatisfactory" subject (English language arts or mathematics) before enrolling in or earning Carnegie credit for English or mathematics; or

(c). placed in the Pre-GED/Skills Options Program that shall be available to students who meet criteria as outlined in *Bulletin 741 Louisiana Handbook for School Administrators*, §2907.

vi. LEAP 21 Testing

(a). Students repeating the eighth grade will retake all four components of LEAP 21.

(b). Students in the Pre-GED/Skills Options Program will take the ninth grade iLEAP.

vii. Students with disabilities eligible under the Individuals with Disabilities Education Act (IDEA) participating in LEAP 21 Alternate Assessment (LAA). Students with disabilities who participate in the LEAP 21 Alternate Assessment (LAA) shall have promotion decisions determined by the SBLC.

viii. Waiver for Limited English Proficient (LEP) Student. LEP Students shall participate in statewide assessment. The SBLC shall be granted the authority to waive the state's grade promotion policy for a LEP student. A LEP student who was granted a waiver at the fourth grade level is ineligible for a waiver at the eighth grade level.

ix. Waiver for Extenuating Circumstances. A school system through its superintendent may grant a waiver on behalf of individual students who are unable to participate in LEAP 21 testing or unable to attend LEAP 21 summer remediation because of one or more of the following extenuating circumstances as verified through appropriate documentation: a physical illness or injury that is acute or catastrophic in nature, a chronic physical condition that is in an acute phase or court ordered custody issues. (Refer to Appendix B, Chapter 13.)

x. State Granted Exceptions. A local school superintendent, a parent or guardian, or the State Department of Education may initiate a request for a state-granted waiver

from the State Superintendent of Education on behalf of individual students who are not eligible for promotion because of LEA error or other unique situations not covered under extenuating circumstances. The Department of Education will provide to the State Board of Elementary and Secondary Education detailing state-granted waivers. (Refer to Appendix B, Chapter 13.)

xi. In order to move students toward grade level performance, LEAs shall design and implement additional instructional strategies for those fourth and eighth grade students being retained. The purpose of the additional instructional strategies is to move the students to grade-level proficiency by providing the following: (1) focused instruction in the subject area(s) on which they scored at the "Approaching Basic" and/or "Unsatisfactory" level on LEAP 21, and (2) ongoing instruction in the core subject areas using curricula based on State-level content standards and the Grade Level Expectations. LEAs are also encouraged to design and implement additional instructional strategies for students in grades 3, 4, 7, and 8 who have been determined to be at risk of failing to achieve the "Basic/Approaching Basic" combination on LEAP 21.

xii. Summer remediation programs and end-of-summer retests must be offered by school systems at no cost to students who did not take the Spring LEAP 21 tests or who failed to achieve the required level on LEAP 21.

(a). All students with disabilities who participate in LEAP 21 testing should receive services along with regular education students in summer programs, with special supports provided as needed.

(b). Students with disabilities who participate in LEAP 21 Alternate Assessment (LAA) are not eligible to attend LEAP 21 summer remediation programs.

xiii. The aforementioned policies will be in effect from spring 2006 through spring 2008. The promotion policy will be reviewed in 2008.

xiv. Other Requirements

(a). Each plan shall include the function of the school building level committee/student assistance team as it relates to student promotion. Refer to Appendix B (Chapter 13) for complete text of the High Stakes Testing Policy.

(b). Schools can only make recommendations to parents regarding student enrollment in kindergarten, since kindergarten is not mandatory.

B. - D.1.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003), LR 30:407 (March 2004), LR 31:1974 (August 2005).

Chapter 9. Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program

§905. Definition and Purpose

A. - B.2. ...

3. Beginning in the summer of 2006, remediation in the form of summer school shall be provided to both fourth and eighth grade students who score at the "Approaching Basic" or "Unsatisfactory" level on LEAP 21st for the 21st Century (LEAP 21) English Language Arts or Mathematics

tests. Summer remediation shall consist of a minimum of 50 hours of instruction per subject.

4. Remediation shall be provided to students who score at the "Unsatisfactory" level on LEAP for the 21st Century (LEAP 21) Science and Social Studies tests.

5. Remediation is recommended for fourth and eighth grade students who score at the "Approaching Basic" level on LEAP for the 21st Century (LEAP 21) English Language Arts, Mathematics, Science, or Social Studies tests.

6. Beyond the goal of student achievement in grade appropriate skills, additional goals are to give students a sense of success, to prevent alienation from school, and to prevent their early departure from school (R.S. 17:395 B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 28:1189 (June 2002), LR 30:409 (March 2004), LR 31:1975 (August 2005).

§911. Criteria for State Approval

A. - C.3. ...

a. For the Graduation Exit Examination for the 21st Century (GEE 21), remediation shall be provided in English Language Arts, Mathematics, Science, and Social Studies. Students shall be offered 50 hours of remediation in each content area they do not pass.

b. Beginning in the summer of 2006, remediation in the form of summer school shall be provided to both fourth and eighth grade students who score at the "Approaching Basic" or "Unsatisfactory" level on LEAP for the 21st Century (LEAP 21) English Language Arts or Mathematics tests. Summer Remediation shall consist of a minimum of 50 hours of instructions per subject.

c. Remediation shall be provided to students who score at the "Unsatisfactory" level on LEAP for the 21st Century (LEAP 21) science and social studies tests.

d. Remediation is recommended for fourth and eighth grade students who score at the "Approaching Basic" level on LEAP for the 21st Century (LEAP 21) English Language Arts, Mathematics, Science, or Social Studies tests.

e. Instruction shall include but not be limited to the philosophy, the methods, and the materials included in local curricula that are based upon State Content Standards in mathematics, English language arts, science and social studies (Board Policy 3.01.08).

f. Remedial methods and materials shall supplement and reinforce those methods and materials used in the regular program (Board Policy).

g. Each student achieving mastery criteria shall continue receiving instruction for maintenance of grade appropriate skills. The amount of instruction shall be based upon student need (R.S. 17:395.E).

D. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2175 (November 1999), amended LR 27:189 (February 2001), LR 30:409 (March 2004), LR 31:1976 (August 2005).

Chapter 11. Appendix A

§1101. Definition of Terms

A. - A.1. ...

LEAP 21 Summer Remediation Program The summer school program offered by the LEA for the specific purpose of preparing students to pass the LEAP 21 summer retest in English language arts, or mathematics.

2. - 2.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2176 (November 1999), amended LR 27:190 (February 2001), LR 31:1976 (August 2005).

Chapter 13. Appendix B

§1301. LEAP for the 21st Century, High Stakes Testing Policy

A. LEAP for the 21st Century High Stakes Testing Policy (Grades 4 and 8)

1. A student may not be promoted to the fifth or ninth grade until he or she has scored at or above the "Basic" achievement level on either the English Language Arts or Mathematics component on the fourth or eighth grade LEAP for the 21st Century (LEAP 21) and at the "Approaching Basic" achievement level on the other (hereafter referred to as the "Basic/Approaching Basic" combination). For promotional purposes; however, a student shall score at or above the "Basic/Approaching Basic" combination on the English Language Arts and Mathematics components of LEAP 21 only one time.

2. A parent/student/school compact that outlines the responsibilities of each party will be required for students in grades 3, 4, 7, and 8 who have been determined to be at risk of failing to achieve the "Basic/Approaching Basic" combination on the English Language Arts and Mathematics components of the fourth or eighth grade LEAP 21, as well as for students who were retained in grades 4 or 8.

3. LEAs shall offer a minimum of 50 hours per subject of summer remediation and retest opportunities in English language arts and mathematics at no cost to students who did not take the spring LEAP 21 tests or who scored "Approaching Basic" and/or "Unsatisfactory" on the English Language Arts and/or Mathematics component(s) on the spring tests.

a. A student who failed to achieve the "Basic/Approaching Basic" combination is not required to attend the LEA-offered LEAP 21 summer remediation program in order to be eligible for the summer retest.

b. All students with disabilities who participate in LEAP 21 should receive services along with regular education students in summer remediation programs, with special supports provided as needed.

c. Students with disabilities who participate in LEAP Alternate Assessment (LAA) are not eligible to attend the LEAP 21 summer remediation programs.

4. In order to move students toward grade level performance, LEAs shall design and implement additional instructional strategies for those fourth and eighth grade

students being retained. The purpose of the additional instructional strategies is to move the students to grade level proficiency by providing the following: (1) focused instruction in the subject area(s) on which they scored at the "Approaching Basic" and/or "Unsatisfactory" level on LEAP 21, and (2) ongoing instruction in the core subject areas using curricula based on state-level content standards and the grade level expectations. LEAs are also encouraged to design and implement additional instructional strategies for students in grades 3, 4, 7, and 8 who have been determined to be at risk of failing to achieve the "Basic/Approaching Basic" combination on LEAP 21.

5. Promotion/Retention Policies

a. Grade 4

i. A student may not be promoted to the fifth grade until he or she has scored at or above the "Basic" achievement level on either the English Language Arts or Mathematics component on the fourth grade LEAP 21 and at the "Approaching Basic" achievement level on the other.

ii. The decision to retain a student in the fourth grade more than once as a result of his/her failure to achieve the "Basic/Approaching Basic" combination on the English Language Arts and Mathematics components of LEAP 21 shall be made by the LEA in accordance with the local Pupil Progression Plan which shall include the following.

(a). A student who has repeated the fourth grade may be promoted to only the fifth grade. A district may apply for a waiver from this part of the policy if their specific plan is presented to the Department of Education, and the State Superintendent of Education approves it.

(b). However, a student who has repeated the fourth grade and who is 12 years old on or before September 30 may be promoted according to the local Pupil Progression Plan.

iii. After the summer retest, a school system, through its superintendent, may consider granting an appeal on behalf of individual students, provided that all of the following criteria have been met.

(a). The student's highest score in English Language Arts and/or Mathematics on either the spring or summer LEAP 21 must fall within 20 scaled score points of the cutoff score for "Basic."

(b). The student shall have a 3.0 grade point average on a 4.0 scale in the subject(s) for which the appeal is being considered.

(c). The student must have attended the LEAP 21 summer remediation program.

(d). The student must have taken the LEAP 21 retest given after the LEAP 21 summer remediation program has been concluded.

(e). The student must have met state-mandated attendance regulations during the regular school year and any locally mandated regulations during the summer remediation program.

(f). The principal and the School Building Level Committee (SBLC) must review student work samples and attest that the student exhibits the ability of performing at or above the *Basic* achievement level in the subject for which the appeal is being considered.

iv. LEAP 21 Testing

(a). Students retained in the fourth grade shall retake all four components of LEAP 21.

b. Grade 8

i. A student may not be promoted to the ninth grade until he or she has scored at or above the "Basic" achievement level on either the English Language Arts or Mathematics component on the eighth grade LEAP 21 and at the "Approaching Basic" achievement level on the other.

ii. After the summer retest, a school system, through its superintendent, may consider a waiver for an eighth grade student who has scored at the "Approaching Basic" level on both the English Language Arts and Mathematics components of LEAP 21. The LEA may grant the waiver in accordance with the local Pupil Progression Plan provided the following criteria are met.

(a). The student may be promoted to the ninth grade, provided that he or she has scored at the "Approaching Basic" level on both the English Language Arts and Mathematics components of LEAP 21, has attended the LEAP 21 summer remediation program offered by the district, and has taken the summer retest administered at the conclusion of the summer program.

(b). The student must retake the component(s) (English Language Arts and/or Mathematics) of the retest on which a score of "Approaching Basic" or below was attained on the spring test. At a minimum, the student shall score "Approaching Basic" on the English Language Arts and the Mathematics component(s) of the summer retest.

(c). Any student who scores less than "Approaching Basic" on either component of the summer retest is ineligible for the waiver consideration.

iii. The student who has repeated the eighth grade may be either:

(a). retained again in the eighth grade;

(b). promoted to the ninth grade, provided that the student has scored at the "Approaching Basic" level on either the English Language Arts or Mathematics component of LEAP 21, has attended the LEAP 21 summer remediation program offered by the District in, at a minimum, the "Unsatisfactory" subject, and has taken the summer retest administered at the conclusion of the summer program. If promoted with an "Unsatisfactory" on the English Language Arts or Mathematics component of LEAP 21, the student must enroll in and pass a high school remedial course in the "Unsatisfactory" subject (English language arts or mathematics) before enrolling in or earning Carnegie credit for English or mathematics; or

(c). placed in the Pre-GED/Skills Options Program that shall be available to students who meet criteria as outlined in *Bulletin 741 Louisiana Handbook for School Administrators*, §2907.

iv. LEAP 21 Testing

(a). Students repeating the eighth grade will retake all four components of LEAP 21.

(b). Students in the Pre-GED/Skills Options Program will take the ninth grade *i*LEAP.

6. Exceptions to the High Stakes Testing policy may include:

a. Policy Override

i. The local school system (LEA) may override the state policy for students scoring at the "Unsatisfactory" level in English language arts or mathematics, if the student scores at the "Mastery" or "Advanced" level in the other, provided that:

(a). the decision is made in accordance with the local Pupil Progression Plan, which may include a referral to the School Building Level Committee (SBLC);

(b). the student has participated in both the spring and summer administrations of LEAP 21 and has attended the summer remediation program offered by the LEA (the student shall participate in the summer retest only on the subject that he/she scored at the "Unsatisfactory" achievement level during the spring test administration); and

(c). parental consent is granted.

b. Students with Disabilities Eligible under the Individuals with Disabilities Education Act (IDEA) Participating in LEAP Alternate Assessments (LAA)

i. Students with disabilities who participate in the LEAP Alternate Assessment (LAA) shall have promotion decisions determined by the SBLC.

c. Waiver for Limited English Proficient (LEP) Students

i. LEP students shall participate in statewide assessment. The SBLC shall be granted the authority to waive the state's grade promotion policy for a LEP student. A LEP student who was granted a waiver at the fourth grade level is ineligible for a waiver at the eighth grade level.

d. Waiver for Extenuating Circumstances

i. A school system, through its superintendent, may grant a waiver on behalf of individual students who are unable to participate in LEAP 21 testing or unable to attend LEAP 21 summer remediation because of one or more of the following extenuating circumstances as verified through appropriate documentation:

(a). a physical illness or injury that is acute or catastrophic in nature;

(b). a chronic physical condition that is in an acute phase;

(c). court-ordered custody issues.

ii. Documentation

(a). *Physical Illness* Appropriate documentation must include verification that the student is under the medical care of a licensed physician for illness, injury, or a chronic physical condition that is acute or catastrophic in nature. Documentation must include a statement verifying that the illness, injury, or chronic physical condition exists to the extent that the student is unable to participate in testing and/or remediation.

(b). *Custody Issues* Certified copies of the court-ordered custody agreements must be submitted to the LEA at least 10 school days prior to summer remediation or retesting.

iii. Student Eligibility/Retest Requirements

(a). Students who meet the criteria for extenuating circumstances under the *physical illness, chronic physical condition, or court-ordered custody category* related to LEAP 21; and

(b). who are unable to participate in both the spring and the summer administration of LEAP 21; or

(c). who failed to achieve the "Basic/Approaching Basic" combination on the spring administration of LEAP 21 English Language Arts and Mathematics tests and are unable to participate in LEAP 21 summer retest:

(i). shall take the Iowa Tests for grade placement within 10 school days of returning to school,

which may include hospital/homebound instruction, in order to ensure the appropriate level of instruction;

(ii). must score at or above the cutoff score on the selected form of the Iowa Tests for grade placement to be promoted to the fifth or ninth grade; and

(iii). are not eligible for a retest. These students may be eligible for the policy override or appeals process in accordance with the local Pupil Progression Plan.

Note: The appeals process is available only to fourth grade students.

(d). Students who meet the criteria for extenuating circumstances under the *physical illness, chronic physical condition, or court-ordered custody category* related to LEAP 21; and

(e). who are unable to participate in the spring testing and/or summer remediation, including the provision of remediation through hospital/home bound instruction, are required to take the LEAP 21 summer retest. These students may be eligible for the policy override or appeals process in accordance with the local Pupil Progression Plan.

Note: The appeals process is available only to fourth grade students.

e. State-Granted Exception

i. A local school superintendent, a parent or guardian, or the State Department of Education may initiate a request for a state-granted waiver from the State Superintendent of Education on behalf of individual students who are not eligible for promotion because of LEA error or other unique situations not covered under extenuating circumstances.

ii. The Department of Education will provide a report to the State Board of Elementary and Secondary Education detailing state-granted waivers.

iii. Documentation

(a). *LEA Error* The LEA superintendent or parent must provide the State Superintendent of Education with school- and student-level documentation detailing the error, how the error occurred, and how the error will be corrected so that it will not occur again in the future.

(b). *Other Unique Situations* Documentation must be provided to the State Superintendent of Education detailing the unique situation and justifying why a waiver should be granted.

iv. Testing/Promotion Decisions

(a). The Department of Education will communicate to the LEAs the means for establishing promotional decisions for those students who have received a state-granted waiver.

7. The promotion policies outlined above will be reviewed in 2008.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:1008 (July 2001), amended LR 27:1683 (October 2001), LR 28:1189 (June 2002), LR 29:123 (February 2003), LR 31:1976 (August 2005).

Chapter 15. Appendix C

§1501. Waiver Request

A. - A.4.a.i. ...

5. Section V

a. Assurances

i. I assure that the fourth grade transitional program described in the amended 2005-2006 Pupil Progression Plan

meets all of the requirements as outlined in Sections I, II, III, and IV of this document.

ii. Based upon this submitted assurance, the _____ School System is requesting a waiver of the High Stakes Testing Policy to allow for the implementation of a fourth grade transitional program which meets the purpose as described in Section I with the option of promoting students to the sixth grade.

iii. School systems applying for this waiver must submit their request by Friday, July 15, 2005, and receive approval from the State Superintendent of Education prior to the implementation of a transitional (4.5) program that provides the option of promotion to the sixth grade. School systems must submit all required documentation as listed in Section IV, and if approved, Sections I, II, and III must be included in the school system's 2005-2006 Pupil Progression Plan.

iv. Signature of School System Superintendent:

v. Date: _____

6. Section VI

a. Approved/Denied: (circle one)

Cecil J. Picard
State Superintendent of Education

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:413 (March 2004), amended LR 31:1978 (August 2005).

Weegie Peabody
Executive Director

0508#008

RULE

**Department of Culture and Recreation
Office of State Parks**

State Parks (LAC 25:IX.Chapters 1-9)

The Department of Culture, Recreation and Tourism, Office of State Parks, has amended current regulations in order to increase fees, perform general editing, add new items, and to purge those policy items that do not belong in the *Louisiana Administrative Code*.

Title 25

CULTURAL RESOURCES

Part IX. Office of State Parks

Chapter 1. General Provisions

§101. Definitions

A. As used by the Office of State Parks (OSP) in association with the operation of its holdings and public facilities.

Assistant Secretary The assistant secretary of the Office of State Parks, who is the executive head of the office and is appointed by the lieutenant governor with consent of the Senate. This officer is subject to the overall direction and control of the secretary of the DCRT while having direct responsibility for the policies of the OSP, and for the

administration, control and operation of the functions, programs and affairs of the office.

Classification System The method of categorizing OSP sites based on purpose, selection, development and management criteria. The categories established by this system are state park, state historic site, and state preservation area. Use of these classification terms, in any official name or public or private lands or holdings is prohibited except when approved by the secretary of DCRT, and when such areas meet the classification criteria as identified in R.S. 56:1684.

Department of Culture, Recreation and Tourism (DCRT) A governmental agency duly created by the Louisiana State Constitution of 1974. This department is responsible for planning, developing and implementing improved opportunities for the enjoyment of cultural and recreational activities by the people of Louisiana and for greater development of their cultural and physical potential. This department is responsible for the development, maintenance and operation of state libraries, parks, recreational facilities, museums and other cultural facilities. This department is also responsible for statewide development and implementation of cultural, recreational and tourism programs as well as planning for the future leisure needs of the people.

Office of State Parks (OSP) The office within the DCRT responsible for planning, designing, constructing, operating, interpreting and maintaining a system of parks, natural areas, historic sites and recreational facilities.

Secretary The secretary of the Department of Culture, Recreation and Tourism, who serves as the executive head and chief administrative officer of the department and is appointed by the lieutenant governor with consent of the Senate. This officer has responsibility for the policies of the department and for the administration, control and operation of the functions, programs and affairs of the department.

Site Any holding of the Office of State Parks including, but not limited to state historic sites, state parks, state preservation areas, and special holdings.

State Historic Site (SHS) An official designation within the classification system of the OSP. State historic sites are areas with statewide historical, cultural or memorial significance.

State Park (SP) An official designation within the classification system of the OSP. State parks are natural areas which when evaluated on a statewide basis, possess outstanding scenic and natural qualities, as well as outstanding potential for recreation utilization.

State Preservation Area (SPA) An official designation within the classification system of the OSP. State preservation areas are unique natural sites preserved for future generations because of their exceptional scenic, ecological and biological values. Natural history education is the purpose of such areas and is accomplished through active interpretive programs, visitor centers, museums and trail systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:90 (February 1986), amended LR 19:308 (March 1993), LR 31:1979 (August 2005).

Chapter 3. Rules and Regulations

§301. General Authority and Purpose

A. The following rules and regulations, procedures and fees replace, supersede and cancel all rules and regulations, procedures and fees adopted by the Office of State Parks prior to the effective date of these rules.

B. These rules and regulations are enacted by the Office of State Parks. Unless otherwise stated, the rules govern any and all sites under OSP jurisdiction pursuant to the authority given in Title 56, Chapter 6 of the Revised Statutes of 1950.

C. These rules and regulations are designed to provide the proper atmosphere for the enjoyment and protection of facilities and the safety of visitors.

D. The Office of State Parks' programs and activities are open to all qualified persons regardless of race, color, national origin, age or handicap. If anyone believes he or she has been discriminated against in any Office of State Parks' program, activity or facility, he or she may file a complaint alleging discrimination with either the Office of State Parks or the Office for Equal Opportunity, U.S. Department of the Interior, Washington, D.C. 20240.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990), LR 31:1980 (August 2005).

§303. Park Property and Environment

A. The provisions of the Louisiana Criminal Code (R.S. 14:1 et seq.) shall be enforced on all OSP sites.

B. No person shall intentionally remove, damage, disturb, or destroy any OSP property or the property of another person, without the consent of the owner. "Property" shall include but is not limited to structures, watercraft, movables, signs, markers, natural features, wildlife, and plants.

C. No person shall cut, destroy, or damage timber on any site, except as necessary to meet established management criteria, including insect control, public safety, and approved park construction. No timber cutting or removal may occur without the written permission of the assistant secretary or his designee.

D. No building, structure, or other feature of any site may be altered, erected, or constructed without written consent of the assistant secretary or his designee.

E. The assistant secretary shall, in consultation with the site manager, approve a carrying capacity for each OSP site. Once a carrying capacity has been reached, or when additional visitors would adversely impact the site, the site manager is authorized to close the site to incoming visitors.

F. Food, beverages, and smoking are prohibited in structures or areas containing historical furnishings or displays except in designated meeting rooms and assembly locations, or in conjunction with park programs.

G. No person shall excavate, remove, damage, or otherwise alter or deface any archaeological resource located on any site.

H. The display, possession, and/or use of metal detectors or similar devices is prohibited. It is strictly forbidden to dig for or otherwise remove any historical feature, relic or artifact. Persons wishing to excavate and remove historical features by professional archaeological means for research purposes must request a permit from the Louisiana

Archaeological Survey and Antiquities Commission. Applications for such permits must be made through the assistant secretary, Office of State Parks.

I. No person shall plant material or otherwise introduce plant material on any site without the written approval of the assistant secretary or his designee.

J. Visitors to state historic sites are prohibited from leaving designated historic trails and may not walk on historic earthworks, fortifications, mounds or like features without specific permission of the site manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 19:308 (March 1993), LR 26:25 (January 2000), LR 27:1673 (October 2001), LR 31:1980 (August 2005).

§305. Vehicle Use

A. The provisions of the Louisiana Highway Regulatory Act (R.S. 32:1 et seq.) and any rules and regulations promulgated thereunder shall be enforced on all OSP property.

B. Automobiles, trucks, motorcycles, bicycles, recreation vehicles, or any other wheeled vehicles must be operated only on those roads, lanes, or byways designated for vehicular traffic unless otherwise authorized by the site manager.

C. Vehicles, including recreational vehicles, motorcycles, and boat trailers, shall be parked only in designated parking areas unless otherwise authorized by the site manager.

D. No person shall operate a vehicle in excess of 15 miles per hour on any OSP property unless otherwise posted.

E. No motor vehicle shall be operated on OSP property without being properly licensed by the appropriate regulatory agencies. However, persons with mobility disabilities may use single-passenger, wheeled devices powered by electric motors wherever pedestrians are allowed. Multiple-passenger wheeled devices powered by electric motors (e.g., golf carts) are permitted to transport persons with mobility disabilities between the disabled person's campsite and the bathhouse. The disabled visitor must be a passenger in the vehicle. Low-speed electric bicycles (electric motor of less than 750 watts, 1 h.p.) are treated like bicycles. As new wheeled devices powered by electric motors are developed, exceptions to this provision may be granted in advance on a case by case basis by the site manager or by policy approved by the assistant secretary.

F. No person shall clean, service and/or repair any vehicle on OSP property except in emergency situations and in designated areas.

G. Vehicles will be considered abandoned if left unattended for more than seven consecutive days unless the proper permit or advanced written approval is granted by the site manager.

H. No person shall move or remove any barrier to gain access to a restricted area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 14:772

(November 1988), LR 26:25 (January 2000), LR 31:1980 (August 2005).

§307. Water Craft

A. Federal, state, and local laws, rules and ordinances related to the use of water craft shall be enforced. All water craft located on or adjacent to any site, must be operated in a careful and reasonable manner, and such operation is subject to the rules of safety imposed by the laws of Louisiana and by the United States Coast Guard.

B. Every owner and operator of a motor boat, vessel or other water craft shall comply with all flotation device requirements prescribed by state and federal law.

C. Boats shall be launched only from designated boat ramps or launching areas within a site.

D. A person renting a boat must return the boat to the original docking location after use, and secure the boat from unauthorized use.

E. No boat may be operated in a designated swimming area or in any other area designated as a non-boating area by signs or any area otherwise restricted from boat operation or docking.

F. Boats left docked and unattended must be properly secured in designated areas only. The Office of State Parks will not be responsible for any loss, theft or damage to boats, equipment, personal property or supplies left unattended.

G. Boats will be considered abandoned if left unattended for more than seven consecutive days unless the proper permit or advanced written approval is granted by the site manager.

H. Commercial boats (defined as any craft capable of carrying five or more persons for hire, any craft having a water displacement of five tons or more, whatever the length, or any craft from which commercial activities are conducted involving shrimping, crabbing, fishing, etc.) are prohibited from using any OSP facility without the written consent of the assistant secretary. Prohibited uses include, but are not limited to, loading or unloading of materials, boarding of persons, operating power equipment and non-emergency repair work.

I. Water bodies or portions thereof adjacent to boat ramps, docks, swimming areas, boathouses, cabins, picnic pavilions, or other facilities shall be designated No Wake Areas. Signs and/or buoys will mark the areas so designated.

J. Personal watercraft are prohibited at Poverty Point Reservoir, Chicot Lake and in any portion of any site posted as a "no ski zone."

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 26:26 (January 2000), LR 31:1981 (August 2005).

§308. Poverty Point Reservoir State Park

A. All of the restrictions on and requirements for operating a water craft in Poverty Point Reservoir State Park listed in this section are in addition to those restrictions and requirements found elsewhere in these OSP rules and regulations. These rules apply only to Poverty Point Reservoir State Park's visitors. No part of this section however, shall be construed so as to nullify, in whole or in part, any other section of the OSP rules and regulations as they exist.

B. Boat owners and their invitees must enter the Marina from designated entry points.

C. Operation of vessels—Individuals are prohibited from all of the following:

1. operating a vessel at a speed greater than headway speed (i.e. the minimum speed required to maintain steering) within 50 feet of a shoreline, structures or swimmers;

2. operating a vessel at a speed greater than 20 mph or minimum planning speed (whichever is less) between sunset and sunrise;

3. operating a vessel where the idle volume is greater than 85 decibels. Further, if a vessel is equipped with an optional exhaust noise suppression device, the device must be engaged while the vessel is within a no-wake zone;

4. operating a vessel without a current day use receipt or Resident Boat Permit.

D. No person shall moor any vessel to any buoy or other man-made structure not specifically intended for mooring.

E. Skiing and/or towing of persons behind a vessel is prohibited outside of designated skiing areas.

F. Skiing and/or towing of persons behind a vessel is prohibited in all areas between one half-hour after sunset and one half-hour before sunrise.

G. Use of the Marina Complex. All visitors to the Marina Complex, whether boat owners or their invitees are prohibited from:

1. storing hazardous or flammable materials in the slip area (with the exception of normal fuel storage in moored vessels);

2. performing or allowing to be performed any major repairs or maintenance to a boat moored in the Marina. Major repairs or maintenance include any activities that pose a safety hazard or nuisance or infringe on the enjoyment of the Marina by others;

3. using any cooking appliances including, but not limited to, BBQ pits, fish fryers, meat smokers, seafood boilers, etc. in the Marina;

4. creating an open flame within the Marina;

5. painting or removing paint in the Marina;

6. fueling, or allowing to be fueled any vessel outside designated fueling areas;

7. playing or allowing to be played any video or audio equipment which can be seen or heard outside of the individual slip;

8. placing or allowing to be placed any antenna or other audio/video reception device which can be seen outside of the individual slip;

9. bringing pets into the Marina;

10. using the sewerage pump-out facilities without the assistance of OSP personnel.

H. All boat owners must complete and submit a signed Marina Slip Rental Agreement along with any required payments and/or deposits due prior to using a rental slip.

I. Maintaining the Marina Complex—Boat owners and their invitees shall be responsible for maintaining the Marina facilities available for their use. To that end, every boat owner and invitee shall:

1. remove all refuse from the boat and slip and place in the designated receptacles;

2. store hoses, shorelines, and other gear only in approved storage lockers;

3. place all storage lockers only on the end of dock fingers so as not to interfere with the view or access of other boat owners;

4. provide the park office with keys to both the storage locker and the boat to be used for emergency purposes only;

5. keep the bathroom and shower area clean;

6. report all maintenance and repair needs immediately to park personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 31:1981 (August 2005).

§309. Horseback Riding, Livestock, Animals and Pets

A. Horseback riding is allowed only in specially designated areas and/or as part of special program events approved in advance by the assistant secretary.

B. Any pet brought on OSP property must be leashed, caged or crated. In all instances, leashes shall not exceed five feet in length. With the exception seeing-eye dogs, pets will not be permitted within buildings or other enclosed structures on site, nor will they be allowed near designated swimming areas and in overnight facilities. Owners of pets shall be fully responsible for any injury and/or damage caused by their pet.

C. No person shall allow his livestock to run or graze on any site, except in specially designated areas and/or as part of special programs or events approved in advance by the assistant secretary.

D. No pets are allowed on state preservation areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 14:773 (November 1988), LR 26:26 (January 2000), LR 31:1982 (August 2005).

§310. Litter, Sanitation and Health

A. All litter disposed of on site, shall be placed into a proper litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon OSP property or water bodies. Disposal means to throw, discard, place, deposit, discharge, burn, dump, drop, eject, or allow the escape of a substance.

B. No person shall drain or dump refuse waste from any trailer or other vehicle except in places or receptacles provided for such uses.

C. No person shall clean fish or other food, or wash clothing or articles of household use except in designated areas. No person shall clean, field dress, or have in open view on OSP property any harvested animal or animals.

D. No person shall discharge or allow to be discharged into any waters of the state any waste or substance of any kind that will tend to cause pollution of water used for human consumption or swimming.

E. All deposits of bodily wastes into or on any portion of a comfort station or other public structure, must be made in receptacles provided for that purpose. No person shall deposit any bottles, cans, cloth, rags, metal, wood, stone, or any other non-approved substance into any of the fixtures in such stations or structures.

F. No person shall use refuse containers or other refuse facilities for dumping household or commercial garbage or trash brought to a site.

G. No person shall bury garbage, litter, or dead animals on OSP property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 26:26 (January 2000), LR 31:1982 (August 2005).

§312. Fires

A. Fires shall be built only in places specifically designated for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), repromulgated LR 31:1982 (August 2005).

§313. Fishing, Hunting, Trapping, and the Use of Firearms or Fireworks

A. All wildlife (domestic and natural) in OSP sites is under strict protection and must not be hunted, molested, disturbed, destroyed, or removed, except for scientific or management purposes when approved by the assistant secretary.

B. Bringing or keeping any hunting dogs on OSP property for the purpose of hunting inside or adjacent to a site is prohibited. The possession and/or use of any weapon, including but not limited to shotguns, rifles, pistols, and bow and arrows within a site is prohibited. This prohibition shall not apply to:

1. any law enforcement officer in the performance of his official duties;

2. historic weapons or reproduction historic weapons when used in accordance with department policies and procedures;

3. weapons kept unloaded in a case within a locked vehicle;

4. instances where the assistant secretary has granted special permission because the use of weapons will be used in a manner that furthers the purposes and objectives of the OSP.

C. No person shall possess, shoot, discharge or explode nor cause to be shot, discharged, or exploded any fireworks or other explosives on any OSP property without prior written consent of the assistant secretary or his designee.

D. The taking and hunting of frogs on any OSP property is prohibited.

E. Anyone fishing on OSP property must adhere to all state and federal laws and criteria regarding fresh and/or salt water fishing. The taking of fish by nets, traps or any means other than hook or line is prohibited at any and all sites, except for management purposes as authorized by special permit. Notwithstanding the previous provision to the contrary, the taking of flounder by gigs is permitted as well as the taking of fish by means of a yo-yo or trigger device (as defined in R.S. 56:8) in Chicot Lake at Chicot State Park subject to the following restrictions:

1. fishing with the use of yo-yos or trigger devices shall be permitted on Chicot Lake only from Nov. 1 through March 1 of each year;

2. not more than 24 yo-yos or trigger devices shall be allowed per boat;

3. each yo-yo must be tagged with the name of the responsible party, the registration number of the boat, and the date and time the yo-yo was set;

4. all yo-yos must be attended and re-tagged at least every 48 hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:773 (November 1988), LR 16:1052 (December 1990), LR 19:308 (March 1993), LR 31:1982 (August 2005).

§314. Swimming

A. Swimming is permitted only in designated areas, and at the swimmer's own risk.

B. All children under 12 years of age must be accompanied by an adult at any swimming area.

C. The capacity of all pools and beach areas is determined, regulated and enforced by the site manager.

D. Glass containers of any kind are prohibited within any perimeter boundaries of pools, enclosed swimming areas, enclosed beach areas, and beach parks.

E. No food or drinks are allowed within enclosed pool and enclosed beach areas with the exception of concessions sold at the Bayou Segnette State Park wave pool.

F. Only Coast Guard approved Type I or Type II Personal Flotation Devices are allowed in swimming areas with the exception of flotation devices provided by the Office of State Parks at the Bayou Segnette State Park wave pool.

G. Swimming is prohibited at all beach parks between sunset and sunrise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 26:27 (January 2000), amended LR 31:1983 (August 2005).

§315. Amplified Sound Equipment

A. No person shall play amplified musical instruments except when approved by the assistant secretary or his designee. No person shall play non-amplified musical instruments, radios, televisions, tape players and similar equipment in a manner that disturbs other visitors.

B. No person shall use any public address systems, whether fixed, portable, or vehicle mounted, without prior approval of the assistant secretary or his designee.

C. Remote public broadcast activities must be approved by the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 31:1983 (August 2005).

§317. Disorderly Conduct

A. Disorderly or boisterous conduct is forbidden.

B. The site manager and his designees are authorized to control the use and consumption of alcoholic beverages at a site. This includes the authority to prohibit the consumption of alcohol in designated areas within a site. The lawful consumption of alcoholic beverages may be allowed to the extent that such activity does not adversely affect the use and enjoyment of the site by other site users.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 31:1983 (August 2005).

§319. Business Activities

A. No one may sell or offer for sale any merchandise or service without the written consent of the assistant secretary or his designee.

B. No one may distribute, post, place, or erect any advertising device without the written consent of the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 31:1983 (August 2005).

§321. Fines and Enforcement of the Rules and Regulations

A. In addition to any other penalty provided by law, persons violating these rules and regulations are subject to: administrative fines for each violation of not less than \$15 nor more than \$250 (R.S. 56:1689), eviction from the site, and/or restitution to the state for damages incurred. If an individual is delinquent in paying for damage incurred, the agency reserves the right to refuse privileges to that individual pending receipt of such restitution.

B. Site managers and their agents, including rangers, watchmen, and guards, may be certified as "State Park Wardens." State Park Wardens, in addition to the authority otherwise conferred by law upon such officers, are vested with the same authority and powers conferred by law upon regular law enforcement officers of this state. State Park Wardens have specific authority and responsibility to enforce all rules, regulations, and laws within the limits of their jurisdiction.

C. No person shall enter a site:

1. when the site is closed; or
2. without proper registration.

NOTE: In addition to any penalties otherwise provided by law, any person violating this subsection will be subject to an administrative fine of not less than \$25.

D. Site visitors may be required to furnish specific information upon registration, including but not limited to, vehicle license plate number, a driver's license number, state of residency, place of employment, and date of birth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636

(December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 27:1673 (October 2001), LR 31:1983 (August 2005).

§329. Fees, Fines, and Enforcement of the Rules and Regulations

A. The use of certain sites and/or facilities is subject to charges which will be imposed by the manager according to the schedule of fees approved by Office of State Parks. The managers or their agents are responsible for the collection and enforcement of these fees.

B. The assistant secretary or his authorized agent may direct the closing of a site to public use when or if any natural or man-made occurrence has affected, or is expected to affect, the operation and management of the site to a degree that normal public use and enjoyment are altered, or when such use may impair the health, safety, and well-being of the public or employees of the agency.

NOTE: In addition to any penalties otherwise provided by law, any person violating this subsection will be subject to an administrative fine of not less than \$25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 19:309 (March 1993), LR 31:1984 (August 2005).

§330. Day Use

A. Day-use facilities such as barbecue pits, tables, etc., which do not require prior reservations shall not be reserved by placing personal articles at these facilities prior to their immediate use. This includes firewood, ice chests, or any other personal property. The use of all such facilities is on a first come, first served basis.

B. The use of any facility in a site is subject to certain conditions or policies set down on an individual facility basis by the site manager. These conditions or policies must be approved in writing by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 19:308 (March 1993), LR 26:28 (January 2000), LR 31:1984 (August 2005).

§331. Overnight Use

A. General Provisions

1. Any overnight use of a site requires a written permit or cash receipt from the site. Overnight facilities are reserved for the exclusive use of persons properly permitted for the use of overnight facilities and their guests. An exception to this rule will be made for volunteers camping at a state historic site as part of an approved overnight encampment program.

2. Permittee may not transfer or assign any use permit nor sublet any facility or part thereof.

3. The site manager has the authority to require the registration of every person occupying a campsite or overnight facility.

4. Any permit may be terminated by the assistant secretary or by the site manager upon the violation of any established rule, regulation, or any condition of the permit.

5. Lock combinations on entrance gates are issued for the personal use of the permittee, who is prohibited from allowing others to use the lock combination, or otherwise

making the facilities open so that others not covered by the permit may enter or leave the facility or area.

6. Established time schedules (check-in and check-out) are strictly enforced. Failure to comply without advanced approval of the park manager may result in additional charges and denial of any future use of the facility.

7. Overnight users must maintain a reasonably quiet facility between the hours of 10 p.m. and 6 a.m.

8. Overnight users shall not erect or display unsightly or inappropriate structures or features which, in the opinion of the site manager, may create a disturbing or otherwise unpleasant condition detrimental to the general site use.

9. No permittee may repair or install any site equipment or furnishings unless authorized and supervised by the site manager.

10. No person shall be permitted to reside at any OSP site.

11. Parking for boat trailers and additional vehicles may be allowed at the discretion of the site manager or his designee, subject to individual site suitability for such purposes.

12. Permittees waive and release all claims against the state of Louisiana for any damage to person or property arising from the privileges granted by any use permit.

B. Camping

1. With the exception of a campground host, overnight camping and group camp, lodge and cabin use are limited to 15 consecutive days. After 15 consecutive days of occupancy at a site, the visitor must vacate the site for seven consecutive days before occupancy may be resumed. No person shall occupy a campsite for more than 23 days in any 30 day period. However, at the site manager's discretion, and subject to availability, overnight camping may be extended on a weekly basis. No campsite may be vacated for longer than a 24-hour continuous period under any permit agreement.

2. OSP campgrounds are intended for tents and recreational vehicles only.

3. Campsite occupancy is limited to six persons. At designated group camping areas occupancy limits are set by the site manager or his designee.

4. Campsite configurations within the system vary in size, length, and surfacing materials. Camping spurs are designed to accommodate one camper/pop-up trailer with tow vehicle or one motorized camper and additional vehicle. Additionally, many sites will have designated tent pads adjacent to the spur. The site manager or his designee will have the authority to evaluate additional possible combinations for on site approval. Due to the numerous possible potential combinations, the following are to be used as general guidelines subject to variance by the site manager or his designee:

a. one camper trailer with tow vehicle (may include pickup camper), one large tent or two small tents;

b. one motorized camper with additional vehicle (may include pickup camper), one large tent or two small tents;

c. one pop-up camper with two vehicles (may include pickup camper), one large tent or two small tents;

d. one pickup camper with additional vehicle, one large tent or two small tents;

e. two vehicles and tent combinations not to exceed three tents.

5. The following camping combinations are applicable only to Grand Isle State Park:

- a. one passenger vehicle and two tents (family unit only);
- b. one passenger vehicle and one camping trailer;
- c. one van-type camping vehicle and one tent;
- d. one van-type camping vehicle and one camping trailer;
- e. one pickup truck camper and one tent;
- f. one pickup truck camper and one camping trailer;
- g. one motorized camper (or bus) and one passenger vehicle;
- h. in the north camping area, registered campers are allowed to bring a maximum of two vehicles and a maximum of six persons per campsite.

6. Beach campsites cannot be reserved.

C. Cabins, Lodges, Other Overnight Facilities

1. A written inventory of movable equipment and furnishings is posted in each overnight structure or will be furnished to the visitor. It is the visitor's responsibility to check the inventory immediately upon occupancy. The visitor must report to the site manager any discrepancy between the actual inventory and the printed inventory. The visitor may be assessed the cost of items which, if not reported as missing or damaged upon occupancy, are missing or damaged when the structure is vacated. Failure to reimburse the Office of State Parks for any missing property or damage to property may result in denial of future use of OSP facilities.

2. Facility furnishings shall not be moved without the permission of the site manager.

3. Upon termination of any use permit, the facility must be vacated in good repair and in the same condition in which it was occupied. Where applicable, all doors and windows will be closed, all water taps shut, and all fires extinguished. Permittees will be responsible for any and all damages resulting from their use of the facility. Failure to comply may result in denial of future use of OSP facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1053 (December 1990), LR 19:308 (March 1993), LR 26:28 (January 2000), LR 27:1673 (October 2001), LR 31:1984 (August 2005).

§333. Boundary Designation/Property Posting

A. The boundaries of all lands under the jurisdiction of the Office of State Parks shall be posted, except where posting is deemed unnecessary. Posting may be deemed unnecessary where any of the following conditions are met:

1. where OSP properties are bounded by public roadways;
2. where OSP property boundary is defined by a waterway;
3. where fencing or other fixtures that clearly delineate the property line are already present;
4. where the visual aesthetics would be destroyed or impeded.

B. For the purpose of establishing proper posting requirements for the different types of OSP properties, the following definitions are adopted:

Developed Property Areas administered by Office of State Parks which are operated in whole or part for public use and benefit.

Undeveloped Property Areas administered by the Office of State Parks which are not operated for public use and benefit. Such areas are usually acquired for future use and development by the agency.

C. Criteria for Posting and Establishing Boundaries

1. Except where posting is deemed unnecessary, boundaries of developed property shall be posted as per the following requirements.

a. The Office of State Parks shall place or cause to be placed and maintain signs along the boundaries of such property, which sign shall be written in the English language and shall contain the following wording: "posted," the characters of which shall be at least four inches in height, followed by the words: "Office of State Parks," the characters of which shall be at least 1 inch in height, followed by the words: "Do Not Enter except at Public Access Points," the characters of which shall be at least 1/2 inch in height.

b. The color of such signs shall be yellow background overprinted in black characters.

c. The Office of State Parks shall place and maintain such signs along the boundary of all developed property at intervals of not more than 1/8 mile. Such signs shall face in a direction so as to be visible before entering upon state parks' property.

d. Such signs shall be placed on trees, posts or other supports at a distance of at least 3 feet above ground level and not more than 10 feet above ground level.

e. Public access points to developed areas shall be clearly identified with entrance signs or other obvious means of establishing public entry.

2. Except where posting is deemed unnecessary, boundaries of undeveloped property shall be posted as per the following requirements.

a. The Office of State Parks shall place or cause to be placed and maintain signs along the boundaries of such property, which sign shall be written in the English language and shall contain the following wording: "posted," the characters of which shall be at least 4 inches in height; followed by the words: "no hunting, no trespassing, Office of State Parks" the characters of which shall be at least 1 inch in height.

b. The color of such signs shall be yellow background overprinted in black characters.

c. The Office of State Parks shall place and maintain such signs along the boundary of all undeveloped property at intervals of not more than 1/8 mile. Such signs shall face in a direction so as to be visible before entering upon state parks' property.

d. Such signs shall be placed on trees, posts or other supports at a distance of at least 3 feet above ground level and not more than 10 feet above ground level.

3. In areas such as marsh lands or where boundaries occur over water bodies, signs shall be placed at major points of ingress to the area.

D. Penalties

1. Any person entering any OSP site except at designated public access points or unless possessing written permits or permission from authorized agents of state parks shall be cited for criminal trespass violations and shall be subject to administrative fines for each such violation of not less than \$15, nor more than \$250 (R.S. 56:1689).

2. Any person who removes, destroys or willfully damages any posted signs as herein described or relocates such signs from its original location shall be subject to fines for each such violation of not less than \$15 nor more than \$250 (R.S. 56:1689).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 11:100 (February 1985), amended LR 12:89 (February 1986), LR 31:1985 (August 2005).

Chapter 5. Procedures and Fees

§500. Fees and Exemptions; Day-Use Fees

A. State Parks General Admission Day-Use Entrance Fees

1. A day-use fee is charged at all State Parks (except St. Bernard State Park).

a. Persons in noncommercial vehicles are charged one dollar per person per day.

b. Walk-in visitors and visitors on bicycles are charged \$1 per person for the day.

c. Children age 3 and under are free. Seniors age 62 and older are free.

d. Buses used as public conveyances are charged \$60 per day. For the purpose of this rule, buses, whether privately or commercially owned and operated, shall be considered any conveyance which is capable of transporting 20 or more individuals. Discounts or exemptions to which bus passengers would otherwise be entitled are not applicable to bus passengers unless prior approval has been granted in writing by the assistant secretary subsequent to verification that the entire group is composed of senior citizens, veterans, or other individuals entitled to a discount or fee exemption.

2. All prices include state and local taxes. In any cases where entrance fees are charged, there is no additional charge for the use of picnicking (except group shelters when reserved for exclusive use), boat launching, or swimming facilities (exception: St. Bernard State Park and Bayou Segnette State Park).

a. St. Bernard SP swimming pool fee is \$2 per person.

b. Bayou Segnette SP wave pool fee (in addition to the park entrance fee and all other user fees) is: adults (over 48 inches) \$8 per day, children (under 48 inches) \$6 per day. The price includes one flotation device per person. Discount coupons are available when purchased in quantity lots.

3. A self-service fee system may be used to collect user fees on areas normally served by an entrance control station. During these times all reservation guests or others requiring registration shall sign in at the office during the normal business hours or with a ranger placed in the entrance station at hours when the office is not operated.

4. Dump Station Use. Users with recreational vehicles who desire to utilize only the pump station facilities on any

state park shall be charged the day use entrance fee. Discounts are not applicable to this use.

B. State Historic Sites General Admission Fees

1. An admission fee of \$2 per adult is charged for all state historic sites except Locust Grove and Los Adeas which have no admission fee, and Rosedown Plantation as provided in subsection 4. There is no admission fee for children age 12 and under or seniors 62 and older at any state historic site except Rosedown Plantation as provided in Paragraph 4.

2. Admission entitles visitors to all facilities and regular programs that may be offered at the historic site. Special programs and events may include special admission rates.

3. The payment of the admission fee at one historic site entitles guests to enter all historic sites (except Rosedown Plantation) on the same day with no additional charge. Payment of the admission fee at one historic site entitles same day guests at Rosedown Plantation to a \$2.00 discount off the Rosedown Plantation admission fee). The receipt from the first site must be presented for admission to subsequent sites.

4. Rosedown Plantation State Historic Site

a. Charges for admission to the plantation house and the gardens surrounding the house at the following rates:

- \$10 per adult (ages 18 to 61)
- \$8 per senior citizen (ages 62 and over)
- \$4 per student (ages 6 to 17)
- FREE for children (ages 5 and under)

b. Charges for admission to the gardens only at the following rates:

- \$5 per adult (ages 18 to 61)
- \$5 per senior citizen (ages 62 and over)
- \$4 per student (ages 6 to 17)
- FREE for children (ages 5 and under)

5. Organized groups of 10 or more are requested to notify the site manager in advance of their arrival. There is no additional fee for SHS visitors arriving by bus.

C. State Preservation Areas General Admission Fees. An admission fee is not currently charged at the state preservation areas in operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), amended LR 31:1986 (August 2005).

§501. Fees and Exemptions; Miscellaneous Services and Facilities Fees

A. Boating

1. Rental boats, including flat bottom, motor, canoes, and kayaks, are available at most parks. The use of motors on these boats is limited to the manufacturer's recommended horsepower capacity.

2. The standard rate for rental flat bottom boats with three life jackets and two paddles is \$15 per boat per day. Additional life jackets are available at a rental fee of \$1 each per day.

3. Canoes may be rented for \$20 per canoe, per day. A canoe float trip is charged \$25 per canoe, per trip. Kayaks

may be rented for \$30 per kayak, per day. All fees include paddles and life jackets.

4. At some sites rental boats, kayaks, canoes and other water vessels may be available through the park or through a concessionaire. Visitors should contact the site to check availability and rates.

B. Bicycles. Bicycles may be rented for \$5 per hour.

C. Marina Boat Slips. Boat slips in the Poverty Point Reservoir State Park marina are available for \$12 per night or, under an annual contract, for \$50 per month.

D. Group Rental Pavilions

1. Group rental pavilions are available at most state parks and state historic sites. The rental rate varies, depending upon the size and location.

2. Exclusive use of a group pavilion can only be made by a rental permit and payment of a rental fee. These group pavilions can be reserved in advance with payment of the rental fee.

3. Reserved pavilions will be posted, indicating the name of the party and date of use. When such pavilions are not so posted or reserved, they are available to the site visitors on a first come, first served basis.

4. In addition to the rental fee, users of the reserved group pavilions will also be charged the normal day-use entrance fee to the site.

5. The carrying capacity of a group rental pavilions is based on its size, facilities and available parking, and may not be exceeded as determined by the site manager.

6. a. Type I Pavilion. These pavilions, usually located in the day-use area, accommodate a standard of 40 people. Reserve rental rate is \$40 per day.

b. Type II Pavilion. These pavilions, usually located in the day-use area, accommodate 60 people. Reserve rental rate is \$60 per day.

c. Type III Pavilion. These pavilions are usually separated from the day-use area, affording more group privacy than the other pavilion types. They may accommodate 100 people. Reserve rental rate is \$100 per day.

E. Meeting Rooms. Meeting rooms used to accommodate meetings and functions of private groups, clubs and other organizations are available during normal park operating hours. Kitchen facilities may be used, if available. Meeting room rates are as follows.

\$100	Type I e.g., Bayou Segnette, North Toledo Bend, Lake D'Arbonne
\$150	Type II e.g., Chemin-à-Haut, Chicot
\$200	Type III e.g., Lake Fausse Pointe

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1052 (December 1990), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1986 (August 2005).

§502. Fees and Exemptions; Exemptions/Discounts

A. Disabled Veterans. A special Veteran Entrance Permit allows any disabled U.S. veteran and any person(s) accompanying him in a single, private, non-commercial vehicle exemption from the entrance fees only at those sites

which collect such fees through a vehicle permit. Where individual fees are charged only those properly recognized disabled U.S. veterans are exempt. Applications for a veteran permit may be made to the Louisiana Department of Veterans' Affairs Service Office serving the parish in which the applicant resides. After certification of eligibility has been established by the Department of Veterans' Affairs, the assistant secretary of the Office of State Parks will issue a permit directly to the applicant.

B. School Groups. Any child who is on a field trip conducted as part of the curriculum of the school and any classroom teacher, parent, bus driver and any other person accompanying a school child on such a field trip are exempt from paying the general admission charge to any site.

C. Golden Access Passport. Any citizen of the United States who possesses a Golden Access Passport issued by any agency of the United States, pursuant to 16 U.S.C. Section 460 L-65, upon presentation of the Golden Access Passport and proper identification to any state park authorities, shall be exempt from the day-use entrance fee to any Louisiana state park. On areas where individual day-use fees are charged, the exemption shall apply only to the passport holder; however, where vehicle permits are utilized, the exemption shall apply to the permit holder and each occupant accompanying the permit holder in the same private non-commercial vehicle.

D. Non Profit Community Home Based Organization. Any child age 18 or under who is retained in the legal custody of the state through a bona fide contractual service agreement with a public, non-profit community home based organization or "provider" shall be exempt from paying the general day-use entrance fees or any other day-use fee at any site. Such use must be in conjunction with an organized group outing or event sponsored and supervised by the public, non-profit organization or "provider."

1. Certification of the eligible organization or "provider" must be made in writing to the Office of State Parks, and the agency shall in turn recognize such certification prior to eligibility for this exemption.

2. This exemption shall not be applicable to day-use functions at any state park overnight facility such as group camps, cabins, campgrounds, etc.

E. Annual Day Use Permits

1. Permits are available at a cost of \$50 per year. This permit, in the form of a wallet I.D. card, allows the holder individually or as a passenger in a single, private non-commercial vehicle entry to all sites in lieu of the normal day-use fee. All people accompanying a permit holder as occupants in a single, private non-commercial vehicle in which the permit holder is a passenger or driver are also admitted without charge.

a. The wallet permit may be exchanged for a vehicle decal which shall be permanently affixed to a vehicle, if this is a more convenient permit arrangement.

b. The Annual Day-Use Permits are valid for a period of one year beginning January 1 and ending December 31 annually. Permits may be obtained at any site.

2. The Annual Day-Use Permits are valid for exemption of the general admission day-use charge only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637

(December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1987 (August 2005).

§503. Fees and Exemptions; Special Promotions

A. From time to time, as deemed appropriate by the assistant secretary, special programs, occupancy regulations, discounts or waivers on user fees may be offered in order to encourage visitation. These special promotional offers must be reviewed and reauthorized annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1988 (August 2005).

§504. Fees and Exemptions; Overnight Use

A. Camping

1. An improved campsite rents for \$16 per night. An unimproved campsite rents for \$12 per night. A premium campsite rents for \$18 per night. For information regarding campsite reservation fees, see Reservation Policy, §505.

2. Each campsite is restricted to use by one camping unit.

3. Designated primitive areas accommodating organized groups (Boy Scouts, Girl Scouts, etc.) are available for camping at \$1 per person, per night. Capacity will be set by the site manager.

B. Rally camping areas are those designated and reserved for use by organized groups of overnight campers. These areas differ from the normal state park campgrounds since they are available for group use only.

1. Fees—Rally Camping

a. A fee of \$50 per night is assessed to the group for the exclusive use of the area, and each individual camper rig is also charged the improved campsite rate.

b. The day-use fee for a rally campground is \$50 per day for the group, and in addition, the standard day-use entrance fee is charged per vehicle.

2. Carrying Capacity. A maximum carrying capacity for rally areas is established by individual site managers, and information concerning these capacities is available through the individual site offices.

C. Backpacking

1. Backcountry camping or backpacking is defined as camping in undeveloped areas of a site, where there are no designated campsites and no facilities provided. These areas are reached by backpacking or by non-motorized boats.

2. Backpacking is available only at Chicot State Park. A permit is required for all overnight backpacking use and may be obtained at the park entrance station.

3. Each person will be assessed a fee of \$1 per night. A copy of the backpacking regulations can be obtained at the park entrance station.

D. Canoe Camping

1. Canoe camping at primitive campsites is available at Lake Fausse Pointe State Park and Lake Claiborne State Park. The unimproved campsite rental fee of \$12 is charged for use of these areas.

E. Cabins and Lodges

1. Cabins

Classification	Overnight Rate	Bedding Accommodations	Maximum Capacity
Deluxe	\$90	6	8
Standard	\$70	4-6	6-8

2. Park Lodges. These are large overnight structures equipped with kitchen, bath and sleeping facilities and can accommodate a large family or several family groups.

Classification	Overnight Rate	Bedding Accommodations	Maximum Capacity
Standard	\$125	varies	varies
Deluxe	\$150	14	16

F. Group Camps. Group camps are available at certain parks for organized group use. The capacity, type of facility, and rates are as follows.

Classification	Overnight Rate	Maximum Capacity
Class III	\$400	100+
Class II	\$200	50+
Class I	\$150	30+

1. Group camps may be reserved for day or overnight use at a basic rate.

G. Special Research Dormitory Facilities

1. Purpose. The primary purpose of the research dormitory is to provide living space and sleeping accommodations for professional researchers and students who are actively conducting on-site research. The dormitory can be used on a first come, first served basis by other individuals who meet the requirements as set forth in this policy statement.

2. Eligible Users. The dormitory is available to college students, professional archaeologists and other scientists and professionals who are studying the site and/or actively conducting research which relates to or directly involves the site or nearby sites of significance.

Requests for use of the dormitory by individuals or groups not meeting the above criteria will be reviewed to determine merit and appropriateness.

3. Application Process. Requests for use of the dormitory must be made by letter addressed to the site manager. The site manager and the assistant secretary will review the request and respond in writing to the applicant.

4. Facility Use Agreement

a. All parties granted permission to use the dormitory must execute a Facility Use Agreement.

b. The user must execute the agreement and return it to the site manager before occupying the dormitory.

5. Research Dormitory Fees. All user groups, unless otherwise authorized by the assistant secretary, will be required to pay a \$100 per night fee for overnight use. The rental fee must be received within 10 days after the user receives written approval to use the dormitory.

6. Research Dormitory Occupancy Requirements

a. Registration with the site manager is required of all boarders before occupying the dormitory. This information will include name, organization, address, and home or business phone numbers.

b. Keys to the dormitory can be obtained from the site manager. One group leader will assume responsibility for the keys and return them to the manager before leaving.

c. General cleanup of this facility will be the responsibility of the user. The user will follow established cleanup and housekeeping procedures distributed by the manager.

d. Research dormitory checkout time is 2 p.m.

7. Special Conditions. All programs and activities conducted by groups or individuals using the dormitory must be approved in writing by the site manager.

8. The site manager has the administrative responsibility for all matters relating to the daily operation of the dormitory building and site facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:638 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:30 (January 2000), LR 27:1674 (October 2001), LR 31:1988 (August 2005).

§505. Reservation Policy

A. General Provisions

1. Reservations may be made for all OSP facilities that are subject to reservation, by calling the State Parks Reservation Call Center. Overnight and day-use facilities, including cabins, lodges, group camps, camping sites, rally shelters, meeting rooms and pavilions may be reserved 11 months in advance. For example, if a park user wants to use a facility on July 2, he may make the reservation no earlier than August 2, or the first business day after August 2, of the prior year.

2. The call center will operate 8 a.m. to 4:30 p.m., Monday through Friday. The call center will close for state holidays. Based upon demand, the center's hours may be extended by the assistant secretary or his designee.

3. Reservations are accepted only from persons 18 years of age or older. All persons under 18 years of age must be accompanied by adults when using reserved facilities.

4. Deposit in full must be received within 10 days of the date the reservation is made otherwise the reservation is canceled. Payment may be made by credit card, in-state personal check or money order. If the reservation is made within 14 days or less of the usage date, payment shall be by credit card only.

5. A cancellation of a reservation initiated by the site user is subject to a surcharge. The cancellation fee is a minimum of \$10 per facility. If the reservation is canceled within 14 days of the first day of intended use, the cancellation fee is the cost of one day's stay or \$10 per facility, whichever is more. A transfer of reservation dates will be treated as a cancellation and a new reservation, and is therefore subject to the cancellation surcharge. There is no charge to transfer a reservation from a facility to the same type of facility located within the same site. Requests for waivers of the cancellation fee must be made in writing to the assistant secretary or his designee and will be granted only for extreme situations.

6. In the event reservations must be canceled for maintenance or emergency reasons by OSP staff, the rental fee will be refunded in full.

7. For cabins, lodges, group camps, rally shelters and campsites a two-day minimum reservation is required for

weekends. The minimum may be met by reserving the facility on Friday and Saturday nights, on Saturday and Sunday nights or for all three nights. If facilities are not reserved in advance, they may be rented on weekends for one night to walk-up users using the facilities that day. Exceptions may be granted by the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:640 (December 1982), amended LR 12:89 (February 1986), LR 14:777 (November 1988), LR 16:1051 (December 1990), LR 26:32 (January 2000), LR 27:1674 (October 2001), LR 31:1989 (August 2005).

§506. Refunds

A. Refunds will not be issued to visitors evicted for enforcement or disciplinary reasons.

B. Fees paid on-site may be refunded on-site upon approval of the site manager or his designee for the following reasons:

1. in emergency situations where the site must be closed due to natural or man-made emergencies (water shortage, fire, weather, and equipment failure);

2. when a user chooses to leave a site before use of any facilities;

3. when the user chooses to leave a site before utilizing rental facilities for the total reservation period, the unused reservation period amount will be refunded minus the cancellation fee detailed in §505.A.5. This rule however, does not provide for refunds during weekends which require a minimum reservation period.

C. All site-issued refunds will require that the visitor present a valid paid receipt for the amount of the requested refund.

D. All advance reservation refunds must be issued through the administrative office in accordance with §505.A.5.

E. Temporary visitors passes are available for the purpose of inspecting the site facilities prior to an anticipated visit.

F. Refunds of day use fees are not granted when a visitor, by his own choosing, leaves the site due to inclement weather.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:32 (January 2000), LR 31:1989 (August 2005).

§507. Special Uses and Restrictions

A. Special Use. Any function requiring special or restricted use of any facility or area within an OSP site must be approved by the assistant secretary and the fee for such will be computed on a negotiated rate unless otherwise established. Written request for special use of a facility must be received at the Office of State Parks, Box 44426, Baton Rouge, LA 70804-4426 at least 30 days prior to the scheduled event. No telephone requests are accepted.

B. Use Restrictions

1. Activities and uses of state historic sites are limited to those appropriate to the significance of each site as

defined by the master plan and interpretive prospectus of the unit.

2. It is necessary that development on a state historic site be limited to that which is essential for visitor accommodation and enjoyment of the area's theme or feature. Day-use facilities will be limited to activities that do not conflict with the historical theme of the site, and confined to section(s) set aside for such purposes. Historic zones will be established to protect the resource and insure appropriate use of each state historic site. Space outside of the historic zone(s) and maintenance area(s) may be set aside for recreational use at the discretion of the site manager.

3. The atmosphere created on the historic site is as important as the artifactual evidence. In order that the greater interest and primary function of the area be served, it is necessary to restrict certain incompatible activities from the sites. Any sport or recreational activity that does not contribute to a greater understanding of the theme of the area is prohibited within all historical zones of any state historic site. Recreation zones appropriate for such use may be designated by the site manager if space permits. No organized league activities will be allowed on the grounds of any state historic site.

4. It has also been determined that the use of state historic sites for such activities and events as fairs, circuses, carnivals, amusement rides, and other promoter sponsored, commercial activities and events is not deemed in the best interest of the state historic sites. Such uses fails to achieve the intent outlined in the preservation purpose and may increase the potential for serious damage to the quality and character of the area, adversely affecting the experience of the visitor. However, at Rebel State Historic Site, musical events sponsored by promoters will be permitted with the approval of the assistant secretary or his designee.

5. Organizations, such as historical societies, friends groups or service groups, offering support to any OSP site, may be permitted to conduct special functions at a site if a written request is made and written permission is obtained from the assistant secretary. Such functions may not be specifically for the benefit of an individual, but must be held to benefit the site, either directly or indirectly, by generating greater public awareness of the site or of the area's history, or to assist the agency in the fulfillment of its mission and purposes.

C. Passenger Bus Restrictions

1. In an effort to facilitate control of the day-use carrying capacity for OSP sites, no buses nor occupants thereof shall be admitted to OSP sites for any day-use activities on weekends or holidays during the period Memorial Day weekend through Labor Day, except by special permit. This restriction shall not apply to state historic sites.

2. Special Bus Use Permits. Any access to OSP sites (excluding state historic sites), by bus transportation on weekends or holidays during the period between Memorial Day and Labor Day will require a special bus use permit. The application for the permit must be submitted to the site manager at least three days prior to the proposed use date along with the group's proof of \$1,000,000 liability insurance and proof of \$500,000 automobile or bus liability insurance. Children traveling to OSP sites must be

chaperoned by adults. The permit, if approved, does not cover other special day-use charges (rental pavilions, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:779 (November 1988), LR 19:313 (March 1993), LR 26:32 (January 2000), LR 27:1674 (October 2001), LR 31:1989 (August 2005).

Chapter 9. Division of Outdoor Recreation Administration

§900. Definitions

A. As used by the division of outdoor recreation:

Assistant Secretary of the Office of State Parks Designated as the authorized representative of the State of Louisiana under the Land and Water Conservation Fund Act (16 U.S.C. §§4601-4 to 4601-11), which position is referred to as "state liaison officer" and which federal act is hereinafter called "Act", and is directed to utilize the Statewide Comprehensive Outdoor Recreation Plan (SCORP) in carrying out the authority vested in said office, it being the intention that any action taken by the state liaison officer be pursuant to and in compliance with the plan. Acts 1980, Number 827, §2. Amended Acts 1982, Number 329, §2, eff. July 18, 1982.

Department The Department of Culture, Recreation and Tourism (DCRT).

Division of Outdoor Recreation (DOR) The functional subunit of the Office of State Parks responsible for development, promotion and implementation of the Land and Water Conservation Fund and Urban Parks and Recreation Recovery Act programs.

Land and Water Conservation Fund (LandWCF) Grants 50 percent matching grants made by the U.S. Department of the Interior under the Land and Water Conservation Act of 1965, as amended (16 U.S.C. §4601 et seq.) to the state of Louisiana and through the state to political subdivisions for the purpose of acquiring and developing outdoor recreation areas and facilities.

Land and Water Conservation Fund (LandWCF) Grants Manual Sets forth the administrative policies, procedures and guidelines for LandWCF grants awarded to the states by the Department of the Interior, National Park Service.

Office of State Parks (OSP) That office in the Department of Culture, Recreation and Tourism which administers the U.S. Department of the Interior's Land and Water Conservation Fund Act of 1965 and Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. §2501 et seq.).

Outdoor Recreation-A Project Handbook Summarizes the rules and regulations as set forth in the *LandWCF Grants Manual* and sets forth the policies, procedures and guidelines for making application, implementation and post completion grant requirements.

Park Includes land and water parks owned or operated or proposed for ownership, development and operation by the political subdivision which are set aside by a public entity for public recreational use.

Political Subdivision A parish, city or other governmental entity with the legal authority to establish and/or operate parks and recreation areas.

State Application The information and documents which must be provided by the applicant in sufficient detail

to allow the DOR staff to prepare the federal application forms for a LandWCF grant.

State Liaison Officer (SLO) The liaison official appointed by the governor to represent the state in matters dealing with the U.S. Department of the Interior's Land and Water Conservation Fund and the Urban Park and Recreation Recovery Act of 1978.

State Parks and Recreation Commission (SPARC) The commission whose purpose is to promote the goals and objectives of the Office of State Parks and to act in an advisory capacity to that office, the assistant secretary of that office, and the secretary of Culture, Recreation and Tourism on matters relating to parks. The commission shall also cooperate with political subdivisions of the state when officially requested.

Statewide Comprehensive Outdoor Recreation Plan (SCORP) A prerequisite for eligibility for LandWCF assistance for acquisition or development grants, identifies capital investment priorities for acquiring, developing and protecting all types of outdoor recreation resources within a state, assures continuing opportunity for local units of government and private citizens to take part in their state's outdoor recreation and environmental planning programs, and provides a practical tool for coordinating all state outdoor recreation and environmental conservation programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:90 (February 1986), amended LR 19:308 (March 1993), LR 31:1990 (August 2005).

§901. Land and Water Conservation Fund Program Summarized¹

A. Purpose. The Land and Water Conservation Fund (LandWCF) Act of 1965 (Public Law 88-576, 78 Stat 897) was enacted "... to assist in preserving, developing and assuring accessibility to all citizens of the United States of America of present and future generations ... such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation ..." The LandWCF program provides matching grants to states, and through the states to local governments, for the acquisition and development of public outdoor recreation areas and facilities. Planning grants are also available to the states to help develop Statewide Comprehensive Outdoor Recreation Plans (SCORP).

B. Delegation of Authority. The LandWCF Act authorizes the secretary of the interior to provide financial assistance to states for outdoor recreation purposes. Except for the apportionment of funds among states and the approval of contingency reserve projects, this authority has been delegated to the director of the National Park Service (NPS). The regional directors are authorized to exercise the full program and administrative authority of the director within the geographic area comprising the region for which they have responsibility. Limitations to this delegation include the director's authority to act on all recommendations to the secretary involving the apportionment of LandWCF monies and the allocation of Contingency Reserve Fund assistance; and to approve or disapprove formal arrangements whereby the state agrees to

assume certain responsibilities in the administration of the LandWCF program.

C. Appointment of State Liaison Officer. To be eligible for assistance under the LandWCF Act, the governor of each state shall designate, in writing, an official who has authority to represent and act for the state as the state liaison officer in dealing with the director of NPS for purposes of the LandWCF program. The state liaison officer (SLO) shall have the authority and responsibility to accept and to administer funds paid for approved projects. Upon taking office, a new governor shall officially, in writing, redesignate the present state liaison officer or appoint a new individual to represent and act for the state in dealing with the LandWCF program.

D. Apportionment of Funds. LandWCF monies are apportioned to the states by the secretary of interior each fiscal year in accordance with the apportionment formula contained in the LandWCF Act. This formula includes a factor for equal distribution of a portion of the funds among the states, as well as factors for distribution on the basis of population and need. Funds are apportioned to the individual states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the government of the Northern Mariana Islands (when such islands achieve commonwealth status), which are collectively referred to as "the states" for the purposes of this program. Funds may be made available through the states to political subdivisions of the state and other appropriate public agencies, including recognized Indian tribes which otherwise qualify for LandWCF assistance.

E. State Planning Requirements. To be eligible for LandWCF assistance for acquisition or development grants, each state shall prepare a Statewide Comprehensive Outdoor Recreation Plan (SCORP), and update and refine it continually. The SCORP identifies capital investment priorities for acquiring, developing, and protecting all types of outdoor recreation resources within a state; it assures continuing opportunity for local units of government and private citizens to take part in their state's outdoor recreation and environmental planning programs; and it provides a practical tool for coordinating all state outdoor recreation and environmental conservation programs. Planning grants and technical assistance are available through the LandWCF program to help the states develop and update their SCORP planning process.

F. Acquisition and Development Grants. LandWCF assistance may be available:

1.a. to acquire lands and waters or interests in lands and water for public outdoor recreation; and

b. to develop basic outdoor recreation facilities to serve the general public.

2. To be eligible for assistance, projects must be in accord with the Statewide Comprehensive Outdoor Recreation Plan, be sponsored by a governmental agency, and meet other state and federal requirements.

G. Contingency Reserve Fund. A small portion of the fund is set aside in a Contingency Reserve Fund from which the secretary of interior may obligate assistance to individual projects on the basis of need.

H. Basis for Assistance. LandWCF assistance is provided on a 50/50 matching basis to individual projects which are submitted through the state liaison officer to the National

Park Service for approval. Project costs shall be determined in accord with OMB Circular A-102 and A-87, the LandWCF Grants Manual and all claims shall be subject to verification by federal audit conducted in accordance with OMB Circular A-128.

I. Project Program Administration. The state liaison officer is responsible for administration of the LandWCF program in his/her state. This includes implementation of an ongoing SCORP planning process; evaluation and selection of projects in accord with an Open Project Selection Process; assuring compliance of projects with the requirements of this LandWCF Grants Manual; preparation and submission of applications, amendments and billings; inspection of projects to insure proper completion, operations and maintenance; and other functions necessary for proper program administration and management.

J. Conversion Policy. The LandWCF Act requires the states to operate and maintain acceptable standards the properties or facilities acquired or developed for public outdoor recreation use. Further, Section 6(f)(3) of the LandWCF Act requires that no property acquired or developed with LandWCF assistance shall be converted to other than public outdoor recreation uses without the approval of the secretary of the interior and the substitution in accord with the SCORP of other recreation properties of at least equal fair market value and of reasonable equivalent usefulness and location.

¹LandWCF Grants Manual, Guideline Number NPS-34, Release Number 140, 1983 Edition, Chapter 600.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), amended LR 12:829 (December 1986), repromulgated LR 31:1991 (August 2005).

§903. Land and Water Conservation Fund (LandWCF) Grants Manual²

A. This Land and Water Conservation Fund (LandWCF) Grants Manual sets forth the administrative policies, procedures and guidelines for LandWCF grants awarded to the states by the Department of Interior, National Park Service. It is intended to serve as a basic reference for those who are engaged in the administrative and financial management of LandWCF grants to states, and to achieve uniformity in the administration of the LandWCF program by the state liaison officers.

B. Participation in the LandWCF program is deemed to constitute a public trust. It is the responsibility of the state to comply with this manual and all terms and conditions of the grant agreement, to efficiently and effectively manage funds in accordance with the approved budgets, to promptly complete grant assisted activities in a diligent and professional manner, and to monitor and report performance. This responsibility cannot be delegated or transferred. The policies and procedures contained in this manual are subject to applicable federal laws and regulations, and any changes made to these laws and regulations subsequent to their publication. In the event that these policies and procedures conflict with applicable federal laws, regulations, and policies, the following order of precedence will prevail:

1. federal law;
2. government-wide administrative regulations;
3. terms and conditions of grant award;

4. Land and Water Conservation Fund Manual.

C. The state bears primary responsibility for the administration and success of grant supported operations, including performance by third parties under subagreements made by the state for accomplishing nonconstruction and construction project objectives. Except as specifically excluded, the provisions of this manual shall be applied by the state to subgrantees and contractors performing work under LandWCF grants.

²LandWCF Grants Manual, Guideline Number NPS-34, Release Number 140, 1983 Edition, Chapter 600.0, Preface

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1992 (August 2005).

§905. Who is Eligible for Assistance

A. The Land and Water Conservation Fund Act provides grants only to states and through them to their political subdivisions. State agencies, parishes, cities, towns, school districts and special assessment districts, such as a recreation district are eligible to sponsor projects under this program. Private individuals and organizations are not eligible for assistance under this program, even if they are nonprofit or charitable organizations. The applicant must have tenure to the proposed project site, either by ownership, or by an irrevocable and unrestricted lease of minimum 25 years' duration, preferably with option for renewal. An existing lease must be renegotiated to provide the initial 25 years.

B. Areas acquired or developed with Land and Water Conservation Fund assistance are dedicated to the exclusive use of public outdoor recreation.

C. The project sponsor must agree to develop, operate and maintain the proposed development by acceptable standards for public outdoor recreation in perpetuity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1992 (August 2005).

§907. Projects Eligible for Assistance

A. Only costs for acquisition or development of public outdoor recreation areas are eligible. There are no federal funds available under this program for operation and maintenance. Sponsors must agree to operate and maintain the area or facilities at their own expense. Under this program there are no funds available for recreational activities such as salaries for instructors, baseball uniforms, etc.

B. Cost must be incurred after the project has received Federal National Park Service approval and the sponsor has been notified that the monies have been obligated.

C. Expenses for planning and engineering that are necessary to prepare the project for submission can be included in the eligible project costs. This is the only exception to the no retroactive costs. If any other work is performed or title to the land accepted prior to Federal National Park Service approval, the expenses incurred are not eligible for reimbursement.

D. Following are examples of facility development that would be eligible for reimbursement. This listing is not meant to be all inclusive, but merely suggestive of what has been funded in the past:

1. multi-purpose and/or basketball courts, could include lighting and fencing;
2. archery ranges;
3. ball fields such as baseball, softball, soccer, etc., could include lighting, dugouts, fence, etc.;
4. bleachers portable type bleachers only;
5. boat docks and boat loading ramps with adjacent parking and/or support facilities;³
6. buildings in support of public outdoor recreation are eligible, such as restrooms, storage buildings, service buildings, and small concession buildings;
7. fencing;
8. fishing piers;³
9. fishing ponds;³
10. golf courses;
11. landscaping in conjunction with the construction of outdoor recreation facilities;
12. parking facilities in support of outdoor recreation;
13. passive recreation facilities;
14. pathways and trails such as bridle paths, bicycle, nature and pedestrian;
15. picnic facilities, could include tables, grills, benches, trash receptacles, and picnic shelters;
16. playground equipment such as slides, merry-go-rounds, etc., but not equipment such as bats, balls, etc.;
17. roads within the park area are eligible; city streets around the park are not eligible. Access roads from a public thoroughfare to the park area may be eligible if they do not serve any other purpose;
18. shooting ranges for rifles, pistols, skeet, etc.;
19. sidewalks within the park area are eligible but perimeter sidewalks normally are not;
20. signs;
21. site improvements such as grading, land leveling, retaining walls, drainage structures, etc. (These improvements must be of modest scale and not sufficiently extensive to constitute a public works' project.);
22. swimming beaches and pools, including bathhouse;
23. tennis courts which can also be lighted and fenced;
24. utility systems which must be underground. No overhead wiring systems are eligible for reimbursement. If there are any existing overhead utility lines, they are to be buried, relocated, or screened from view. Cost of burying, relocation, or screening would be an eligible project cost;
25. camping facilities which can include tables, fireplaces, restrooms, showers, information stations, snack bars, utility outlets and other facilities needed for camping by tent, trailer or camper;
26. outdoor exhibit or interpretive facilities that provide opportunities for the observation or interpretation of natural resources located on the recreation site or in its immediate surrounding areas, including small demonstration farms, arboretums, outdoor aquariums, outdoor nature exhibits, nature interpretive centers and other similar facilities;
27. community garden can include land preparation, perimeter fencing, storage bins and sheds, irrigation systems, benches, walkways, parking areas and restrooms if clearly identified in the SCORP as a needed outdoor recreation activity;
28. outdoor display facilities at zoological parks are eligible provided they portray a natural environmental setting that serves the animal's physical, social,

psychological and environmental needs, and that is compatible with the activities of the recreator. Can include walkways, landscaping, comfort facilities, parking;

29. small amphitheatres, bandstands.

³The Dingell-Johnson (D-J) Act (also known as the Federal Aid in Sport Fish Restoration Act) was amended (P.L. 98-369 of 1984) to require that at least 10 percent of a state's D-J apportionment be allocated for motor boat access facilities. In consideration of the allowance by both LandWCF and the D-J Act of common facilities, beginning in FY 1986, LandWCF assistance proposals for such activities must meet the following condition: Applications for LandWCF assistance shall include a description of applicant attempts to secure funding from the Dingell-Johnson program. LandWCF assistance will not be provided for facilities eligible under the Dingell-Johnson Program unless a state can demonstrate that it has been unsuccessful in an attempt to receive D-J assistance for the applicable proposal.

AUTHORITY NOTE Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1992 (August 2005).

§909. Not Eligible for Assistance

A. The following examples are not meant to be all inclusive:

1. restoration or preservation of historic structures;
2. areas and facilities to be used primarily for semiprofessional and professional arts and athletics;
3. amusement facilities (such as ferris wheels, children's railroads, exhibit type development, etc.), convention facilities, commemorative exhibits, professional type outdoor theaters;
4. employee residences;
5. areas and facilities to be used solely for game refuges or fish production purposes not accessible to the public;
6. lodges, motels, luxury cabins, or similar elaborate facilities;
7. exhibit areas that function primarily for academic, historic, economic, entertainment or other nonrecreational purposes. This restriction includes convention facilities, livestock and produce exhibits, commemorative exhibits, fairgrounds, archaeological research sites, and other nonrecreational facilities. The development of nature and geological interpretive facilities which go beyond interpreting the project site and its immediate surrounding area are not eligible;
8. development of school "athletic plant" facilities such as stadiums, running tracks for interscholastic athletics and athletic fields with grandstands; enclosed facilities such as recreation buildings and enclosed swimming pools, etc.; impoundments such as lakes and ponds and other artificial structures considered major "public works" improvements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1993 (August 2005).

§911. Schools

A. Projects sponsored by a school district or project on or adjacent to school lands are eligible if they are to serve a general public recreation need. Facilities needed to meet the physical education and athletic program requirements of a school, or those that are a part of the normal and usual

program and responsibility of educational institutions are not eligible for Land and Water Conservation Fund assistance.

B. The basic concept is that Land and Water Conservation Fund assistance can be used to expand facilities so that they may be available for community use. An example would be if a school has a tennis court and desires to add lighting so it could be used by the public in the evening. Another example: a school has a football field for their varsity games and desires to construct another field for grassed area activities for the general public. This would not preclude exclusive school use of certain facilities at certain specified times for instruction or competition, provided there is adequate public use at other times. Support facilities are eligible to the extent that they are needed to meet the designed public recreation use capacity.

C. Signs must be installed informing the public that the facilities are open to the general public. They also are to show the times when the facilities are reserved for exclusive school use.

D. An estimate of the amount of time the area will be used by the general public and the amount of time it will be used for exclusive school purposes must be enclosed with an application for a project to be on school lands. A time schedule showing exclusive school use must accompany the project application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1993 (August 2005).

§913. Application Preparation, Review and Selection Process

A. No work may begin on a project until Federal National Park Service approval has been received. State applications for LandWCF funds must be submitted to the DOR and this initiates an extensive and lengthy process involving DOR preparation of the federal application package, securing clearinghouse approval, evaluation and rating, and presentation to the Louisiana State Parks and Recreation Commission (SPARC) for review and recommendations to the SLO of those projects to be funded upon receipt of federal funds.

B. Local government applications for fund assistance are processed through the sequence of steps described below.

1. Receipt. Following receipt of a request for assistance, it is immediately acknowledged by the DOR and an appointment is made to meet and discuss the potential project, so the applicant is aware that processing of the application has been initiated.

2. Review and Preparation of Application. A determination is made regarding the applicant's eligibility to participate in the LandWCF program. If found ineligible, the applicant is notified of proper procedures to establish eligibility or secure an eligible applicant to sponsor project. The state application materials and documentation furnished by applicant prior to the federal application preparation by project officers is then carefully checked for adequacy of form and content. If the application materials are found unacceptable in any area, the applicant is immediately notified of the deficiencies. If declared acceptable, processing continues to step 3.

3. Application Preparation. The materials and documentation are used by the project officer to prepare a complete application package which complies with all federal and state requirements.

4. Screening during Preparation by Project Officer. The application is checked against certain basic screening criteria [enumerated in the 1983-88 SCORP, Appendix EE, "Louisiana Open Project Selection Process and Priority Rating System" (OPSP)] to determine its suitability for the fund program. If the application is found unsuitable under any of the basic criteria, the applicant is immediately notified of the specific problem area. If declared suitable, processing continues to step 5.

5. Evaluation. The application is next evaluated to determine the relative priority it should receive in comparison with existing public outdoor recreation needs. The evaluation process, known as the Louisiana Open Project Selection Process and Priority Rating System (OPSP), is a prerequisite for eligibility to receive Federal LandWCF monies (LandWCF Grants Manual Chapter 660.4). Louisiana's OPSP was prepared and received federal approval April 1, 1981. Those projects which are rated as having the potential for meeting the greatest or most urgent public outdoor recreation needs within the scope of this program will be given priority consideration using the priority rating system. If the application fails to meet the criteria for priority consideration, the applicant is notified of its assignment to a "deferred" category until the application can meet the criteria. If the application is found to be deserving of priority consideration, processing continues to step 6. Periodically, all applications in the deferred status will be reviewed and re-evaluated for possible elevation to priority status.

6. Ranking. The application is tentatively ranked with all other pending priority projects on the basis of the "priority rating system" and then positioned on a priority list in the order of its recommended ranking. The completed project applications are then presented to the SPARC for review and recommendation to the SLO of both the application and recommended ranking. Upon acceptance by the SLO, this ranking establishes the order in which applications will be further considered as funds become available.

a. The SPARC meets on a quarterly basis and projects are presented as the formal application is completed, at one of four quarterly meetings of the SPARC. At the last quarterly meeting, prior to the approximate time the annual Federal LandWCF apportionment is due, the SPARC reviews all pending projects in priority order and makes recommendations on the funding order to the SLO.

b. Projects may be prepared for funding as a single action or may be phased. If phased, only one phase at a time may be recommended for funding, although the entire project may be "qualified" for funding. Further, funding of a phase does not imply automatic funding of succeeding phases. To activate a succeeding phase, the "qualified applicant" must formally request subsequent funds by letter as the ongoing phase nears substantial completion. Substantial completion has been established by DOR as a minimum of 80 percent of the total project funds expended prior to awarding further funds. Another form of acceptable

"phasing" is to add additional elements and funds upon reaching a state of substantial completion.

c. Successive phases are not reprioritized (ranked). At the final SPARC meeting prior to receipt of the annual LandWCF apportionment, a list of requests for successive phases is presented to the SPARC, who reviews and recommends to the SLO that:

- i. only new projects will be funded; or
- ii. only subsequent phases of active projects will be funded; or
- iii. a combination of new projects and subsequent phases of active projects will be funded;
- iv. at the same time that the completed application

is forwarded to the SPARC, a copy is also sent to the Office of State Clearinghouse to comply with E.O. 12372, Intergovernmental Review of Federal Programs (replacing Office of Management and Budget Circular A-95).

7. Submission. The approved application is placed in final form and officially submitted as an application of the State of Louisiana to the Southeast Regional Office of NPS. At this point, the application is then dependent on federal action for its further progress.

8. Federal (NPS) Action

a. The submitted application is then considered by the Southwest Regional Office of the NPS. If the application is found acceptable in all respects, it will be "qualified." *Qualification* is a verification of technical adequacy and federal compliance conferred by NPS and does not imply commitment of federal funds. Immediate qualification and backlogging enables the participant to draw upon a wider variety of funding sources and assures DOR of 100 percent obligation of funds upon receipt of its annual apportionment.

b. In the above connection, a projection is made in regard to expected federal funds in each fiscal year to the extent of all projects placed in a funding position and the participant advised of the approximate time expected for forwarding of his project to the federal level. Prior to the expected date of funding, the participant is contacted to ascertain whether or not his share is available and that the project is still desired. In the event the participant does not have his share of the funds or a predictable source at that time, the project is passed over for funding, but will retain the funding position until such time as the project can be funded or withdrawn.

9. Recommendation. As funds become available, priority projects are recommended in their established order through the SPARC to the SLO. If all LandWCF monies have been obligated at the time, the project will be held in a standby status pending release of additional monies. As funds do become available, the application (already qualified) is then recommended in its turn to NPS for obligation of funds. Applications will be recommended for obligation only in an appropriate number to utilize efficiently those funds available at that specific time.

10. Once the desired amount of funds is "obligated" to the subject project by NPS, a project agreement will be executed for this purpose between the NPS and the state, and a similar agreement between the state and the local government. If found not acceptable for some reason, the application will be rejected by NPS and returned to the applicant, via the state, with reasons for such rejection. Processing of qualified applications continues to step 11.

11. Termination. The qualified application, with funds obligated to its subject project, is ready for funding and implementation. This is the final step in the preprocessing procedure, and the application will then be terminated in one of two ways: by successful completion of the project or by deactivating, if for some reason the project cannot be successfully completed. Postprocessing of applications for successfully completed projects will include progress reports and billings for work performed and accounting for funds expended. The process is concluded with formal notification by NPS of final settlement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1994 (August 2005).

§915. Application Preparation, Documents to be Submitted

A. Documents to be submitted vary for acquisition, development, or combination projects, but will include some or all of the following:

1. project application (include four digit census tract number, if available);
2. copy of resolution or minutes of meeting whereby the sponsor authorized the project;
3. evidence of land control:

a. projects for the development of facilities on leased land are not eligible except for land leased from the federal government for 25 years or more and except as noted as follows. Leases from one public agency to another that include provisions which adequately safeguard the perpetual use requirement contained in the statute may be eligible for fund assistance. Such safeguards may include joint sponsorship of the proposed project or other agreement whereby the lessor would assume compliance responsibility for the fund-assisted area in the event of default by the lessee or expiration of the lease;

b. a copy of sponsor's deed to the land must accompany each project application where the sponsor already owns the land, along with a copy of title opinion, where available, and a letter of just compensation if purchased after January 2, 1972;

c. in the case of acquisition projects, the following listed items must be submitted with the application:

- i. a property description showing acreage to be acquired and location;
- ii. a description of type of title to be acquired;
- iii. a list of any reservations or rights held by others, i.e. mineral rights, easements, rights-of-way, etc., on the property to be acquired;
- iv. an explanation of how reserved rights will or will not affect the surface;
- v. a plat map of the subject property;

4. breakdown of estimated project costs:

- a. no contingency costs allowed;
- b. add \$200 for NPS permanent plaque; another \$150 for temporary sign if project is over \$500,000;
- c. bottom line is 5.0 percent of total costs to cover state administrative charges;
- d. at least 60 percent of the construction costs must be for construction of recreation elements, and no more than 40 percent may be expended on support facilities such as roads, parking, restrooms, to name a few;

5. maps and plans (seven copies of each):
 - a. vicinity neighborhood, city streets;
 - b. area location in parish or quadrangle map;
 - c. location state map;
 - d. plat or boundary map for acquisition projects must be dated, that area to be included in the project must be delineated and the application must identify known outstanding rights and interests held by others which exists within the project area (such as mineral rights and easements). If mineral rights are retained by the seller or someone other than the purchaser, the act of sale must contain a provision/clause specifying that any drilling to be done must be slant drilling and must be done from outside the project boundary lines;
 - e. Civil Rights Act of 1964 Assurances (two each):
 - i. DI Form 1350, Assurance of Compliance;
 - ii. Title VI Compliance Report;
 - f. site or boundary map for development projects must be dated and included in the application. It must clearly delineate that area to be included under the conversion provisions of Section 6(f)(3) of the Fund Act and Manual, Part 685, by showing a starting point located at intersection of nearest identified roads, and including the dimensions of each site of the site boundary. If site is not located at street intersection, measure from nearest intersection to nearest corner of site for point of beginning. It must identify known outstanding rights and interests held by others which exist within the project area;
 - g. development plan must show proposed facilities, and existing facilities must be clearly delineated (if more than one phase is involved, color code plan for each phase);
 - h. schematic floor plans for all enclosed or roofed structures;
 - i. metes and bounds survey for acquisition by purchase or donation;
6. statement that P.L. 91-646 "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" has been or will be followed (only if acquisition is involved see Section on acquisition projects or if property for development project was purchased after January 2, 1972).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), amended LR 12:829 (December 1986), repromulgated LR 31:1995 (August 2005).

§917. State Parks and Recreation Commission (SPARC)

A. The SPARC, in an advisory capacity, may recommend Rules to the SLO, who can establish as rules and set limits when deemed necessary to provide a more equitable distribution of funds throughout the state or to assure prudent administration of the program within the guidelines set by state and federal law. Based on the FY 1984 apportionment of \$1.3 million, the ceiling is currently \$300,000 per project sponsor per year. Based on an increase or decrease in the LandWCF apportionment, the ceiling will be adjusted. Addition of funds to a project to take care of a construction overrun are limited to the percent allowed by state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1996 (August 2005).

§919. Legal Requirements

A. Funding Restrictions Non-eligible costs. The following are not eligible for federal assistance:

1. ceremonial or entertainment expenses;
2. expenses for publicity;
3. bonus payments of any kind;
4. charges in excess of the lowest bid when competitive bidding is required;
5. taxes which the project sponsor would not have been liable to pay;
6. interest expenses;
7. damage judgments, whether determined by judicial decision, arbitration or otherwise;
8. incidental costs relating to acquisition of real property or interest therein, including appraisals;
9. operation and maintenance costs of recreational areas and facilities;
10. lands acquired from the federal government at less than fair market value;
11. costs of discounts not taken;
12. employee facilities, including residences, appliances, office equipment, furniture, etc.;
13. donations or contributions made by the project sponsor, such as to a charitable organization;
14. salaries and expenses of the chief executive of the project sponsor (mayor, etc.) or the local government body (city council, etc.);
15. fines and penalties;
16. legal, professional fees paid in connection with raising funds;
17. use of sponsor's own equipment.

B. Matching Grants. All grants receiving LandWCF funds must be matched by at least an equal amount from other sources by the grantee. Such sources include:

1. cash;
2. general fund appropriations;
3. income from taxes;
4. other federal funds limited to:
 - a. federal revenue sharing;
 - b. HUD funds;
5. donation of real property;
6. labor by employees of the grant recipient.

C. Use of Grant Funds

1. All LandWCF grants become effective only after an official grant agreement is signed by the authorized representative, NPS and the state liaison officer or alternate state liaison officer, and a similar grant agreement is executed between the state and the grant recipient. Submission of a signed grant agreement to DOR constitutes:

- a. agreement to comply with all rules, regulations and laws described in these guidelines; and
- b. acceptance of all other terms and conditions of the grant contained in the grant agreement, grant application, the project handbook and LandWCF Grants Manual.

2. To be eligible for matching funds, all costs must be incurred within the project period, the project period being after the date the project was approved by the National Park

Service and before the agreed upon ending date. The only exception would be costs for planning and engineering necessary for submitting a project. These must be listed separately in the cost breakdown with the project proposal; and

a. be necessary and reasonable for proper and efficient administration of the grant program, be allocable thereto and not be a general expense required to carry out the overall responsibilities of state or local governments;

b. be authorized or not prohibited under state or local laws or regulations;

c. conform to the limitations of Office of Management and Budget, Circular A-87 (formerly FMC 74-4), federal law, or other limitations in the project agreement as to types or amounts of costs;

d. be treated consistently through application of generally accepted accounting principles that are applied uniformly to both federally assisted and nonfederally assisted activities of the project sponsor. As of December 30, 1984, accounting principles should be in accord with the provisions of OMB Circulars A-102, A-128 or A-110;

e. not be allocable to or charged to any other federally financed program;

f. be net of all applicable credits; furthermore;

g. allowable costs include, but are not-limited to:

i. force account is applicable in-kind labor directly employed by sponsor at his regular salary;

ii. fringe benefits, such as insurance, retirement plans, social security contributions, etc., which are regularly provided to employees by the project sponsor are legitimate personal service costs and are eligible for reimbursement. Fringe benefit costs to a project should be computed in proportion to the time spent on a project;

iii. consultant services that are necessary for a project are generally eligible costs. No consultant fee paid to any federal, state or project sponsor's employee will be eligible for reimbursement unless specifically agreed to by the Federal National Park Service. Louisiana bases consultant services on the "Louisiana Fixed Fee Curve For Basic Design Services";

iv. supplies and materials which may be purchased for a specific project or may be drawn from a central stock. The former should be charged to a project at their actual price, less discounts, rebates, etc., and the latter should be charged at cost under any recognized method pricing consistently applied. Incoming transportation charges are a proper part of material cost;

v. construction which covers all necessary construction activities, from site preparation through completion. Construction may be carried out through a contract with a private firm or by the use of the project sponsor's own personnel and materials as outlined above;

vi. information and interpretation costs directly related to a project. These may include informational and directional signs, display boards, dioramas, or other facilities which interpret or explain the project area. Publicity costs are not eligible;

vii. costs of purchases of real property or of interests in real property. Assistance is limited to the lesser of fair market value or actual amount paid. Any incidental costs of acquisition, such as appraisals, legal fees, etc., are not eligible for matching funds. The cost of acquiring real

property from other public agencies may be eligible for matching, provided:

(a). the land was not originally acquired by the other agency for recreation, nor has it been so managed while in public ownership;

(b). no federal assistance was involved in the original acquisition by the other agency; or

(c). if the selling agency is federal, fair market value is paid.

3. Eligibility of Donations

a. To be eligible for reimbursement the proposed donations must be clearly spelled out in the project application. This must include a breakdown as to what is to be donated and the estimated value of the donations.

b. In-kind contributions, which may be considered as part of the project sponsor's matching share, fall into the following categories.

i. Real property. For land value to be eligible:

(a). the project must include additional acquisition and/or development costs equal to or greater than the donated land value; and

(b). the grant recipient must not accept title to the donated land until NPS obligation of funds has been received. In addition to the usual documentation and procedures for submitting an acquisition project, the following are necessary when a land donation is involved:

(i). immediately after obligation of funds to a project, the project sponsor must arrange for a qualified appraiser to make an appraisal in accordance with LandWCF Grants Manual specifications. (The cost of the appraisal is to be borne completely by the project sponsor. It is not eligible for reimbursement.) Two copies of the complete appraisal are to be submitted to the Office of State Parks, Division of Outdoor Recreation.

(ii). The appraisal will be reviewed by an independent appraiser at the state level.

(iii). When the appraisal is approved, it is submitted to the National Park Service for final approval.

(iv). Upon final approval the land may be accepted by the project sponsor and work on the development portion of the project may begin after plans and specifications have been approved and pre-construction certification issued.

ii. Labor. Records of in-kind contributions of personnel shall include time sheets containing the signatures of the person whose time is contributed and the project supervisor verifying that the record is accurate.

4. Eligibility of Acquisitions. All projects involving acquisition are subject to the provisions of P.L. 91-646, "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" and must have been acquired under the guidelines of the Act. The Act deals with two basic areas:

a. Title II~~C~~he establishment of a uniform policy for the fair and equitable treatment of persons who must relocate their homes, farms, or businesses as a result of a federal or federally assisted program;

b. Title III~~C~~he establishment of uniform procedures to be followed when acquiring real property, so that all persons will receive fair treatment and be offered a fair price for their property. To comply with Title III of the Act, the following outlined procedures are to be observed.

i. Initial Contact with Landowner

(a). An initial contact should be made to determine if the owner is willing to sell the property for park purposes.

(b). No price is to be negotiated at this time.

(c). If he is willing to sell, permission to inspect the property and have it appraised should be obtained.

(d). He should be informed that he will be given the opportunity to accompany the appraiser during his inspection of the property.

ii. Appraisal

(a). The owner or his representative must be given the opportunity to accompany the appraiser during his inspection of the property.

(b). Before obligation of funds, the Office of State Parks, Division of Outdoor Recreation, will notify the project sponsor to send two copies of one appraisal. The appraisal must meet LandWCF Grants Manual requirements which will have been previously sent to the sponsor.

iii. Fair Market Value

(a). The owner must be advised, in writing, of the value of the property, which is based upon the appraisal.

(b). The amount offered to purchase the property must not be less than the appraised value.

(c). If the negotiated selling price differs from the appraised value, explain in detail why there is a difference. Fund assistance is limited to the appraised value or selling price, whichever is lower.

iv. Project Proposal

(a). The sponsor must not accept title to the property before the project has been approved by the Federal National Park Service.

(b). With the project application, enclose a statement that the above procedures have been or will be followed.

5. Public Acknowledgement

a. Temporary Signs

i. Such signs indicating Land and Water Conservation Fund assistance for an acquisition and/or development project which exceeds \$500,000 total cost must be located on or near the project site. Projects involving less than \$500,000 total cost may be temporarily signed at the discretion of the project sponsor.

ii. Development projects of more than \$500,000 will be temporarily signed from the commencement of construction until a permanent sign is installed. Signing of acquisition projects may be delayed until the acquisition of all parcels. A temporary sign must be installed upon the completion of the acquisition for a period of not less than six months or until replaced by the permanent sign.

iii. The sign should include the source, percentage and dollar amount of all federal and local funds involved. It should also acknowledge participation by the National Park Service and the Office of State Parks, Division of Outdoor Recreation. The sign should also indicate if the project is for acquisition, development, or both.

iv. Items for the sign are the two agency symbols and color of the lettering. These will be provided to all project sponsors and are an eligible item.

v. Unless precluded by local sign ordinances, the minimum size of the signs will be 2 feet by 3 feet, and there is no maximum size. The temporary sign is an eligible

project item, one-half of the cost of which is reimbursable. The temporary sign could be included as part of the contract items.

b. Permanent signs acknowledging Land and Water Conservation participation are also required by federal guidelines. Arrangements have been made by the Division of Outdoor Recreation for the purchase of such signs. One-half of the cost will be deducted from the first request for reimbursement. Upon completion of the project, the sign is sent for installation at the project site.

6. Compliance with Administrative Regulations. Grant recipients must adhere to the administrative requirements for grants from DOR as determined by the state and any additional requirements by the National Park Service such as those promulgated in Office of Management and Budget (OMB Circulars A-87, A-102, or A-128 if grant recipient is an agency of state or local government, or A-110 if a non-profit organization).

7. Standards for Financial Management. State and local government systems for the financial management of LandWCF assisted activities shall be in accordance with OMB Circular A-102, Attachment G, and provide for:

a. accurate, current, and complete disclosure of the financial results of each project grant;

b. records which identify adequately the source and application of funds for grant-supported activities. These records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income;

c. effective control over and accountability for all funds, property, and other assets. The grantee shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes;

d. procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the grantee whenever funds are advanced by the federal government;

e. procedures for determining the allowability and allocability of costs in accordance with the provisions of OMB Circular A-87 (formerly FMC 74-4) and the LandWCF Grants Manual;

f. accounting records which are supported by source documentation. Separate project accounts shall be established and identified by the number assigned to the project by the service;

g. audits to be made by the state in accordance with OMB Circular A-128 to determine, at a minimum, the fiscal integrity of financial transactions and reports, and compliance with laws, regulations and administrative requirements. The state and grantees will schedule such audit annually;

h. a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

8. Compliance Requirements and Procedures. The Office of State Parks, through the Division of Outdoor Recreation, is authorized to administer the Department of Interior Land and Water Conservation Fund Act (16, U.S.C §4601-4 to 4601-11) in Louisiana by Act 329 of 1982. This office receives federal funds through this program and distributes them in the form of grants to subrecipients who are political subdivisions of the state. As a recipient of

federal funds, the Office of State Parks, Division of Outdoor Recreation, is subject to the requirements of the Single Audit Act of 1984 P.L. 98-502, as are the program subrecipients of this fund. As a result of the Single Audit Act of 1984, the Office of State Parks, Division of Outdoor Recreation, has established the following guidelines for the office as a recipient of LandWCF funds and for subrecipients who are awarded these funds. These guidelines will also apply to any other federal programs the office may administer while the act is in effect.

a. Audit Requirements

i. All units of local government within the state, including a municipality (city, town), parish, school board, recreation district or other unit of local government who receive a total equal to \$100,000 or more in federal financial assistance (from all federal sources) are required to submit a single audit report for that year, in compliance with the requirements of the Single Audit Act of 1984, P.L. 98-502.

ii. All units of local and parish government described above who receive a total equal to or more than \$25,000, but less than \$100,000 in federal financial assistance (from all federal sources) shall submit a single audit report for that year, in compliance with P.L. 98-502; or shall submit an audit report for that year in accordance with federal laws and regulations governing the program they participate in.

iii. All units of local and parish government described above who receive a total of less than \$25,000 in federal financial assistance shall be exempt from compliance with P.L. 98-502 and other federal audit requirements. These governmental units will be governed by audit requirements prescribed by state and local law or regulation, and such reports generated will be submitted.

iv. Public universities must submit an audit in compliance with Circular A-110 or other applicable audit requirements.

b. Documentation Requirements

i. Subrecipients will be required to submit an audit to the Office of State Parks, Division of Outdoor Recreation, on a fiscal year basis. Since the project period extends for up to five years, an audit is required for each year the grant is in effect. The reports must be received by this office within 30 days after issuance of the audit report.

ii. If an audit report has not been received by this office within 90 days after the project agreement ending date or financial completion date, whichever comes first, the subrecipient will be contacted and an estimated submission date will be established for the report. This date may not exceed one year from the project agreement ending date or financial completion date.

c. Audit Resolution

i. When an audit report is received by this office it will be reviewed for compliance. If any illegal acts or irregularities are cited concerning the LandWCF or other federal programs administered by this office, prompt notice will be given to the recipient in writing. Corrective actions by the subrecipient must be accomplished within six months after receipt of the audit report by this office.

ii. If the cited illegal acts or irregularities are not corrected within the six-month time period described above, a copy of the letter of notification to the subrecipient will be sent to the Louisiana Legislative Auditor's Office and to the

Louisiana Attorney General's Office, accompanied with a request that they take the required legal action. In addition, the cognizant federal agency will be notified and requested to take appropriate actions and/or the federal agency responsible for the program.

d. Effective Date. The Single Audit Act and accompanying Circular A-128 shall apply to the fiscal years of state and local governments that begin after December 31, 1984. Until implemented, the audit provisions of Attachment P to OMB Circular A-102 shall continue to be observed.

e. Files Retention. All files will remain with the central administrative files in the Division of Outdoor Recreation for the duration of project and for the three years after completion as required by federal law.

f. P.L. 98-502 and OMB Circular A-128. All provisions of P.L. 98-502 and OMB Circular A-128 are incorporated by reference in this procedure.

g. Revisions. Any changes to OMB Circular A-128 by Congress, OMB, or through relevant implementation Rules/regulations promulgated by the federal granting agency will be added by addendum or procedure revision and provided to the secretary and undersecretary.

9. Compliance with Federal and State Laws. When accepting a LandWCF grant awarded through DOR, grantees are required to comply with all state laws applicable to the DOR grants program and those federal statutes, regulatory requirements and policies required by NPS summarized as follows, but not limited to:

a. Architectural Barriers Act of 1968 (P.L. 90-480) (see manual, Chapter 660.5). Provides facility access to the handicapped. In the design of all projects receiving federal financial assistance, consideration must be given for use by the physically handicapped. Ramps should be considered in place of steps. Door widths should be sufficient for passage of wheelchairs. Trails and pathways can be designed for use by the blind;

b. the Flood Disaster Protection Act of 1973 (12 U.S.C. Sec. 24, 1701-1 Supp.) (42 U.S.C. Sec. 4001 et seq.) (see manual, Chapter 650.6). If project is in a flood zone as established by HUD flood maps, all enclosed structures valued over \$10,000 must carry flood insurance;

c. the National Environmental Policy Act of 1969, as amended (P.L. 91-190, 42 U.S.C. 4321 et seq.) (see manual, Chapter 650.2). An environmental assessment or certification will be prepared by the DOR staff. Need for full environmental impact statement will be determined at the federal level, if warranted;

d. the Clean Air Act, as amended (42 U.S.C. 7609);

e. the Clean Water Act (33 U.S.C. Secs. 1288, 1314, 1341, 1342, 1344);

f. Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977);

g. Executive Order 11288, concerning prevention, control and abatement of water pollution (see manual, Chapter 660.5);

h. Executive Order 11988, Floodplain Management (see Chapter 650.7);

i. Executive Order 11296, Evaluation of Flood Hazard in Locating Federally Owned or Financed Buildings, Roads, and Other Facilities and in Disposing of Federal Lands and Properties;

j. Federal Act for Protection and Restoration of Estuarine Areas (P.L. 90-454);

k. Wild and Scenic Rivers Act of 1968 (P.L. 90-542) (16 U.S.C. 1274 et seq.);

l. Coastal Zone Management Act of 1972 (P.L. 92-583) (16 U.S.C. Sec. 1451, 1456) (see Chapter 660.5);

m. the Rivers and Harbor Act of 1899 (33 U.S.C. Sec. 401 et seq.);

n. Executive Order 11990, Protection of Wetlands (see Chapter 650.7);

o. the Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661, 662);

p. the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) (see Chapter 660.5);

q. the Antiquities Act of 1906 (16 U.S.C. Sec. 431); (see Chapter 650.4);

r. the Archaeological and Historic Preservation Act of 1974, as amended (P.L. 93-291, 16 U.S.C. Sec. 469 a-1) (see Chapter 650.4);

s. the National Historic Preservation Act of 1966, as amended, (P.L. 88-655, 16 U.S.C. Sec. 470 et seq.) (see Chapter 650.4). An archaeological survey may be required. In all projects, should cultural resources be discovered during construction, this agency should be notified immediately;

t. Executive Order 11593, Protection and Enhancement of the Cultural Environment (see Chapter 650.4);

u. Federal Aid Highway Act of 1973 (P.L. 93-87);

v. Section 504, the Rehabilitation Act of 1973, as amended (P.L.93-112);

w. Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 (P.L. 94-646) (see Chapter 650.3). SPARC policy prohibits that part of a project requiring relocation;

x. Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 42 U.S.C. Sec. 2000d to 2000d-4) (see Chapter 650.9);

y. Executive Order 11246, Equal Employment Opportunity (see Chapter 650.5);

z. Office of Management and Finance and Budget Circulars A-102 and A-128. Provides uniform administrative requirements for grants-in-aid to state and local governments (see Chapter 675);

aa. Office of Management and Budget Circular A-87 (formerly FMC 74-4). Identifies cost principles applicable to grants and contracts with state and local governments as they relate to the application, acceptance and use of federal funds (see Chapter 670.3);

bb. Power Plant and Industrial Fuel Use Act of 1978 (P.L. 95-620) (see 640.3.7J and 660.5.3V);

cc. Executive Order 12185, Conservation of Petroleum and Natural Gas (see 640.3.7J and 660.5.3V);

dd. Executive Order 12372, Intergovernmental Review of Federal Programs (see Chapter 650.8);

ee. Executive Order 12432, Minority Business Enterprise Development;

ff. a permit from the appropriate federal agency (Corps of Engineers, Coast Guard, etc.) is required for development proposals involving any activities in navigable waters. The grantee will be responsible for providing the Division of Outdoor Recreation with the appropriate permits.

10. Procurement Standards. The work of developing an area or areas may be accomplished by contract, donated labor, or by force account, subject to conditions established by the service. Prior to the commencement of any work, the DOR staff must be provided with a complete set of plans and specifications for review and certification. Projects or portions thereof may be undertaken through contracts in accord with the procurement standards and guidelines set forth in OMB Circular A-102, Attachment O. This includes the procurement of supplies, equipment, construction and services. Applicable federal statutes, regulations or policies which must be considered include, but are not limited to:

a. Executive Order 11246, as amended, regarding equal opportunity for all persons, without regard to race, color, religion, sex, or national origin, employed or seeking employment with contractors performing under federally assisted construction contracts;

b. Executive Order 12432, Minority Business Enterprise Development;

c. OMB Circular A-102, Attachment O, except for provision related to compliance with Davis Bacon Act requirements (unless required by a program providing supplemental funding). Should supplemental funding be provided which requires compliance with Davis Bacon Act requirements, all construction contracts awarded by the grantee and subgrantee in excess of \$2,000 shall include a provision for compliance with such act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR, Part 5);

d. Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR, Part 3);

e. Hatch Act, which provides that no officer or employee of the state, whose principal employment is in connection with any activity which is financed, in whole or in part, pursuant to this agreement, shall take part in any of the political activity prescribed in the Hatch Political Activity Act (5 U.S.C. Sec. 118k, 1964), with the exceptions therein enumerated.

11. Reimbursement of Project Costs

a.i. Project costs eligible for assistance shall be determined upon the basis of the criteria set forth in the manual and OMB Circular A-87 (formerly FMC 74-4).

ii. The agreement may include the use of the indirect cost rate currently approved, in accordance with Circular A-87 for the state that is a party to this agreement.

iii. Federal financial assistance under the Land and Water Conservation Fund Program is on a 50 percent reimbursable basis. The project sponsor is to implement the proposed project, pay the bills, and submit documentation regarding all expenses on a partial or final billing basis. Fifty percent of the eligible costs, less an administrative fee, will then be reimbursed by the federal government through the Division of Outdoor Recreation. After adequate documentation is received by the Division of Outdoor Recreation, the processing usually takes 14 to 20 days before the project sponsor receives the reimbursement.

b. Partial payments. A project sponsor may submit a request for reimbursement at any time during the life of the project. Project billings should be submitted not more frequently than at 30-day intervals and should not be less than \$1,000. Documentation required for reimbursement

includes copies of all checks and pertinent invoices. Partial billings will be processed up to 90 percent of the total project cost. A billing within the final 10 percent of the project cost will not be processed unless it is the final billing for that project and a final on-site inspection has been made.

c. Each project is approved at a specific total dollar amount. If a project sponsor awards a bid or signs a contract in an amount to exceed the total cost of the project, there is a strong possibility that the project sponsor may have to bear the total cost of the overrun with their own funds. If the bid is over the approved dollar amount, the sponsor must contact the Division of Outdoor Recreation for approval of the overage before awarding the contract.

12. Retention of Records. In accordance with OMB Circular A-102, Attachment C, the following policies will apply to records maintenance.

a. Financial records, supporting documents, statistical records, and all other records pertinent to a grant program shall be retained for a period of three years after final payment on a project or element. The records shall be retained beyond the three-year period if audit findings have not been resolved.

b. The retention period starts from the date of the submission of the final expenditure report.

c. State and local governments are authorized to substitute microfilm copies in lieu of original records.

d. The Division of Outdoor Recreation, legislative auditor, attorney general, secretary of the interior and the comptroller general of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the state and local governments and their subgrantees which are pertinent to a specific project for the purpose of making audits, examinations, excerpts and transcripts.

13. Project Termination

a. The director of NPS may temporarily suspend federal assistance under the project pending corrective action by the state or local government, or pending a decision to terminate the grant by the National Park Service.

b. The state may unilaterally terminate the project or consolidated project element at any time prior to the first payment on the project or consolidated project element. After the initial payment, the project may be terminated, modified, or amended by the state only by mutual agreement.

c. The director of NPS may terminate the project in whole, or in part, at any time before the date of completion, whenever it is determined that the grantee has failed to comply with the conditions of the grant. The director will promptly notify the state in writing of the determination and the reasons for the termination, together with the effective date. Payments made to states and local government of recoveries by NPS under projects terminated for cause shall be in accord with the legal rights and liabilities of the parties.

d. The director or state may terminate grants in whole, or in part, at any time before the date of completion, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date

and, in the case of partial termination, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The NPS may allow full credit to the state for the federal share of the non-cancelable obligations, properly incurred by the grantee prior to termination.

e. Termination either for cause or for convenience requires that the project in question be brought to a state of recreational usefulness agreed upon by the state and the director, or that all funds provided by the National Park Service be returned.

14. Conversion to Other Uses

a. Property acquired or developed with Land and Water Conservation Fund assistance shall not be converted to other than public outdoor recreation uses without prior approval of the secretary of the U.S. Department of the Interior. The secretary's approval will not be given unless the substitution of other outdoor recreation properties of at least equal fair market value and of reasonable usefulness, quality, and location is guaranteed.

b. Property acquired or developed for one type of recreation activity may not be converted to another recreational activity unless prior approval is obtained from the state liaison officer and NPS.

c. All proposals to convert property acquired or developed with Land and Water Conservation Fund assistance to other than public outdoor recreation uses or to other than the proposed uses should be sent to the Division of Outdoor Recreation.

15. Inspections

a. Inspections may be made at any time before, during, or after the project period by either the Division of Outdoor Recreation or the National Park Service.

b. The Division of Outdoor Recreation visits all project sites at least once before project approval and a minimum of once a year during the construction or development. Upon completion of the project, a final site visit will be made before the final billing is processed. After a project has been completed, it is usually visited on a triannual basis.

c. In order to determine whether properties acquired or developed with LandWCF assistance are being retained and used for outdoor recreation-purposes in accordance with the project agreement and other applicable program requirements, a state compliance inspection is to be made within three years after final billing and at least one every five years thereafter.

d. The following points will be taken into consideration during the inspection of properties that have been developed for public use.

i. Retention and Use. Is the property being used for the purposes intended?

ii. Appearance. Is the property attractive and inviting to the public?

iii. Maintenance. Is upkeep and repair of structures and improvements adequate? Is there evidence of poor workmanship or use of inferior quality materials or construction? Is vandalism a problem?

iv. Management. Does staffing and servicing of facilities appear adequate?

v. Availability. Is there evidence of discrimination? Is the property readily accessible and open to the public during reasonable hours and times of the year?

vi. Environment. Is the quality of the area being maintained?

vii. Signing. Is the area properly signed to allow for user information and safety, and proper acknowledgement of the Land and Water Conservation Fund assistance received?

viii. Interim Use. Where lands have been acquired but not yet developed, the inspection should determine whether the interim use being made of the property, if any, is as agreed to by the service.

e. When a compliance problem is noted, DOR will immediately notify the sponsor and NPS in writing. Failure of the grantee to meet DOR and LandWCF requirements for the timely and appropriate resolution of noncompliance findings and recommendations shall result in legal action and the grantee will be ineligible to receive future LandWCF grants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1801-1809.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), amended LR 12:829 (December 1986), repromulgated LR 31:1996 (August 2005).

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Stuart Johnson, Ph.D.
Assistant Secretary

0508#043

RULE

Department of Environmental Quality Office of Environmental Assessment

Cleanup Package
(LAC 33:XI.103)(OS063)

Editor's Note: A portion of this Rule, which was published on pages 1570-1578 of the July 20, 2005 issue of the *Louisiana Register*, is being republished to correct an error in the incorporation of amended text from a previous Rule into LAC 33:IX.103.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Environmental Quality regulations, LAC 33:I.4503, 4705; III.5151; V.529, 1109, 1115, 1117, 1705, 1907, 1917, 3023, 3711, 3719, 4037, 4901; VII:115, 721; IX.2505; XI.103, 1121, 1139 (Log #OS063).

This Rule will correct typographical errors, edit references that are incorrect, and update regulations to show consistency with other Rules. This rulemaking is necessary due to inconsistent wording of regulations, typographical errors, and incorrect references. The basis and rationale for this Rule are to incorporate the necessary changes into the regulations.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part XI. Underground Storage Tanks

Chapter 1. Program Applicability and Definitions

§103. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless specifically defined otherwise in LAC 33:XI.1105 or 1303.

* * *

Response Action Contractor—A person who has been approved by the department and is carrying out any response action, excluding a person retained or hired by such person to provide specialized services relating to a response action. When emergency conditions exist as a result of a release from a motor fuels underground storage tank, this term shall include any person performing department-approved emergency response actions during the first 72 hours following the release.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 27:520 (April 2001), amended by the Office of Environmental Assessment, LR 31:1065 (May 2005), LR 31:1577 (July 2005), repromulgated LR 31:2002 (August 2005).

Wilbert F. Jordan, Jr.
Assistant Secretary

0508#058

RULE

Office of the Governor Boxing and Wrestling Commission

Boxing and Wrestling Standards
(LAC 46:XI.Chapters 1, 3 and 5)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Boxing and Wrestling Commission hereby promulgates the following Rule. This Rule is necessary to prevent the loss of tax revenues resulting from locations re-broadcasting television related events; require wrestling promoters/producers scheduling events to promote the safety and welfare of participants, commissioners and ring officials; to move rules to show correct placement, repealing rules which are not in effect; and to join with all sanctioning bodies that have now adopted the *Uniform Rules of Boxing* for championship bouts.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XI. Boxing and Wrestling

Chapter 1. General Rules

§101. Definitions

A. ...

* * *

Emergency Medical Technician (EMT) **Ca** duly registered and state certified emergency medical services professional pursuant to LAC 46:XXXVIII.

* * *

Exhibition **Ca** boxing, kickboxing or martial arts engagement in which the boxers, kickboxers or martial arts contestants show or display their skill without necessarily striving to win. This definition excludes wrestling, pursuant to R.S. 4:75 and 76.

* * *

Physician **Ca** a person possessing a doctor of medicine (allopathic/M.D.), doctor of osteopathy or doctor of osteopathic medicine degree (osteopathic/D.O.) or an equivalent degree duly awarded by a medical or osteopathic educational institution approved by the commission.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended LR 31:2003 (August 2005).

§102. Annual License Fees

A. The following is a scale of fees for licensees.

1. Promoters	\$500
2. Matchmakers	\$500
3. Referees	\$ 25
4. Managers	\$ 25
5. Announcers	\$ 25
6. Professional boxers	\$ 25
7. Seconds	\$ 25
8. Professional wrestling contestants	\$ 25
9. Event coordinator	\$500
10. Other licenses	\$ 25

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:65(B).

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2003 (August 2005).

§115. Medical Equipment Required

A. There shall be an ambulance no further than 300 feet from the ring and duly licensed EMT's or paramedics with appropriate resuscitation equipment no further than 100 feet away from the ring at all times. EMT's will be paid directly by the promoters/producers of events with fees in accordance with LAC 46:XXXVIII, Professional and Occupational Standards: Emergency Medical Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2003 (August 2005).

§117. Permit (formerly §303)

A. No contracts will be recognized or considered valid unless filed with the commission and until a permit is issued for the event by the commission. A permit fee of \$250 for a non-television show and a permit fee of \$2,000 for a television show will be required by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2003 (August 2005).

§119. Deposits: Closed Circuit and Pay-per-View Television Re-Broadcasting

A. All locations re-broadcasting television related events, will be required to deposit a maximum of \$1,000, in advance for expenses and taxes. *Location* in this particular rule meaning any casino, public auditorium, hotel or civic center. Money, less taxes and expenses, will be refunded by the commission to producer if taxes collected do not equal amount deposited. If taxes exceed the deposit, then the commission will proceed with collecting taxes as outlined in Revised Statute 4:67. Sports bars with a 250 person capacity or less will be required to purchase a permit for \$100; sports bars with a 400 person capacity or less will be required to purchase a permit for \$200; over 400 person capacity a promoters license is required. If sports bars are part of a *location*, as defined in this rule, then the same rule will apply as a location. Five percent taxes will apply as indicated in Revised Statute 4:67. Complimentary passes or tickets are taxable if ticket prices are outlined in the television contract or advertised and sold at a specified price. The capacity of a location will be determined by the state/local fire marshal's office. Locations are required to obtain a promoters license from the commission; sports bars with a capacity of less than 400 are exempt from purchasing a promoters license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2003 (August 2005).

§121. Hold Harmless and Indemnity Agreement

A. All individuals, except the members of the commission, acting in any official capacity for any event(s) sanctioned by the commission shall be required to execute the Hold Harmless and Indemnity Agreement of the commission, prior to receiving any assignment from the commission. This shall be in addition to the agreement as set forth in the license application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:79.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2003 (August 2005).

§123. Ringside Physicians (formerly §326)

A. The ringside physicians shall be stationed at places designated by the commission.

B. The ringside physician may terminate any contest or exhibition at any time if in the opinion of such physician the health or well-being of any participant would be significantly jeopardized by continuation of the contest or

exhibition. In the event of any serious physical injury, such physician shall immediately render any emergency treatment necessary, recommended further treatment or hospitalization if required, and fully report the entire matter to the commission within 24 hours, and thereafter, as required by the commission. Such physician may also require that the injured participant and his or her manager remain in the ring or on the premises or report to a hospital after the contest for such period of time as such physician deems advisable.

C. Any contrary provisions of these rules notwithstanding, the ringside physician may enter the ring during the progress of a bout at any time to fulfill his or her official duties. A ringside physician desiring to enter the ring for this purpose shall first signal the referee of his or her intention, upon which the referee shall stop the progress of the bout by signaling the timekeeper. At any time during the progress of a bout, the referee may stop the progress of the bout by signaling the timekeeper, and require the ringside physician to enter the ring to examine a participant. Nothing herein shall be deemed to prohibit the ringside physician from entering the ring to examine any contestant during the rest periods, with or without invitation from the referee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:70.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), repromulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2003 (August 2005).

§125. Event Approval

A. A member of the Louisiana Boxing and Wrestling Commission, including the chairman, may not legally and/or officially authorize and/or give approval to any television network, corporation, limited liability company, promoter, match-maker or any other entity, private or corporate, for any major event date and site selection, without the prior approval of a majority of the commission members voting in favor. *Major Event* in this rule means any boxing, kick-boxing or wrestling (WCW, WWF, etc.) contests that the state of Louisiana authorizes this commission to sanction. Minor local wrestling shows may be excluded from this rule. (Local area commissioners should coordinate these shows through the deputy commissioners and chairman, once they are made aware of such events.)

B. Once a commissioner is contacted by a promoter, he must advise the promoter that a typewritten request on official letterhead must be submitted to the chairman by mail or facsimile. In the request disclosure must be made regarding the venue (television contracts, promoter, matchmaker, number of bouts, bout contracts, arena contracts, sanctioning bodies, ticket information, etc.) After date and site selection is approved, full disclosure of all venue information must be submitted no later than two weeks prior to the event.

C. Once an official request is made, a quorum, according to state statute, must be attained to approve or reject such requests as per state open meeting laws. Emergency meetings will not be deemed necessary, if the time table is such, that the request may be discussed at an upcoming, regular scheduled commission meeting. Requests approved or rejected by quorum in the interim will be noted in the minutes of the next meeting of the commissioners.

D. The commission may demand that all monies relative to boxing venues be placed in escrow in the commission treasury. Monies in this rule means fighters purses and ring officials (referees, timekeepers, inspectors, physicians, judges, etc.) expenses. All ring officials pay will be predetermined and coordinated through the commission with the promoter. The ring officials will be paid by commission checks the same day or night before the start of the first bout. If the commission required fighters' purses to be placed in escrow then the fighters also will be paid by commission checks, less any expenses due the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S.4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2004 (August 2005).

§127. Charity Events (formerly §343)

A. Permission to hold charity events must be obtained from the commission.

1. If expenses for the event are to be deducted from the proceeds, then a report estimating the expenses to be incurred shall be presented to the commission 21 days prior to the event for approval. The report shall contain an expense limit to be incurred for the event.

2. A final report showing the actual expenses incurred along with the amount of donated proceeds must be submitted to the commission no later than seven days after the event.

3. A receipt from the charitable organization must be included in the final report to the commission.

B. Shows advertised as charity events must announce in advance in the public press what contribution will be for charity and for what particular charity and this money must be paid before other expenses are deducted.

C. Should the entire proceeds, (except actual expenses) be given to charity, then this fact must be published. A complete report of all expenses and the actual amount turned over to charity must be available for the press on the day following the exhibition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2004 (August 2005).

§129. Tickets and Sale of Tickets (formerly §349)

A. All tickets shall have a number, price and date printed or stamped plainly on the face of the ticket as well as the stub retained by the ticket holder. Any ticket sold or deposited in the ticket box that is not printed or stamped plainly with a price on the face of the ticket will be counted, for tax purposes, at a value or price of the highest price ticket sold for the event.

B. Tickets of different prices shall be printed or stamped on heavy paper of different colors. Use of passout tickets is prohibited unless the club receives written permission from the commission to use them.

C. Under no circumstances shall a ticket holder be passed through the gate without having the ticket separated from the stub, or be allowed to occupy a seat unless in possession of the ticket stub. The ticket taker at the door

shall separate the ticket from the stub and deposit the ticket in the sealed box provided by the commission or the commission representative.

D. The commission or the commission representative shall check numbers and places of ticket boxes at the gates and cause them to be sealed and after the event, have them opened and tickets counted under his supervision.

E. The commission may approve the use of roll tickets. No advance sale of roll tickets shall be permitted. Each roll must be numbered and priced according to the color of the roll. The commission or representative of the commission must be informed of the price of the tickets before they can be sold. The starting ticket number of each roll must be recorded by the commission or the commission representative.

F. Promoters shall provide complimentary tickets or official passes to the commission for attendance of commissioners and commission staff to efficiently conduct commission business for the presentation of a good show. If necessary 30 complimentary tickets or passes will be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:73.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), repromulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2004 (August 2005).

§131. Penalties and Sanctions

A. Anyone licensed and/or subject to the authority of the commission, who violates any of the rules and regulations of the commission as set forth in title, parts and chapters, shall be subject to such sanctions as imposed by the commission which may result in fines, suspensions and revocations of licenses to be determined by the commission pursuant to the laws of the state of Louisiana and the authority of the commission vested to the commission by those laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:82.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2005 (August 2005).

§133. Unauthorized Matchmakers, Promoters, Managers (formerly §351)

A. Anyone under the authority of the commission who deals with undercover matchmakers, promoters or managers of anyone not licensed by the commission shall be suspended by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), repromulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2005 (August 2005).

§135. Safety (formerly §337)

A. Licensed clubs shall take all necessary precautions looking toward safety, order and proper behavior.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development,

Boxing and Wrestling Commission, LR 22:697 (August 1996), repromulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2005 (August 2005).

Chapter 3. Professional Boxing

§314. Prohibited Ring Official Assignments

A. A ring official domiciled in the state of Louisiana shall not accept an assignment in the United States or its possessions that is not sponsored, sanctioned, approved or supervised by the commission, another official state commission, or a member of the Association of Boxing Commissions. *Official State Commission*, in this rule, meaning a commission domiciled and coming under the jurisdiction and regulatory powers of their state or United States possession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2005 (August 2005).

§315. Judges and Referees

A. - B.2. ...

C. The referee is the sole arbiter of a bout and is the only individual authorized to stop a contest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:79.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2005 (August 2005).

§317. Judging Methods and Procedures

A. Scoring

1. - 1.d. ...

2. It is also noted that sportsmanship should be taken into consideration by the judges and the condition of the boxer at the end of the bout. The items listed do not have the same scoring value. Clearly, a man who hits his opponent and is aggressive throughout the contest is entitled to more credit than the one who is merely defensive and shows ring generalship. If the referee or the commission shall decide, at any time, that either contestant did not enter into a contest in good faith, or if the commission or referee discovers, at any time, that either or both contestants are not performing their part in good faith, or is guilty of any foul tactic, or of faking, or of violating any rule of the commission, the referee or commission may stop the contest. The referee may stop the contest when either contestant shows marked superiority or is apparently outclassed. If a contestant is knocked down, or falls through weakness, he must get up unassisted within 10 seconds. The referee shall count off the seconds. If the contestant attempts to get up, and goes back down, the count shall be continued by the referee where he left off. During the count, the opponent shall go to the farthest neutral corner and remain there. Should the opponent refuse to do so, or leave the farthest neutral corner, the referee may stop counting. Upon compliance by the opponent, however, the referee shall continue counting where he left off. If a contestant, who has fallen out of the ring during a contest, fails to return immediately, the referee shall count him out as if he were "down" allowing 20 seconds. In every round but the last round of a bout, should a boxer be down at the time the bell rings ending the round, the count shall continue until the boxer gets up or is counted out. The termination of the

bout is at the discretion of the referee and/or the ring physician. Should a contestant leave the ring during the one-minute period between rounds, and fail to be in the ring when gong rings to resume boxing, the referee shall declare his opponent the winner. A contestant shall be deemed "down" when:

a. any part of his body other than his feet is on the floor;

b. or he is hanging helplessly over the ropes;

c. or he is rising from a "down" position.

3. Answering the Bell. Should a contestant finish any one round of a contest and fail to answer the bell for the succeeding round for any one of numerous reasons, such as cuts, injuries or admission of overwhelming superiority, the proper termination of the bout is by a technical knockout in the round for which he fails to answer the bell. For instance, both contestants have finished round 6. One of them fails to answer the bell for round 7, or indicates to the referee that he will not answer the bell. It is a "TKO-7." Indeed the man should be regarded as technically counted out while seated in his corner just as though the bell sounded for the seventh round. Certainly he completed round 6 and cannot, therefore, be charged with a loss in the sixth. Boxers suffering a knockout or a technical knockout will automatically be suspended for a minimum period of 30 days. Any violation of this rule jeopardizes the welfare of the boxer. No boxer will be reinstated in less than 30 days unless investigated and specifically authorized by the commission or commission physician.

B. In the event a boxer has been knocked down the referee shall order such boxer's opponent to a neutral corner and commence a count of eight and such mandatory eight count after knockdowns is standard procedure in all bouts. Upon completion of said eight count the referee shall determine whether such boxer is able to continue.

C. There is no standing eight count.

D. When a boxer loses his mouthpiece, the referee shall call time as soon as possible and instruct such boxer's seconds to promptly wash or replace such boxer's mouthpiece and re-install same. If a referee determines that a boxer has deliberately spit out his mouthpiece for any reason, the referee shall issue a warning for the first such infraction and instruct the judges at the end of the round following a second such infraction to deduct one point from their scores for such boxer for that round. A boxer may be disqualified for deliberately spitting out his mouthpiece for the third time in any one round and his opponent declared the winner.

E. At the end of each round, each judge shall mark his or her scorecard in ink or indelible pencil with the score of each boxer in such round, and shall deliver the scorecard to the referee, who shall in turn deliver the scorecard of all judges to the commission.

F. At the conclusion of a contest or exhibition, except a contest or exhibition which has been concluded by knockout, technical knockout or disqualification, the commission shall tally the total points awarded to each participant and inform the announcer of the decision of the three judges.

G. The announcer shall announce the decision of the judges from the ring, and in the main events, the announcer shall call out the total points awarded by each judge. The boxer who has more points on the scorecard of the official is

the winner on that judge's scorecard. The boxer who has been awarded the decision on at least two of the three judge's scorecard is the winner of the bout. In the event that neither boxer has been awarded the decision on at least two of the three judge's scorecard the decision shall be a draw, majority draw and all other possibilities.

H. The judges shall score a knockdown in any one round in a manner which is consistent with §317.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S.4:64, R.S. 4:76 and R.S. 4:79.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2005 (August 2005).

§318. Rounds, Duration and Intermission

A. Rounds shall be a minimum of 180 seconds long and 120 seconds long for female boxers.

B. There shall be a 60-second intermission between rounds, unless otherwise directed or authorized by the commission. The referee, at the request of the ringside physician, may extend this intermission, if necessary to examine a participant, for up to 30 additional seconds.

C. Each championship contest will be scheduled for 12 rounds, 180 seconds long, and a 60 second rest period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2006 (August 2005).

§321. Fouls, Deductions of Points Because of a Foul and Accidental Fouling

A. - A.17. ...

B. If a contestant fouls his opponent during a contest or commits any other infraction, the referee may penalize him by deducting points from his score, whether or not the foul or infraction was intentional. The referee may determine the number of points to be deducted in each instance and shall base his determination on the severity of the foul or infraction and its effect upon the opponent. Point deductions for intentional fouls are mandatory.

C. If an intentional foul causes an injury, and the injury is severe enough to terminate the bout immediately, the boxer causing the injury shall lose by disqualification.

D. If an intentional foul causes an injury, and the injury results in the bout being stopped in a later round, the injured boxer will win by a technical decision if he is ahead on the score cards or the bout will result in a technical draw if the injured boxer is behind or even on the score cards.

E. If a boxer injures himself while attempting to intentionally foul his opponent, the referee will not take any action in his favor, and this injury will be the same as one produced by a fair blow.

F. When the referee determines that it is necessary to deduct a point or points because of a foul or infraction, he shall warn the offender of the penalty to be assessed.

G. The referee shall, as soon as practical after the foul, notify the judges and both contestants of the number of points, if any, to be deducted from the score of the contestant.

H. Any point or points to be deducted for any foul or infraction must be deducted in the round in which the foul or infraction occurred, and may not be deducted from the score of any subsequent round.

I. Accidental Foul

1. If a bout is stopped because of an accidental foul, the referee shall determine whether the boxer who has been fouled can continue or not. If the boxer's chance of winning has not been seriously jeopardized as a result of a foul, the referee may order the bout continued after a reasonable interval. Before the bout begins again, the referee shall inform the commission's representative of his determination that the foul was accidental.

2. If the referee determines that the bout may not continue because of an injury suffered as the result of an accidental foul, the bout will result in a no decision if stopped before four completed rounds.

3. If an accidental foul renders a contestant unable to continue the bout after four completed rounds have occurred the bout will result in a technical decision awarded to the boxer who is ahead on the score cards at the time the bout is stopped.

a. After the fourth round has been completed, partial or incomplete rounds shall be scored.

b. However, any point deduction(s) occurring during this partial round will be deducted from the score of the completed rounds.

J. If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the referee orders the bout stopped because of the injury, the outcome must be determined by scoring the completed rounds and the round during which the referee stops the bout.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S.4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2006 (August 2005).

§335. Compensation of Officials

A. All officials (judges, referees, timekeepers, inspectors, event coordinators, etc.) that participate in an event sanctioned by the commission, shall be compensated by the promoters/producers. The amount compensated will be pre-determined, prior to the event, between the commission and the promoter/producer. Officials, in this rule, are not to include members of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2007 (August 2005).

Chapter 5. Professional Wrestling

§523. Wrestling Booking Agent

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, repealed by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2007 (August 2005).

§525. Wrestling Promoters

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, repealed by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2007 (August 2005).

§527. Application of Professional Boxing Rules

A. The following conditions specifically described in the professional boxing rules also apply to professional wrestling: appearance, weight, the fulfilling of contracts, ring introductions, acceptance of decision, managers, timekeepers, physicians, seconds, coaching, clothing worn by attendants, ring equipment, water bottles and buckets, betting, and notifying men before the contest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2007 (August 2005).

A.L. "Buddy" Embanato,
Chairman

0508#056

RULE

**Office of the Governor
Commission on Law Enforcement
and Administration of Criminal Justice**

Peace Officer Training
(LAC 22:III.4701, 4703, 4715, and 4725)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., the Administrative Procedure Act, the Peace Officer Standards and Training Council has amended its rules and regulations relative to the training of peace officers. There will be no impact on family earnings and family budget as set forth in R.S. 49:972.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

**Part III. Commission on Law Enforcement and
Administration of Criminal Justice**

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4701. Definitions

A. The following terms, as used in these regulations, shall have the following meanings:

Governmental Entity—any board, authority, commission, department, office, division, or agency of the state or any of its local political subdivisions.

Law Enforcement Training Course—a basic or advanced course of study certified by the Council on Peace Officer Standards and Training (POST), for the purpose of educating and training persons in the skills and techniques of a peace officer in the discharge of his duties.

Peace Officer Any full-time employee of the state, a municipality, a sheriff or other public agency, whose permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, highway laws of this state, but not including any elected or appointed head of a law enforcement department. Peace officer also includes those sheriff's deputies whose duties include the care, custody and control of inmates, and full time military police officers within the Military Department, State of Louisiana.

Training Center Any POST accredited school, academy, institute, or any place of learning whatsoever, which offers or conducts a law enforcement or corrections training course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:662 (April 1999), LR 31:2007 (August 2005).

§4703. Basic Certification

A. ...

1. Level 1 Certification for Basic Law Enforcement Peace Officers

a. ...

b. The curriculum for the basic law enforcement training course of *Level 1* peace officers shall be developed and approved by the POST council. Curriculum updates shall be authorized and implemented by the council as needed.

c. The 3rd Edition of the POST Basic Training Curriculum is effective for any basic *Level 1* training class that begins at an accredited academy after July 1, 2005.

2. Level 2 Certification for Basic Correctional Peace Officer

a. - b. ...

c. The curriculum for the basic training course for *Level 2* correctional officers shall be developed and approved by the POST Council. Curriculum updates shall be authorized and implemented by the council as needed.

A.3. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 27:49 (January 2001), LR 28:475 (March 2002), LR 31:2008 (August 2005).

§4715. Instructor Qualifications

A. - B.3. ...

4. shall attend POST-sponsored instructor retrainers as required by POST. Update workshops for corrections instructors shall be held annually (effective July 1, 2005).

C. - C.2. ...

D. POST Firearms Instructors

1. Eligibility

a. All applicants must be a *Level 1* basic peace officer that is full time and must have two years of full time practical law enforcement experience and be POST certified or grandfathered in under the current POST law.

b. If an instructor changes full time employment status (retires, part time or reserve), he/she is no longer a

current POST certified firearms instructor. Only full time officers are eligible to be current POST certified firearms instructors. Only POST firearms instructors can teach, score targets and sign any paperwork.

2. Qualification Day for POST Firearms Instructor School

a. Each agency is allowed to submit two names for consideration. The nomination form must be signed by the academy director or agency head (sheriff/chief).

b.i. The three courses of fire are:

(a). bullseye (80 percent);

(b). FBI Tactical Revolver Course (80 percent);

and

(c). POST Qualification Course (90 percent).

ii. These courses must be shot with an approved duty weapon.

c. A written exam will be administered on that day which will include basic firearms, safety, etc. as taught in basic training.

d. A minimum score of 80 percent is acceptable on the written exam, Bullseye and FBI Tactical Revolver Course.

e. A minimum score of 90 percent is acceptable for the POST Qualification Course. Only one attempt at qualifying at each course and the written test is acceptable. Pre-qualifications scores (on qualification day) are for admission purposes only and are not counted toward grade point average in the school.

3. POST Firearms Instructor School:

a. Students will be required to attend all sessions of training and must qualify on all courses of fire.

b. There will be a written exam each Friday with 80 percent constituting a passing grade.

c. All students must maintain at least an 80 percent grade point average throughout the course in order to successfully complete the course and graduate.

d.i. Grade points will be divided among the various segments of the school:

(a). written exams;

(b). oral and written presentations; and

(c). range qualifications.

ii. It is not possible for a student to fail both written examinations and still pass the course.

E. Retrainers for POST Firearms Instructors

1. Attendance at the firearms retrainers is required to maintain POST firearms instructor certification. This class is mandatory.

2. If for any reason instructor misses a retrainer two years in a row, their POST firearms instructor certification is revoked. The instructor must attend another firearms instructor school (classroom portion only) 40 hrs.) to reactivate their certification.

3. The firearms retrainer is held at least twice every year at different locations.

4. If a POST firearms instructor misses the first retrainer, the instructor must be requalified with 90 percent (at least 108) within 90 days by a POST staff member or the POST firearm instructor designee.

5. If a POST firearms instructor is medically excused from the retrainer qualification, the instructor must requalify with 90 percent (at least 108) within 90 days by a POST staff member or the POST designee after released from their

physician. This instructor must attend the classroom portion of the retrainer if physically able.

6. Any POST firearms instructor who fails to qualify the first time at the retrainer must shoot again and average the two scores. If the instructor fails to qualify with 90 percent (at least 108) with the averaged two scores, the instructor will be suspended for 90 days and allowed one opportunity to requalify by a POST staff member or the POST designee upon completion of suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:664 (April 1999), LR 31:2008 (August 2005).

§4725. POST Approved Shotgun Course

A. - A.5. ...

B. Buckshot Phase. Recommend use of 9-pellet "OO." Buckshot (may also be fired with any buckshot.)

1. - 4. ...

5. Total score should equal 80 percent with or without the Slug Phase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 30:435 (March 2004), amended LR 31:2009 (August 2005).

Michael A. Ranatza
Executive Director

0508#012

RULE

**Office of the Governor
Crime Victims Reparations Board**

Reparations Eligibility (LAC 22:XIII.301)

In accordance with the provisions of R.S. 46:1801 et seq., the Crime Victims Reparations Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Crime Victims Reparations Board has amended its rules and regulations to clarify the eligibility of crime victims for reparations. There will be no impact on family earnings and family budget as set forth in R.S. 49:972.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part XIII. Crime Victims Reparations Board

Chapter 3. Eligibility and Application Process

§301. Eligibility

A. To be eligible for compensation, an individual must have suffered personal injury, death or catastrophic property loss as a result of a violent crime.

1. Contribution

a. The Crime Victims Reparations Board may vote not to make an award to a claimant who is a victim, or who files an application on behalf of a victim, when any of the following occurs:

i. the victim was convicted of, or serving a sentence for, a felony offense, within the last five years prior to the filing of an application for reparations;

1.a.ii. - 3.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:709 (August 1996), LR 31:2009 (August 2005).

Lamarr Davis
Chairman

0508#013

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

National Guard (LAC 32:I:1501-1515)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2) vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, and pursuant to the provisions of R.S. 42:808, as amended Acts 2004, No. 870, §1, OGB hereby adopts the following Rule providing with respect to participation in OGB sponsored life, health, or other programs by active or retired member of the Louisiana National Guard.

Title 32

EMPLOYEE BENEFITS

Part I. General Provisions

**Chapter 15. Participation by Active or Retired
Members of the Louisiana National
Guard**

§1501. Eligibility

A. Any active or retired member of the Louisiana National Guard shall be eligible to participate in OGB sponsored life, health, or other programs provided that:

1. other coverage is not available through the member's employment; and

2. the member is not eligible for Medicare coverage.

B. Eligible dependents of such active or retired members of the Louisiana National Guard shall be eligible for dependent coverage in accordance with the terms, conditions, requirements and limitations applicable to dependents of other eligible employees and retirees as set forth in the rules of OGB.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C), 802(B)(2), and 42:808.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 31:2009 (August 2005).

§1503. Certification

A. Any eligible active or retired member of the Louisiana National Guard who submits an enrollment application to participate in OGB sponsored life, health, or other programs shall provide, contemporaneous with the enrollment application, written certification as follows:

1. from the member's employer, that other coverage is not available through the member's employment; and

2. from the appropriate federal administrative agency that the member is not eligible for Medicare;

3. OGB may require additional written certification at such times as it deems necessary to verify eligibility for participation in its sponsored programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C), 802(B)(2), and 42:808.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 31:2009 (August 2005).

§1505. Payment of Premiums

A. The member must agree to pay the full amount of all premiums due for selected coverage without contribution from the state of Louisiana or any of the governmental or administrative subdivisions, departments, or agencies of the executive, legislative, or judicial branches of the state of Louisiana, or the governing boards and authorities of the state universities, colleges, and public elementary and secondary school systems in the state.

B. Contemporaneous with the enrollment application, the member must complete and submit to OGB all documentation necessary to provide for the payment of premiums via electronic funds transfer (EFT) from a licensed financial institution doing business in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C), 802(B)(2), and 42:808.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 31:2010 (August 2005).

§1507. Effective Dates of Health Coverage

A. Unless an earlier effective date is mandated by applicable law or regulation, the effective date of health coverage for active or retired members of the Louisiana National Guard and their eligible dependents shall be:

1. the first day of the month following the date of receipt by OGB of the properly completed enrollment application, together with all required documentation, when such application and documentation are received by OGB prior to the fifteenth of the month;

2. the first day of the second month following the date of the receipt by OGB of the properly completed enrollment application and all required documentation when such application and documentation are received by OGB on or after the fifteenth of the month.

B. Coverage for eligible dependents of such active or retired members of the Louisiana National Guard shall become effective in accordance with the terms, conditions, requirements and limitations applicable to dependents of other eligible employees and retirees as set forth in the rules of OGB.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C), 802(B)(2), and 42:808.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 31:2010 (August 2005).

§1509. Health Benefits Pre-Existing Condition Limitation

A. Upon initial enrollment, health coverage for all active or retired members of the Louisiana National Guard and their dependents shall be subject to a pre-existing condition limitation as follows.

1. Medical expenses incurred during the first 12 months following the date of enrollment of the member and/or dependent will not be considered as covered medical expenses if they are in connection with a disease, illness, accident, or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the six months immediately prior to the date of enrollment. This limitation does not apply to pregnancy.

2. If the member or dependent previously had other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 and regulations promulgated pursuant thereto (HIPAA), credit against the 12-month limitation period will be given for the duration of such prior coverage that occurred without a break of 63 days or more. Any coverage occurring prior to a break in coverage 63 days or more will not be credited against the 12-month limitation period.

B. OGB may require applicants to complete a "Statement of Physical Condition" form and an "Acknowledgment of Pre-existing Condition" form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C), 802(B)(2), and 42:808.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 31:2010 (August 2005).

§1511. Term Life Insurance

A. Evidence of Insurability. Any active or retired member of the Louisiana National Guard or dependent(s) of such member for whom application for life insurance is made shall, in addition to all other required documentation, provide evidence of insurability acceptable to the insurer providing the OGB sponsored term life insurance. Such evidence of insurability shall be provided at no cost to OGB and/or the insurer providing the OGB sponsored term life insurance.

B. Effective Date

1. Unless delayed as set forth below, the effective date of life insurance will be the first of the month next following OGB's receipt of approval of the application for coverage from the insurer providing the OGB sponsored term life insurance.

2. Delay of Effective Date. If an active or retired member of the Louisiana National Guard, or dependent(s) of such member, is/are confined for medical care or treatment at home or elsewhere on the date that life insurance coverage would otherwise be effective, coverage for such individual(s) will take effect upon final medical release from such confinement.

C. Amount of Life Insurance

1. Option 1 Basic Life Insurance:

a. active or retired member of the Louisiana National Guard \$5,000;

b. dependent(s) of active or retired member of the Louisiana National Guard:

i. spouse \$2,000 and \$1,000 per eligible child; or

ii. spouse \$1,000 and \$500 per eligible child.

2. Option 2 Basic Life Insurance plus Supplemental Life Insurance:

a. active or retired member of the Louisiana National Guard \$20,000;

b. dependent(s) of active or retired member of the Louisiana National Guard:

i. spouse ~~C~~\$4,000 and \$2,000 per eligible child;
or

ii. spouse ~~C~~\$2,000 and \$1,000 per eligible child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C), 802(B)(2), and 42:808.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 31:2010 (August 2005).

§1513. Termination of Coverage

A. All benefits will terminate on the earliest of the following dates:

1. on the last day of the month in which the active or retired member of the Louisiana National Guard ceases to be eligible to participate in OGB sponsored life, health, or other programs, as provided herein;

2. on the due date of any unpaid premium/contribution required for continuation of coverage; or

3. on the date that coverage would otherwise terminate for any other employee or retiree, or dependent(s) of such employee or retiree, participating in OGB sponsored health, life, or other programs in accordance with OGB rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C), 802(B)(2), and 42:808.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 31:2011 (August 2005).

§1515. Other Issues

A. Other issues pertaining to eligibility for or participation in OGB sponsored life, health, or other programs by any active or retired member of the Louisiana National Guard not specifically addressed herein shall be resolved in accordance with OGB rules pertaining to other eligible employees and retirees. Nothing herein shall be construed to confer upon any active or retired member of the Louisiana National Guard greater rights relative to eligibility for or participation in OGB sponsored life, health, or other programs than those applicable to other eligible employees and retirees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C), 802(B)(2), and 42:808.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 31:2011 (August 2005).

A. Kip Wall
Chief Executive Officer

0508#070

RULE

Office of Governor Division of Administration Board of Home Inspectors

Home Inspectors Training
(LAC 46:XL.120)

The Board of Home Inspectors amends LAC 46:XL.120, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Home Inspector Licensing Law, R.S. 37:1471 et seq. The text is being amended to provide standards for classroom training, and requirements and qualifications for education providers and trainees. The Rule amendments have no known impact

on family formation, stability, and autonomy as described in R.S. 49:972. The amended Rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XL. Home Inspectors

Chapter 1. General Rules

§120. Infield Training; Classroom Training; Trainee Requirements

A. - F. ...

G.1. In order to qualify as an education provider, an applicant shall:

a. pay the initial education provider fee;

b. provide its course list to the board;

c. agree, in writing, to defend, indemnify and hold the board harmless against any claim or suit alleging negligent or intentional acts or omissions of the education provider in its training, or otherwise;

d. remain current on all renewal and other fees; and

e. be approved by the board.

2. In order to qualify as a Certified Home Inspector Instructor of an education provider, a person must:

a. have been actively engaged in the performance of home inspections for the three years prior to certification;

b. have performed at least 500 home inspections; or

c. be licensed in the field of the subject matter of the particular course instructed.

H.1. The 90 classroom hours of home inspection class work as set forth in §119.B.1, above, may only include a combination of any of the following methods of instruction:

a. live lectures by a Certified Home Inspector Instructor;

b. DVD, CD ROM, videotape, or other electronic means of video lecture, with a Certified Home Inspector Instructor available during classroom hours for questioning and discussion;

c. in-classroom or remote demonstration of techniques; or

d. periodic, in-classroom testing.

2. No credit towards the 90 classroom hours shall be given for:

a. in-classroom study;

b. instruction received from an education provider not duly qualified by the board;

c. time spent listening to audiotapes; or

d. classroom time devoted to non-approved course materials.

I. Upon registering trainees for a 90-hour course, all qualified education providers shall:

1. notify the board of the date of the commencement of each 90-hour course of instruction of each trainee;

2. provide the names, addresses, and telephone numbers of all trainees enrolled for that course;

3. keep records of attendance of each trainee enrolled in the 90-hour session to confirm satisfactory completion of the 90 required classroom hours of instruction;

4. provide the trainee with an Education Provider Evaluation Form approved by the board prior to final testing and completion of the 90 hours of instruction;

5. provide a final examination and/or multiple periodic examinations to the trainee covering course contents; and

6. provide a copy of certificates of completion to the board of only those trainees who have completed the full 90 hours of classroom instruction.

J. Before the trainee can be certified as having completed the required 90 hours of classroom instruction, the trainee must have:

1. attended the full 90 hours of classroom instruction;
2. passed the final examination and/or all periodic examinations given by the educational provider;
3. completed the 90 hours of classroom instruction within 180 days of commencement; and
4. mailed a completed LHI Application Form to the board.

K. Before registering with a qualified educational provider, the trainee must first apply with the board. After enrolling with a qualified educational provider, the trainee must:

1. provide the board with the name of the provider and the commencement date of instruction;
2. notify the board upon completion of the 90 hours of instruction;
3. return the Educational Provider Evaluation Form to the board; and
4. notify the board each time the trainee takes the national exam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1475-1477, and R.S. 37:1480.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Home Inspectors, LR 30:1687 (August 2004), amended LR 31:2011 (August 2005).

Albert J. Nicaud
Board Attorney

0508#077

RULE

Department of Health and Hospitals Board of Nursing

Advanced Practice Registered Nurses (LAC 46:XLVII.Chapter 45)

Notice is hereby given, in accordance with the provisions of the Administrative Procedures Act, R.S.49:950 et seq., that the Board of Nursing (Board) pursuant to the authority vested in the board by R.S.37:918, R.S.37:920 amends the Professional and Occupational Standards pertaining to Advanced Practice Registered Nurses. The amendments of the rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses

§4501. Introduction

A. Louisiana Revised Statutes of 1950, specifically R.S. 37:911 et seq., delegated to the Louisiana State Board of Nursing the responsibility to authorize additional acts to be performed by registered nurses practicing in expanded roles and gave the board of nursing the power to set standards for nurses practicing in specialized roles. From 1981 to 1995,

the board recognized advanced practitioners of nursing as certified nurse-midwives, certified registered nurse anesthetists, clinical nurse specialists, and primary nurse associates.

B. In 1995, the Louisiana Legislature amended R.S. 37:911 et seq., empowering the board of nursing to use the term advanced practice registered nurse (APRN) to license a registered nurse with advanced education as provided in R.S. 37:913.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996), amended LR 31:2012 (August 2005).

§4503. Titles

A. Advanced practice registered nurse (APRN) means a licensed registered nurse who is certified by a nationally recognized certifying body, such as the American Nurses Credentialing Center, as having an advanced nursing specialty as described in §4507 and who meets the criteria for an advanced practice registered nurse as established by the board.

B. A nurse licensed as an Advanced Practice Registered Nurse (APRN) shall include, but not be limited to, the following functional roles.

1. *Certified Nurse Midwife (CNM)* Can an advanced practice registered nurse educated in the disciplines of nursing and midwifery and certified according to a nationally recognized certifying body, such as the American College of Nurse Midwives Certification Council, as approved by the board and who is authorized to manage the nurse midwifery care of newborns and women in the antepartum, intrapartum, postpartum, and/or gynecological periods.

2. *Certified Registered Nurse Anesthetist (CRNA)* Can an advanced practice registered nurse educated in the field of nurse anesthesia and certified according to the requirements of a nationally recognized certifying body such as the Council on Certification of Nurse Anesthetists or the Council on Recertification of Nurse Anesthetists, as approved by the board and who is authorized to select and administer anesthetics or ancillary services to patients under their care.

3. *Clinical Nurse Specialist (CNS)* Can an advanced practice registered nurse educated in a recognized nursing specialty area who is certified according to the requirements of a nationally recognized certifying body such as the American Nurses Credentialing Center, as approved by the board and who is authorized to provide direct nursing care to a select population in a recognized nursing specialty area, and plans, guides, and directs care given by other nursing personnel.

4. *Nurse Practitioner (NP)* Can an advanced practice registered nurse educated in a specified area of care and certified according to the requirements of a nationally recognized accrediting agency such as the American Nurses Credentialing Center, National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties, or the National Certification Board of Pediatric Nurse Practitioners and Nurses, or as approved by the board and who is authorized to provide primary, acute, or chronic care as an advanced nurse practitioner acting within his scope of practice to individuals, families, and other groups in

a variety of settings including, but not limited to, homes, institutions, offices, industry, schools, and other community agencies.

5. *Registered Nurse Anesthetist (RNA)* as provided for in R.S.37:930.B.

C. A licensed Advanced Practice Registered Nurse must use the title "APRN" unless the title is CRNA or RNA. The category of certification and/or education designation may be used before or after APRN as follows.

1. Certification
 - a. CNM Certified Nurse Midwife;
 - b. CRNA Certified Registered Nurse Anesthetist;
 - c. CNS Clinical Nurse Specialist plus area of specialty, i.e., CNS, Medical/ Surgical;
 - d. NP Nurse Practitioner plus area of specialty, i.e., FNP for Family Nurse Practitioner.
2. Education
 - a. MSN, MN, MS or other appropriate degree at the master's level;
 - b. DNS, EdD, PhD, or other appropriate degree at the doctorate level.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996), amended LR 27:723 (May 2001), LR 31:2012 (August 2005).

§4505. Definitions

Advanced Practice Certification certification by a nationally recognized certifying body approved by the board.

Advanced Practice Nursing Education Program a program whose purpose is to prepare advanced practitioners of nursing and whose graduates are eligible for certification as an Advanced Practice Registered Nurse.

Advanced Practice Registered Nurse Student any licensed registered nurse enrolled as a student in an educational program which prepares the individual for APRN licensure.

Advanced Practice Registered Nursing nursing by a certified registered nurse anesthetist, certified nurse midwife, clinical nurse specialist, or nurse practitioner which is based on knowledge and skills acquired in a basic nursing education program, licensure as a registered nurse, and a minimum of a master's degree with a concentration in the respective advanced practice nursing specialty which includes both didactic and clinical components, advanced knowledge in nursing theory, physical and psychosocial assessment, nursing interventions, and management of health care.

Advanced Practice Registered Nursing Specialty a designated area of advanced practice in which the registered nurse holds a master's degree with a concentration in the respective area of practice that includes both the didactic and clinical components, advanced knowledge in nursing theory, physical and psychosocial assessment, nursing interventions, and management of health care and also prepares the APRN for national certification.

Approval a status indicating the program has met the legal standards established by the board.

Approved Program a nursing education program approved by the board.

Assessment Studies diagnostic studies including, but not limited to laboratory testing, radiologic studies, electrocardiograms, pulmonary function tests, and pharmaceutical diagnostic testing.

Board the Louisiana State Board of Nursing.

Clinical Practice Guidelines refers to written documents, jointly agreed upon by the collaborating professionals that describe a specific plan, arrangement, or sequence of orders, steps, or procedures to be followed or carried out in providing patient care in various clinical situations. These may include textbooks, electronic communications, Internet, etc.

Collaboration a cooperative working relationship with licensed physicians, dentists, or other health care providers to jointly contribute to providing patient care and may include but not be limited to discussion of a patient's diagnosis and cooperation in the management and delivery of health care with each provider performing those activities that he is legally authorized to perform.

Collaborating Physician a physician actively engaged in clinical practice and the provision of patient care with whom the APRN has developed and signed a collaborative practice agreement for prescriptive and distributing authority and who holds a current, unencumbered, unrestricted and valid medical license issued or recognized by the Louisiana State Board of Medical Examiners and is in good standing with no pending disciplinary proceedings, and practices in accordance with rules of the Louisiana State Board of Medical Examiners.

Collaborative Practice the joint management of the health care of a patient by an advanced practice registered nurse performing advanced practice registered nursing and one or more consulting physicians or dentists. Except as otherwise provided in R.S. 37:930, acts of medical diagnosis and prescription by an advanced practice registered nurse shall be in accordance with a collaborative practice agreement.

Collaborative Practice Agreement a formal written statement addressing the parameters of the collaborative practice which are mutually agreed upon by the advanced practice registered nurse and one or more licensed physicians or dentists which shall include but not be limited to the following provisions:

1. availability of the collaborating physician or dentist for consultation or referral, or both;
2. methods of management of the collaborative practice which shall include clinical practice guidelines;
3. coverage of the health care needs of a patient during any absence of the advanced practice registered nurse, physician, or dentist.

Contact Hour a unit of measurement that describes 50 minutes of participation in an educational activity, which meets the board's continuing education criteria. Ten contact hours equal one continuing education unit (C.E.U.).

Controlled Substance any substance defined, enumerated, or included in federal or state statute or regulations 21 CRFFR 1208.11-15 or R.S. 40:964, or any substance which may hereafter be designed as a controlled substance by amendment of supplementation or such regulations and statute.

Cooperating Agency Can organization, institution or agency which by agreement accepts Advanced Practice Registered Nurse students for educational experiences

Course A distinct unit of instruction which has been organized for presentation with a specific time frame. This includes all related learning experiences deemed necessary by the faculty to meet the stated objectives.

Curriculum The planned studies and learning activities designed to lead to graduation and eligibility for advanced practice registered nurse licensure.

Distance Education Teaching learning strategies to meet the needs of students who are physically separated from the faculty.

Distance Education Technology The methods and technical support used to teach students who may be physically distant from the faculty. The methods may include audio conference, compressed video, electronic mail, and the Internet.

Distribute, distribution or distributed The issuing of free samples and other gratuitous medications supplied by drug manufacturers, as defined by clinical practice guidelines contained in a collaborative practice agreement for prescriptive authority.

Electronic Transmission Transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

Faculty

1. **Nurse Faculty** A doctorally or master's prepared registered nurse and/or advanced practice registered nurse with academic preparation and experience under written contractual agreement with a parent institution for administration, teaching, clinical supervision of students or research in programs preparing candidates for advanced practice registered nurse licensure.

2. **Support Faculty** An individual with academic preparations and experience in his/her field of specialization who provides services or teaches support courses.

3. **Preceptor/Clinical Practicum Coordinators** Can advanced practice registered nurse, physician, dentist, who provides guidance, serves as a role model, resource person, and clinical teacher to enhance the learning experiences of an advanced practice nursing student on a one-to-one basis for a specified time or as specifically approved by the board.

Functional Role The advanced practice role for which a master's in nursing program prepares its graduates. The categories of functional roles for advanced practice licensure include nurse midwives, nurse anesthetists, clinical nurse specialists, and nurse practitioners.

Goals The aims of the program including the expected competencies of the graduate.

Gratuitous Medications The medications provided by the manufacturer to be distributed to indigent populations and/or HIV and STD patients free of charge.

Lapsed APRN License Inactive APRN licensure status due to failure to renew or to request inactive licensure status.

Major Change in Curriculum Any one of the following shall be deemed to constitute a major change in curriculum:

1. alteration, other than editorial, in program's mission/philosophy and goals;
2. addition or deletion of more than 10 percent of the semester credit hours from the program of studies;

3. departure from current educational practices or methods;

4. addition or deletion of a program or clinical track preparing APRNs.

Medical Therapeutic Device Any instrument, apparatus, implement, machine, contrivance, implant, or other similar or related article, including any component part of accessory, which is required under federal law to bear the label "Rx only". The medical device or appliance shall be within the scope of practice of the Advanced Practice Registered Nurse.

National Professional Accrediting Organization Can organization that provides accreditation for educational activity offered by a nursing, medical, or pharmacy association or other educational entities and is approved by the board relative to pharmacotherapeutics.

Objectives The behavioral expectations of the students in courses and throughout the program that lead to the goals of the program.

Parent Institution The organization or agency responsible for the administration and operation of the nursing program.

Philosophy A statement which includes and identifies the beliefs accepted by the faculty and the parent institution related to nursing education.

Preceptorship Experience Can individualized teaching-learning strategy in which an advanced practice nursing student participates in clinical nursing practice while assigned to a preceptor.

Prescribe To direct, order, or designate the preparation, use of or manner of using by spoken or written words or by electronic means.

Prescription or Prescription Drug Order Can order from a practitioner authorized by law to prescribe for a drug or device that is patient specific and is communicated by any means to a pharmacist in a permitted pharmacy, and is preserved on file as required by law or regulation. R.S. 37:14.1164 (44).

Program Head (administrative director) The registered nurse with the authority and responsibility for the administration of the program and implementation of the curriculum. This title is used regardless of the person's official title in the parent institution.

Recommendations Statements focusing on areas where there are factors which may impinge on maintenance of standards.

Requirements Standards with which educational programs shall comply.

Samples A unit of prescription drug, which is not intended to be sold and is intended to promote the sale of the drug.

Shall A term used to denote a requirement which must be met.

Should A term used to denote a suggested method of meeting a requirement.

Standard A criterion by which performance is measured.

Subspecialty A focus of practice within a specialty assuring expert knowledge of a particular patient problem; e.g., cardiovascular disease, palliative care, oncology, substance abuse, orthopedics, critical care, etc.

Survey The collection of information by the board for its review in granting, continuing or denying approval of a program.

Under the Guidance of an Approved Preceptor Guidance by a licensed APRN, physician, dentist, or person approved by the board within the same or related practice specialty or functional role must be accessible but not physically present.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 27:724 (May 2001), LR 31:2013 (August 2005).

§4507. Licensure as Advanced Practice Registered Nurse

A. Initial Licensure

1. The applicant shall meet the following requirements:

a. holds a current, unencumbered, unrestricted and valid registered nurse license in Louisiana and there are no grounds for disciplinary proceedings, as stated in R.S. 37:921;

b. completion of a minimum of a master's degree with a concentration in the respective advanced practice nursing specialty and functional role or completion of a post master's concentration in the respective advanced practice nursing specialty and functional role from an accredited college or university that meets the curriculum guidelines established by the board. Exception to the master's degree will be granted to those applicants who provide documentation as requested by the board that, prior to December 31, 1995, the applicant completed or was continuously enrolled in a formalized post-basic education program preparing for the advanced practice nursing specialty and functional role as approved by the board prior to December 31, 1995 as follows:

i. a program of studies offered through an institution of higher education which qualifies the graduate to take a certification examination in the advanced practice specialty and functional role; or

ii. a program of studies accepted by a nationally recognized certifying body which is recognized by the Louisiana State Board of Nursing; or

iii. a program which is individually recognized by the Board of Nursing based on established criteria; as stated in LAC 46:XLVII.4509;

c. submission of a completed application on a form furnished by the board;

d. submission of evidence of current certification in the respective advanced practice nursing specialty and functional role by a nationally recognized certifying body approved by the board. When specialty and functional role certification is not available, in addition to meeting the above requirements, the individual will be required to meet the commensurate requirements specified below in Subsection 3;

e. submission of a non-refundable fee as specified in LAC 46:XLVII.3341;

f. after initial licensure, applicants seeking licensure for advanced practice in an additional specialty and/or functional role shall meet the requirements stated in LAC 46:XLVII.4507.A.1.a-d.

2. The board will verify all licensure and certification requirements via primary source verification as requested including (a) Licensure (b) Education (c) Certification and information relevant to the practice of the APRN.

3. Commensurate Requirements when certification is not available:

a. hold the minimum of a master's degree with a concentration in the respective advanced practice nursing specialty and functional role from a regionally accredited college or university or a program otherwise approved by the board and has practiced with a APRN temporary permit for a minimum of six months to a maximum of 24 months; and

b. have provided a minimum of 800 hours of patient care under the direction of an approved preceptor within the past 24 months; up to 400 of these may be earned through clinical practicum in a master's program;

c. submit an affidavit for waiver of Certification Examination on a form provided by the board.

4. An APRN license shall be issued with an expiration date that coincides with the applicant's RN license.

B. Temporary Permit: Initial Applicants

1. An APRN applicant who possesses a current RN license or a valid RN temporary permit, may be granted a temporary permit for a maximum of 120 days which allows the applicant to practice under the guidance of a licensed APRN, physician, dentist or approved preceptor within the practice specialty and functional role of the applicant, except as provided for in R.S.37:930.A.3. Evidence must be submitted to the board delineating that the applicant:

a. is in the process of applying for initial licensure under LAC 46:XLVII.4507.A; and

b. has been accepted as a first-time candidate for the appropriate national professional certification examination; or

c. in the process of meeting the practice eligibility requirements for the appropriate national professional certification examination for the advanced nursing practice specialty and functional role as recognized by the board; or

d. in the process of meeting the practice requirements for licensure by commensurate requirements; or

e. is awaiting certification results based upon initial application; and

f. there are no grounds for disciplinary proceedings as stated in R.S. 37:921.

2. A nurse practicing under the temporary permit shall use the title advanced practice registered nurse applicant or APRN applicant.

3. Upon receipt of initial certification examination results:

a. the temporary permit shall expire;

b. applicant shall submit or cause to be submitted, a copy of the results to the board;

c. the unsuccessful candidate shall:

i. cease to practice as an APRN applicant (does not prohibit practice as a registered nurse);

ii. return the temporary permit to the board;

iii. notify the employer of the results.

4. Upon completion of the commensurate requirements or at the end of two years, the temporary permit shall expire.

5. An advanced practice registered nurse seeking licensure in either an additional advanced practice nursing specialty and functional role may seek a temporary permit as stated in LAC 46:XLVII.4507.B and D.

6. The APRN temporary permit may be extended to a maximum of 120 days or until receipt of initial certification results.

C. Licensure by Endorsement. The board may issue a license by endorsement if the applicant has practiced as an APRN under the laws of another state and if, in the opinion of the board, the applicant meets the requirements for licensure as an APRN in this jurisdiction.

1. If the applicant is applying from another jurisdiction that licenses the category of APRN for which the applicant is seeking licensure, the applicant shall submit:

a. a completed application on a form furnished by the board;

b. the required nonrefundable fee as set forth in LAC 46:XLVII.3341;

c. verification of current RN licensure in this jurisdiction or documentation that the applicant has applied for licensure as a RN and meets the requirements of this jurisdiction, and there are no grounds for disciplinary proceeding as stated in R.S. 37:921;

d. verification of licensure status directly from the jurisdiction of original licensure in the advanced practice category;

e. verification of current unencumbered license in the advanced practice category directly from the jurisdiction of current or most recent employment as an APRN;

f. verification of educational requirements as stated in LAC 46:XLVII.4507.A.1.b;

g. verification of current national certification in the respective specialty and functional role area as recognized by the board; or meets commensurate requirements as specified in LAC 46:XLVII.4507.A.3; and

h. documentation of meeting the requirements in LAC 46:XLVII.4515.

2. If the applicant is applying from a jurisdiction that does not license the APRN category for which the applicant is seeking licensure, the applicant shall submit in addition to Subsections C.1.a, b, c, f, g, and h as stated above:

a. documentation of the applicant's qualifications for advanced practice directly from the board in the state where the applicant first practiced in the APRN category; and

b. documentation of the applicant's qualifications for advanced practice directly from the board in the state where the applicant was last employed in the APRN category.

3. If the applicant is applying from a jurisdiction that does not verify advanced practice or does not meet the endorsement requirements, the applicant shall qualify by meeting the requirements for initial APRN licensure, LAC 46:XLVII.4507.A and B.

D. Temporary Permit: Endorsement Applicants

1. A nurse seeking APRN licensure by endorsement, and has been issued a RN temporary permit, may be issued a temporary permit to practice as an APRN for a maximum of 120 days if the applicant submits:

a. a completed APRN application on a form furnished by the board;

b. the required nonrefundable fee as set forth in LAC 46:XLVII.3341;

c. evidence of meeting the educational and certification requirements specified in LAC 46:XLVII.4507.A.1.b and d; or

d. documentation of registration for the certifying examination within 90 days.

2. The APRN temporary permit may be extended until receipt of initial certification results for justifiable causes.

E. Renewal of Licenses by Certification, Commensurate Requirements, or Grandfathering

1. The date for renewal of licensure to practice as an APRN shall coincide with renewal of the applicant's RN license. Renewal of the APRN license is contingent upon renewal of the RN license and verification that there are no grounds for disciplinary proceedings as stated in R.S. 37:921. An applicant for renewal of an APRN license shall submit to the board:

a. a completed application on a form furnished by the board;

b. evidence of current certification/recertification, unless the APRN has been licensed by the board in accordance with R.S. 37:912(B)(3)(4); or in accordance with commensurate requirements when certification is not available [R.S. 37:920(A)(2)]. Effective January 1, 2002, and required for relicensure in 2003, APRNs licensed by the board in accordance with commensurate requirements when certification is not available [R.S. 37:920(A)(2)] shall comply with the requirements specified in §4507.E.2. below; and

c. the licensure renewal fee as specified in LAC 46:XLVII.3341.

2. APRNs initially licensed in accordance with R.S. 37:912(B)(3)(4) (grand-fathered) and who are not advanced practice certified, or R.S. 37:920(A)(2) and LAC 46:XLVII.4507.A.3 whose category and area of specialization does not provide for certification/recertification (commensurate requirements) shall submit the following documentation for renewal, in addition to meeting the requirements specified above in §4507.E.1.a-c:

a. a minimum of 300 hours of practice in advanced practice registered nursing, as defined in R.S.37:913.3.a, within a 12-month period; and

b. a minimum of 2 college credit hours per year of relevance to the advanced practice role; or

c. a minimum of 30 continuing education (C.E.) contact hours approved by the board each year. CMEs (Continuing Medical Education Units) may be approved by the board to meet this requirement;

d. the above Subparagraphs b or c will meet the C.E. Requirements for the registered nurse and the advanced practice registered nurse licensure renewal.

F. Reinstatement of an APRN License

1. An APRN who has failed to renew his/her license, or has had an inactive licensure status, may apply for reinstatement by submitting to the board:

a. evidence of current RN licensure;

b. completed application on a form furnished by the board;

c. evidence of current certification/recertification by a national certifying body accepted by the board; or

d. APRNs initially licensed in accordance with R.S. 37:912(B)(3)(4) or 920(A)(2) and LAC 46:XLVII.4507.A.3 whose specialty and functional role does not provide for certification/recertification shall submit the following documentation for each year of inactive or lapsed status:

i. a minimum of 300 hours of practice as a fully licensed or permitted advanced practice registered nurse for each year of inactive or lapsed status up to a maximum of 800 hours; and

ii. a minimum of two college credit hours per year of relevance to the advanced practice role; or

iii. a minimum of 30 continuing education (C.E.) contact hours approved by the board each year. CMEs (Continuing Medical Education Units) may be approved by the board to meet this requirement; and

e. the required fee as specified in LAC 46:XLVII.3341.

2. Reinstatement of an APRN license for an applicant seeking to meet §4507.F.1.c or d, in addition to meeting the above requirements in Clauses F.1.a, b, and e, the applicant shall:

a. apply for a six month temporary permit to practice under the guidance of a clinical preceptor approved by the board which may be extended to a maximum of two years; and

b. practice under the temporary permit and current practice standards set forth by the respective advanced practice nursing specialty and functional role; and

c. successfully complete the number of clinical practice hours required by the national certifying body approved by the board, if seeking certification/recertification, under the guidance of a preceptor approved by the board; and

d. submit evidence of current certification by a national certifying body approved by the board; or

e. if seeking commensurate requirements the applicant must practice under the guidance of a clinical preceptor approved by the board for a minimum of 800 hours of clinical practice in the area of clinical specialization when specialty certification is not available; and

f. submit evidence of compliance with §4507.E.2 b. or c. for each year of inactive or lapsed status; and

g. submit a final evaluation by the approved preceptor verifying successful completion of six months of full time practice or the equivalent hours in the area of specialization (minimum of 800 hours).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996), amended LR 27:724 (May 2001), LR 29:580 (April 2003), LR 31:2015 (August 2005).

§4509. Educational Requirements

A. Duties of the Board Directly Related to Nursing Education Programs

1. The authority of the Board of Nursing relating to nursing education programs is contained in the Louisiana Revised Statutes, Title 37, Section 911, et seq., and as amended.

2. Section 918, Duties and powers of the board states that the board shall:

a. establish and publish minimum curriculum requirements and standards for individuals seeking to be licensed under this Part;

b. approve nursing education programs whose graduates meet the licensing requirements of the board;

c. provide for hearings for nurse educational programs when approval is denied or withdrawn;

d. establish and publish standards of nursing practice and education in accordance with those developed and accepted by the profession;

e. adopt and revise rules and regulations necessary to enable the board to implement this Part in accordance with the Administrative Procedure Act.

B. Fees

1. Notwithstanding any other provisions of this Chapter, the Board shall collect in advance fees for education services as follows:

School Approval	Site Visit	\$500/site Visit per Institution
School Annual Report		\$ 50 per Institution

C. Purposes of Approval

1. To promote the safe practice of nursing by establishing standards for programs preparing individuals seeking licensure as advanced practice registered nurses in Louisiana.

2. To grant legal recognition to nursing education programs which upon survey and evaluation are determined by the board to have met the standards.

3. To assure graduates of these programs that they meet the educational and legal requirements for advanced practice registered nurses and to facilitate their endorsement to other states and countries.

4. To assure continuous evaluation and improvement of graduate nursing programs and graduate nursing education to prepare candidates for advanced practice registered nurse licensure.

5. To provide the public and prospective students with a list of graduate nursing programs that meet the standards established by the board.

D. Types of Approval

1. Initial

a. Initial approval is granted to a new program which upon application by the parent institution and after survey and board evaluation, is determined by the board to be eligible to admit students to the graduate nursing educational program to prepare candidates for advanced practice registered nurse licensure.

b. Initial approval shall not be continued for more than two consecutive one-year periods following the nursing program's eligibility to apply for full approval.

2. Full. Full approval is granted to a graduate program that meets all standards established by the board.

3. Conditional. A graduate nursing program shall be placed on conditional approval when the board has determined that it fails to meet one or more of the established standards.

E. Standards and Requirements for Graduate Nursing Education Program preparing candidates for advanced practice registered nurse licensure.

1. Mission/Philosophy and Goals

a. The graduate nursing education program shall have a clear statement of mission/philosophy, consistent with the mission of the parent institution and congruent with current concepts in nursing education relevant to the respective advanced practice specialty and functional role preparation.

b. The program shall meet the educational requirements for the nationally recognized certifying body whose certification program graduates are prepared to pursue as accepted by the board.

c. The competencies of the graduates shall be clearly delineated.

d. Distance education programming is consistent with the mission and goals of the nursing unit and the governing organization.

F. Administration, Organization, Control

1. The educational program shall be an academic unit of a regionally accredited college or university which offers a graduate degree with a major in nursing or a graduate degree with a concentration in the advanced practice registered nurse specialty as defined in R.S.37:913(1).

2. There shall be a governing body which has legal authority to conduct the nursing program, determine general policy and provide financial support.

3. The parent institution shall be approved by the appropriate accrediting bodies.

4. The program shall have comparable status with other educational units within the organizational structure of the parent institution.

5. The parent institution shall have an organizational chart which delineates the lines of responsibility and authority.

6. The program shall notify the board in writing, within two weeks, when there has been a change in the control of the institution, administrative head of the program, or the accreditation status of the educational facilities.

7. The program head shall have the authority and responsibility to administer the program in respect to:

- a. the instructional program;
- b. budget planning and management; and
- c. administrative arrangements for faculty, staff and students.

G. Faculty and Faculty Organization

1. Faculty Body. There shall be qualified faculty adequate in numbers to implement the program in nursing in relation to its stated mission/philosophy and goals.

2. Qualifications

a. The program head and each nurse faculty member shall hold a current license to practice as a registered nurse in Louisiana and shall be appointed in compliance with state and federal laws on non-discrimination.

b. The program head (administrative director) of an advanced practice registered nurse program shall hold an earned doctorate, and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

c. The APRN faculty member shall hold a minimum of a master's degree in nursing. APRN nursing faculty teaching advanced practice specialty content must be licensed in advanced practice in that advanced practice or related specialty.

d. Other credentialed providers may be utilized to provide content relevant to the advanced practice role in support courses.

e. The educational component of the APRN program shall be coordinated by a lead faculty member who is educated and nationally certified in the same specialty area and licensed as an APRN in the state of Louisiana.

f. APRN nurse faculty shall have sufficient mix of full time and part-time faculty to support the functional roles.

g. APRN faculty teaching clinical courses must have institutional support to maintain currency in clinical practice.

h. APRN faculty must demonstrate competence in clinical practice and teaching which may include continued national certification or continuing education requirements.

i. Exceptions to the academic qualifications for nurse faculty shall be justified and approved under board-established guidelines until December 31, 2010, at which time all nurse faculty shall be required to hold an APRN license and academic preparation in their respective advanced practice specialty.

3. Nurse faculty shall function under the same policies established for other faculty in the parent institution.

4. Policies for nurse faculty shall include but not be limited to:

- a. qualifications for the position;
- b. contract or letter of appointment to delineate terms of appointment, functions and responsibilities of the position;
- c. salary scale, promotion, retirement, vacation, sick leave, leave of absence for personal and professional growth and health care benefits;
- d. a written plan for performance evaluation of faculty shall be established and utilized on a continuing basis.

5. A nurse faculty organization shall be established consistent with the parent institution and shall have clearly delineated bylaws.

6. Faculty workloads shall allow time for class and laboratory preparation, teaching, program revision, improvement in teaching methods, guidance of students, participation in faculty organizations and committees, research and scholarly endeavors, attendance at professional meetings and participation in continuing education programs.

7. Nurse faculty shall select, guide and evaluate all learning experiences in the program.

H. Student Selection and Guidance

1. Admission standards for entry into the APRN program shall be established, published, and shall reflect ongoing involvement by APRN faculty.

2. Qualified applicants shall be considered for admission without discrimination and in compliance with applicable state and federal laws and regulations.

3. Placement and advisement in the program by examinations, previous education, or both, shall be consistent with the parent institution.

4. Progression, transfer, termination and graduation policies shall be established and published. Any progression criteria specific to the APRN program/track reflect involvement by APRN faculty.

5. Information on the approval and accreditation status of the program, policies on tuition rebates, health care and counseling services shall be in writing.

6. Accurate information about the program shall be presented in recruitment and related activities.

7. Students shall be provided opportunity for input into the program.

8. Students' records shall be safeguarded and their confidentiality shall be maintained.

9. Students shall not be eligible to enroll in a clinical nursing course based on evidence of grounds for denial of licensure in accordance with R.S. 37:921, LAC 46:XLVII.3403 and LAC 46:XLVII.3331.

I. Guidelines for Advanced Practice Registered Nurse Students' Clinical Practicum

1. Advanced practice registered nursing students shall perform advanced practice nursing functions under the guidance of a qualified instructor or preceptor, (as defined in LAC 46:XLVII.4505), as a part of their program of study.

2. The clinical practicum shall be a minimum of 500 supervised clinical hours in direct nurse/client care. Specialty tracks that provide care to multiple age groups or prepare the APRN to function in multiple care settings will require more than 500 hours.

3. Dual track nurse practitioner advanced practice programs (two specialties) or combined nurse practitioner/clinical nurse specialist programs shall include content and clinical experience in both functional roles and specialties.

4. Out-of-state schools shall request in writing to the board and have approved, any request to initiate a clinical practicum in Louisiana. The out-of-state program must provide evidence of approval by the Louisiana Board of Regents to provide instruction in Louisiana. The "out of state school" shall provide evidence of LSBN Board approval to the clinical site coordinator prior to practicum. The following information relative to advanced practice registered nurse student (s) shall be submitted:

- a. student(s) name;
- b. the clinical practice setting;
- c. the credentials of the instructor/preceptor; and
- d. evidence of RN licensure in Louisiana.

J. Facilities, Resources, Services

1. An identifiable physical facility for nursing shall be provided by the parent institution.

2. Classrooms, conference rooms, multipurpose rooms, learning laboratories and library resources shall be provided.

3. Offices for administrative personnel, faculty and support staff shall be provided.

4. Storage space for safeguarding student and faculty records, for equipment and instructional materials shall be provided to meet the needs of the program.

5. Nursing library resources shall be comprehensive, current and accessible.

6. Secretarial and support services shall be provided to meet the needs of the program.

7. Clinical facilities shall be available in sufficient numbers and variety to meet the needs of the program.

K. Curriculum

1. The APRN faculty shall periodically review, evaluate and revise as appropriate the mission philosophy, and goals of the program.

2. The mission/philosophy and goals shall be used by the faculty in planning, implementing and evaluating the total program.

3. The goals shall be consistent with the mission and describe the expected competencies of the graduate.

4. The curriculum shall include, but not be limited to content in advanced pathophysiology, advanced pharmacology, advanced assessment and diagnostic reasoning, and management of health care status and shall evidence appropriate course sequencing.

5. The APRN program track has a minimum of 500 supervised clinical hours overall. Specialty tracks that provide care to multiple age groups and care settings will require additional hours as distributed in a way that represents the populations served.

6. There shall be provisions for the recognition of prior learning and advanced placement in the curriculum for those individuals who hold a master's in nursing who are seeking to qualify for recognition in a different specialty or functional role. Post-Master's (PM) nursing students must complete the requirements of a master's APRN program through a formal graduate level certificate or master's level track in the desired functional role and specialty. PM students must master the same outcome criteria as Master's level students. PM students are required to complete a minimum of 500 supervised clinical hours.

L. Program Evaluation

1. The program has a systematic plan for program evaluation and assessment and documents the use of data in decision making for program development, maintenance, and revision which includes the following:

- a. mission/philosophy, outcomes of the curriculum;
- b. teaching/learning experiences;
- c. expected competencies of the graduate;
- d. student(s) evaluations of courses;
- e. faculty evaluations of students;
- f. performance of graduates on the appropriate certification exam;
- g. follow-up studies of the graduates;
- h. employment functioning of the graduates; and
- i. evaluation of faculty performance.

2. The program evaluation plan shall document that the curriculum prepares graduates to meet the standards for the advanced practice registered nurse as specified in LAC 46:XLVII.4513.

M. Major Curriculum Change

1. Major curriculum changes shall be approved by the board at a regularly scheduled meeting of the board at least six months prior to the date of implementation.

2. An approved graduate program seeking to add a specialty or functional role to its existing graduate nursing program shall be approved by the board at least six months prior to the date of implementation.

N. Records and Reports

1. The nursing education program and the parent institution shall develop and implement a systematic plan for maintaining student records in accordance with accepted academic standards.

a. Student Records

i. Each student's records include an application, progression evaluation, and graduation forms which are kept on file for a minimum of one year after graduation or three years after termination from the program if the student does not graduate.

ii. The application and final transcript are kept on file permanently.

2. Faculty Records. Faculty records shall be on file in the nursing education program and/or in the parent institution and shall be in compliance with existing federal, state and institutional requirements.

3. Other records shall be kept on file and shall include:

- a. current program bulletin;
- b. current budget and fiscal reports;
- c. current contracts with cooperating agencies;
- d. minutes of nurse faculty committee meetings;
- e. follow up studies of the graduates; and
- f. program self-evaluation studies.

4. The nursing education program submits to the board the following reports:

- a. annual report on the form provided by the board;
- b. interim reports on the form provided by the board;
- c. self-study report on the form provided by the board; and
- d. other reports as deemed necessary by the board.

O. Procedure for Terminating a Program

1. Voluntary Termination

a. The board shall be notified when a decision has been made to close a program.

b. All of the board's standards shall be maintained until all students have transferred to another program or have graduated.

c. All students shall have assistance with transfers to another program and a list of these students shall be submitted to the board.

d. The following records shall be retained:

- i. student's application to the program;
- ii. student's final transcript;
- iii. each curriculum plan offered; and
- iv. list of each graduating class and date of graduation.

2. Involuntary Termination

a. The board shall be notified of the arrangements for safe storage of the permanent records of the program and its students' records.

b. The following records shall be retained:

- i. student's application to the program;
- ii. student's final transcript;
- iii. each curriculum plan offered; and
- iv. a list of each graduating class and date of graduation.

P. Procedure for Establishing a New Program

1. Step I

a. A parent institution wishing to establish a new graduate program or to add a new specialty and/or functional role to prepare candidates for advanced practice registered nurse licensure in nursing shall submit the following at least one year in advance of anticipated date for admission of students:

i. a written notice of intent to establish a new graduate APRN program in nursing or to add a new specialty and/or functional role, stating the purpose and type of program;

ii. documented evidence of approval from the parent institution and the appropriate governing board to award the appropriate degree or specialty and/or functional role and a copy of the current bulletin or catalog; and

iii. a report of a feasibility study documenting a need for the program or specialty and/or functional role. The study shall include evidence of:

(a). nurse manpower studies which validate need for the program as it relates to total state resources and graduate nursing education in the state, and the potential impact on other graduate nursing education programs within the state;

(b). availability of qualified nurse faculty and support faculty;

(c). adequate academic facilities and qualified preceptors to meet the needs of the program;

(d). adequate financial resources for planning, implementing and continuing the program;

(e). commitment of administration to support the program;

(f). community support;

(g). a proposed time schedule for initiating and expanding the program; and

(h). an available pool of potential students.

b. Representatives of the parent institution shall meet with the board at a regularly scheduled board meeting to review the notice of intent, the report of the feasibility study and any other information submitted. Based on its review the board shall give written notification to the parent institution that:

i. supplementary information is needed; or

ii. the notice of intent to establish a new graduate program or to add a new specialty and/or functional role is sanctioned and the parent institution may continue with the plan to establish the program; or

iii. public announcements of the opening of the proposed program and preadmission of students shall not occur prior to the receipt of initial board approval; or

iv. the application is not sanctioned, the reasons therefore, and all planning must cease.

2. Step II

a. If the parent institution is granted sanction by the board to proceed with the development of the program a qualified program head shall be employed a minimum of 12 months prior to the admission of the first class of students.

b. The program head shall have the authority and responsibility to develop:

i. an organizational structure for the program;

ii. an organizational chart;

iii. a constitution and bylaws;

iv. administrative policies and procedures;

v. policies for screening and recommending candidates for faculty appointments and for retention and promotion of faculty (See §3515);

vi. a budget;

vii. a plan for the use of appropriate preceptors and or clinical agencies;

viii. a sample contractual agreement with clinical preceptors and/or cooperating agencies; and

ix. a plan for the use of academic facilities and resources.

c. The program head shall appoint a minimum of four full-time nurse faculty whose background includes:

i. experience in curriculum design;

ii. previous teaching experience in a nursing education program of the same academic level as the proposed program; and

iii. clinical nursing practice for a minimum of two years.

d. Faculty shall be appointed at least six months prior to admission of students.

e. The nurse faculty shall develop the proposed program and plan for its implementation. They shall write:

i. mission/philosophy and goals;

ii. curriculum plan;

iii. course objectives;

iv. course outlines;

v. evaluation plan and methods;

vi. admission, progression and graduation criteria;

vii. policies for protecting students' rights, their safety and welfare, and for guidance and counseling; and

viii. plan for utilization of the proposed program.

f. The program head may petition the board for an initial survey visit.

3. Step III

a. Initial approval may be requested after an on-site survey by a representative of the board.

b. After initial approval is granted, students may be admitted to the program.

4. Step IV

a. Within the first academic year, a representative of the board shall conduct an on-site survey of the program.

5. Step V

a. Full approval shall be requested after members of the first class of graduates write and receive the results of the first certification examination. Additionally, an on-site survey shall be requested and upon presentation of evidence that standards of the board have been met, full approval may be granted to the program.

b. Initial approval shall not be continued for more than two consecutive one-year periods following the nursing program's eligibility to apply for full approval.

Q. Procedure of Continuing Full Approval

1. On-site surveys shall be made on a scheduled basis, at the discretion of the board, or upon the request of the program.

2. Programs holding full board approval for a minimum of five consecutive years and full national accreditation recognized by the board may request to have board survey visits coordinated with national accreditation visits. Following receipt of the official request by the program, the date of initiation of this process for the program shall be determined by the board.

a. An on-site visit shall be conducted by an authorized representative of the board within six months following each national accreditation visit.

b. To meet the self-study requirements, the national self-study report and the addendum required by the board shall be submitted to the board at least 21 days prior to the scheduled on-site survey visit.

c. A copy of any national accreditation correspondence concerning accreditation and interim reports shall be forwarded to the board.

3. An on-site survey of a nursing education program which does not hold full national accreditation recognized by the board shall be conducted by an authorized representative of the board at least every five years.

4. A written report of the on-site survey is sent to the administrative officer of the parent institution, to the program head, and to all board members.

5. The program head may submit a response to the report of the on-site survey and also be present when the board reviews and acts upon the report.

6. Action relevant to the approval status of the program is taken by the board after an evaluation of:

a. the on-site survey document; or

b. the program's annual report; or

c. evidence that indicates the program fails to meet the standards and requirements.

7. The board shall provide for an evaluation and hearing to determine if a program has met or has failed to meet the standards and requirements and:

a. gives written notice that the standards have been met and continues full approval or restores approval; or

b. gives written notice of specified deficiency(ies) and places the program on conditional approval for a period of one year.

8. A program has the right at any time to present evidence to the board that the deficiency(ies) has been corrected and may petition the board to restore full approval to the program.

9. No later than 12 months from the date the program was placed on conditional approval, the program shall submit a written report to the board with evidence that the standard(s) have been met, and may petition the board to restore full approval.

10. If a deficiency(ies) cannot be corrected in 12 months, the program shall file a plan for meeting the standard(s) and may petition the board to continue the conditional approval status.

11. Conditional approval status is not granted to a program for more than three consecutive one-year periods.

12. After three consecutive years on conditional approval a program shall not admit any students into the nursing sequence until the board has determined that all standards have been met.

13. The right to appeal the board's decision is afforded any program in accordance with R.S. 37:918(C) and the Louisiana Administrative Procedure Act, Section 965 Appeals.

R. Approval for Nursing Education Programs Whose Administrative Control Is Located in Another State Offering Programs, Courses, and/or Clinical Experience in Louisiana

1. Program of Studies. To receive approval by the board for a total program of studies offered in Louisiana by

nursing programs whose administrative control is located in another state, the following criteria shall be met.

a. New programs follow the procedure to establish new programs as specified in LAC 46:XLVII.4509.

b. Programs must present evidence of compliance with all standards and requirements contained in LAC 46:XLVII.4509. Upon full approval, the program will be reviewed under the requirements for continued approval, as specified in LAC 46:XLVII.4509.

2. Course/Clinical Offerings. Out-of-state nursing programs offering courses/clinical experiences in Louisiana are expected to maintain the standards required of Louisiana-based programs. The board reserves the right to withdraw the approval of such offerings if adherence to these standards is not maintained. To receive approval by the Board of Nursing for course/clinical offerings in Louisiana by nursing programs whose administrative control is located in another state, the following criteria shall be met.

a. Approval/Accreditation Requirements. Evidence of approval/accreditation of the nursing program shall be submitted to the board as stipulated below.

i. The nursing program sponsoring the offering shall hold current approval by the Board of Nursing and/or other appropriate approval bodies in the state in which the parent institution is located.

ii. Regional accreditation shall be held by the parent institution.

iii. National accreditation recognized by the board is recommended.

iv. The nursing program sponsoring the course/clinical offering must provide the Board of Nursing with the following materials for review at least four months prior to the scheduled initiation of the offering:

(a). a letter of request for approval to provide the course/clinical offering which indicates the time-frame during which the offering will be conducted, the clinical agency(ies) and the clinical unit(s) to be utilized;

(b). a copy of the mission/philosophy and goals;

(c). a curriculum pattern which lists all courses required within the program of study;

(d.) a course syllabus for the course/clinical experience(s) to be offered which specifies the related objectives of the offering; and

(e). current school catalog.

v. Request for preceptorship learning experiences shall include evidence of compliance with LAC 46:XLVII.4509.U.1, 2, 3 and 4.

vi. A "Faculty Qualification" form shall be submitted for each faculty member providing instruction within the state of Louisiana.

b. Approval

i. Course/clinical offerings by out-of-state nursing programs may be approved for a period of two years, at which time program representatives may petition for renewal of approval for each additional two-year period.

ii. A written report which provides updated and current data relevant to the program shall be submitted as a component of the petition for renewal.

iii. Failure to comply with the requirements established by the board shall result in the immediate withdrawal of the board's approval of course/clinical offerings.

c. Post Approval. A copy of the executed contractual agreement between the academic institution and the clinical facility shall be submitted to the board prior to the initiation of the offering(s).

S. Procedure for Proposed Major Change in Curriculum. A nursing education program proposing a major curriculum change shall submit to the board, six months prior to date of implementation, the following:

1. evidence that the parent institution has approved the curriculum change;

2. rationale for the proposed change;

3. mission/philosophy, goals, course objectives and course outlines;

4. concise presentation of current and proposed curriculum;

5. time table for implementation of the change in curriculum;

6. an explanation of the anticipated effect on currently enrolled students; and

7. planned method for evaluating the results of the change.

T. Procedure for Submitting Required Forms and Reports

1. Annual Report. The nursing education program shall submit 10 copies of an annual report, on a form provided by the board, on the designated date, accompanied by one copy of the current school catalog.

2. Interim Reports

a. A "Faculty Qualification" form shall be submitted on a form provided by the board within two weeks of the time each new faculty member is employed.

b. Any program required to submit a National League for Nursing Accrediting Commission or a Council for Collegiate Nursing Education Interim Report shall submit a copy of the report to the board.

3. Self Study

a. A self-study shall be submitted to the board 21 days prior to the scheduled on-site survey of the program.

b. The national accreditation self study report and the addendum required by the board may be submitted to meet the self-study requirements of the board.

U. Preceptorship Learning Experiences

1. Nurse faculty shall retain the responsibility for selecting and guiding student learning experiences and the evaluation of student performance with input from preceptors.

2. Preceptors shall be selected according to written criteria jointly developed by faculty, nursing administration in the clinical facility, and in accordance with guidelines established by the board.

3. A faculty member shall be available on a frequent basis to preceptors while students are involved in a preceptorship experience.

4. There shall be one preceptor/clinical practicum coordinator per two students during any given real or current time period.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals. Board of Nursing, LR 27:726 (May 2001), amended LR 31:2017 (August 2005).

§4511. Advanced Practice Registered Nurse Professional Certification Programs

A. A national certifying body which meets the following criteria shall be recognized by the board as mandated by R.S. 37:913:

1. credentials nationally;
2. does not require an applicant to be a member of any organization or entity;
3. documents the criteria for applicant eligibility to take an examination for certification and recertification;
4. requires a master's degree as the minimal educational level for certification or otherwise approved by the board;
5. utilizes an application process and credential review which includes documentation that the applicant's didactic education has concentrated in the advanced nursing practice category being certified, and that the applicant's clinical practice is in the specialty and functional role area of certification;
6. uses an examination as a basis for certification in the advanced nursing practice category which meets the following criteria:
 - a. the examination is based upon job analysis studies conducted using standard methodologies acceptable to the testing community;
 - b. the examination represents entry-level practice based on standards in the advanced nursing practice category;
 - c. the examination represents the knowledge, skills (critical thinking and technical), and role functions essential for the delivery of safe and effective advanced nursing care to the client;
 - d. the examination content and its distribution are specified in a test plan, based on the job analysis study, that is available to examinees;
 - e. examination items are reviewed for content validity, cultural sensitivity, and correct scoring using an established mechanism, both before use and periodically;
 - f. examinations are evaluated for psychometric performance;
 - g. the passing standard is established using acceptable psychometric methods, and is re-evaluated periodically; and
 - h. examination security is maintained through established procedures;
7. issues certification based upon passing the examination and meeting all other certification requirements;
8. provides for periodic re-certification which includes review of qualifications and indicators of continued competence, including but not limited to continuing education or examination; and
9. has mechanisms in place for communication to boards of nursing for timely verification of an individual's certification status, changes in certification status, and changes in the certification program, including qualifications, test plan, and scope of practice.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:283 April 1996), amended LR 31:2023 (August 2005).

§4513. Authorized Practice

A. Collaboration is a process in which an APRN has a relationship with one or more physicians or dentists to deliver health care services. Such collaboration is to be evidenced by the APRN scope of practice and indicates the relationships that they have with physicians or dentists to deal with issues outside their scope of practice.

B. Scope of Practice. An advanced practice registered nurse shall practice as set forth in R.S. 37:913(3)(a) and the standards set forth in these administrative rules. The patient services provided by an APRN shall be in accord with the educational preparation of that APRN. APRNs practicing in accord with R.S.37:913(3)(a) are not required to have a collaborative practice agreement. The APRN who engages in medical diagnosis and management shall have a collaborative practice agreement that includes, but is not limited to, the following provisions: [R.S. 37:913(8) and (9)]

1. availability of the collaborating physician or dentist for consultation or referral, or both;
2. methods of management of the collaborative practice which shall include clinical practice guidelines; and
3. coverage of the health care needs of a patient during any absence of the APRN, physician, or both parties.

C. Standards of Nursing Practice for the Advanced Practice Registered Nurse. Standards of practice are essential for safe practice by the APRN and shall be in accordance with the published professional standards for each recognized specialty and functional role. The core standards for all categories of advanced practice registered nurses include, but are not limited to:

1. an APRN shall meet the standards of practice for registered nurses as defined in LAC 46:XLVII.3901-3915;
2. an APRN shall assess patients at an advanced level, identify abnormal conditions, analyze and synthesize data to establish a diagnosis, develop and implement treatment plans, and evaluate patient outcomes;
3. the APRN shall use advanced knowledge and skills in providing patients and health team members with guidance and teaching;
4. an APRN shall use critical thinking and independent decision-making at an advanced level, commensurate with the autonomy, authority, and responsibility of the specialty and functional role while working with patients and their families in meeting health care needs;
5. an APRN shall demonstrate knowledge of the statutes and rules governing advanced registered nursing practice and function within the legal boundaries of the appropriate advanced registered nursing practice role;
6. an APRN shall demonstrate knowledge of and apply current nursing research findings relevant to the advanced nursing specialty and functional role;
7. an APRN shall make decisions to solve patient care problems and select medical treatment regimens in collaboration with a licensed physician or dentist; and
8. an APRN shall retain professional accountability for his/her actions and/or interventions.

D. Prescriptive and Distributing Authority. An Advanced Practice Registered Nurse (APRN) shall practice in a manner consistent with the definition of advanced practice set forth in R.S. 37:913(3). An APRN may be granted prescriptive authority to prescribe assessment studies,

including pharmaceutical diagnostic testing (e.g., dobutamine stress testing) legend and certain controlled drugs, therapeutic regimens, medical devices and appliances, receiving and distributing a therapeutic regimen of prepackaged drugs prepared and labeled by a licensed pharmacist, and free samples supplied by a drug manufacturer, and distributing drugs for administration to and use by other individuals within the scope of practice as defined by the board in R.S. 37.913(3)(b).

1. The applicant shall:

a. hold a current, unencumbered, unrestricted and valid registered nurse license in Louisiana with no pending disciplinary proceedings as stated in R.S. 37:921;

b. hold a current, unencumbered, unrestricted and valid APRN license;

c. submit a notarized application on a form provided by the Board with a non-refundable fee as set forth in LAC 46:XLVII.3341;

d. provide evidence of:

i. 500 hours of clinical practice as a licensed APRN or APRN applicant within one year in the clinical specialty for which the applicant was educationally prepared as an APRN immediately prior to applying for prescriptive and distributing authority; practice in another state as a licensed APRN may be accepted to meet this requirement;

ii. successful completion of a minimum of 45 contact hours of education (3 credit hour academic course) in advanced pharmacotherapeutics obtained as a component of a formal educational program preparing registered nurses for advanced practice, approved by the board;

iii. successful completion of a minimum of 45 contact hours (3 credit hour academic course) in physiology/pathophysiology in a formal educational program approved by the board for preparation for advanced practice registered nurses;

iv. any deviation from Clause 1.d.i, ii or iii shall be submitted to the Board for review and approval; and

v. a collaborative practice agreement as defined in §4513.B.1, 2 and 3, with one or more licensed collaborating physicians which shall include, but not be limited to:

(a). a plan of accountability among the parties that:

(i). defines the prescriptive authority of the APRN and the responsibilities of the collaborating physician or physicians;

(ii). delineates a plan for hospital and other healthcare institution admissions and privileges which includes a statement that the collaborating physician must have said privileges at the same institution before an APRN can receive this determination at said institution;

(iii). delineates mechanisms and arrangements for diagnostic and laboratory requests for testing; and

(iv). delineates a plan for documentation of medical records;

(b). clinical practice guidelines as required by R.S. 37:913(9)(b) shall contain documentation of the types or categories or schedules of drugs available and generic substitution for prescription and be in accordance with current standards of care and evidence-based practice for the APRN specialty and functional role and be:

(i). mutually agreed upon by the APRN and collaborating physician;

(ii). specific to the practice setting;

(iii). maintained on site; and

(iv). reviewed and signed at least annually by the APRN and physician to reflect current practice;

(c). documentation of the availability of the collaborating physician when the physician is not physically present in the practice setting. Physicians shall be available to provide consultation as needed:

(i). physician shall be available by telephone or direct telecommunications for consultation, assistance with medical emergencies, or patient referral, as delineated in the collaborative practice agreement; and

(ii). the secondary (back-up) physician or physicians shall be in good standing and approved by the Louisiana State Board of Medical Examiners and sign the collaborative practice agreement;

(iii). in the event the collaborating physician and any secondary (back-up) collaborating physician(s) are unavailable, the APRN will not prescribe.

(d). documentation shall be shown that patients are informed about how to access care when both the APRN and/or the collaborating physicians are absent from the practice setting; and

(e). an acknowledgement of the mutual obligation and responsibility of the APRN and collaborating physician to insure that all acts of prescriptive authority are properly documented.

2. Prescriptive Authority

a. Prescribing Controlled Substances and Legend Drugs

i. The LSBN shall review the application, reapplication or renewal, the collaborative practice agreement for prescriptive authority and all related materials and shall approve, modify, or deny the application, reapplication or renewal for prescriptive authority. An APRN with prescriptive authority approved by the board may prescribe drugs and therapeutic devices as recommended by clinical practice guidelines and the parameters of the collaborative practice agreement.

ii. Prior to granting an APRN prescriptive authority the collaborating physician or physicians shall be approved by the Louisiana State Board of Medical Examiners.

iii. Prescription Guidelines **Call Medications**

(a). The following guidelines apply to all prescriptions, whether or not said prescriptions are for legend drugs, controlled substances or any other medication. An APRN granted prescriptive authority shall comply with all federal and state laws and rules in prescribing, distributing, and administering drugs.

iv. The APRN who has been given proper authority to prescribe whether in person or by an electronic means or over the Internet or over telephone lines must meet the following requirements:

(a). perform and appropriately document a history and physical examination, and make a diagnosis based upon the examination and all diagnostic and laboratory tests;

(b). formulate a therapeutic plan that is discussed with the patient;

(c). state the availability of the APRN or coverage for the patient for follow-up care;

(d). all of the above must be included in the collaborative practice agreement.

v. Each order for a prescription, whether written or oral shall include the following information.

(a). The prescription form shall not be less than 4 inches by 5 inches, and shall bear a single printed signature line.

(b). The prescription form shall clearly indicate the authorized prescriber's name, licensure designation, address, telephone number, and if applicable Drug Enforcement Administration (DEA) registration number. In the event multiple practitioners are identified on the prescription form, the authorizing prescriber's specific identity shall be clear and unambiguous. This identification may be indicated by any means, including but not limited to a marked check box next to, or circling the authorizing prescriber's printed name.

(c). The prescription form shall clearly indicate the authorized prescriber's practice affiliation, and the collaborating physician's name, address, and telephone number shall appear on the prescription form.

(d). No prescription form shall contain more than four prescription drug orders.

(e). Each prescription drug order on the form shall provide the following:

(i). a check box labeled "dispense as written" or DAW or both; and

(ii). the number of refills, if any; and

(iii). for prescriptions reimbursable by Medicare and Medicaid, the APRN may only inhibit equivalent drug product interchange by handwriting the words "brand necessary" or "brand medically necessary" on the face of the prescription order or on a separate sheet attached to the prescription order as specified in LAC 46:LIII.2511.

b. Controlled Substances. The board may authorize an APRN with prescriptive authority to prescribe or distribute controlled substances as defined, enumerated or included in federal or state statutes or regulations 21 C.F.R.1308.11-15., R.S 40:964, on an individual practice basis An APRN who is so authorized shall provide their Drug Enforcement Administration registration number on all written prescriptions and be furnished on all oral prescriptions and shall comply with all scheduled drug prescription requirements in accordance with LAC 46:LIII.2511:

i. an APRN granted authority to prescribe or distribute controlled substances shall not utilize such substances in connection with the treatment of:

(a). chronic or intractable pain, as defined in LAC 46:XLV.6515-6923;

(b). obesity, as defined in LAC 46:XLV.6901-6913; or

(c). oneself, a spouse, child or any other family member;

ii. any APRN authorized to prescribe controlled substances shall provide to the board a copy of his or her Louisiana Controlled Dangerous Substance permit and Drug Enforcement Administration registration number prior to prescribing or distributing controlled substances;

iii. controlled substances which may be prescribed by an APRN shall include Schedule III, IV and V. Schedule II shall be approved by the board on an individual basis. Controlled substances shall be limited to, consistent with, and exclusively within the parameters of the practice specialty of the collaborating physician and in the APRN's licensed category and area of specialization. The APRN must have been approved by the board to prescribe and distribute noncontrolled substances. The applicant must submit a collaborative practice agreement that clearly states that the controlled substances prescribed have been jointly agreed upon with the collaborating physician;

iv. the APRN must submit a collaborative practice agreement which delineates controlled substances utilization, which specifies the circumstances, limitations and extent to which such substances may be prescribed or distributed;

v. the APRN must submit evidence of 500 hours of practice with a collaborating physician immediately preceding the initial request for controlled substances;

vi. the APRN's application must state an identified need for controlled substances within the patient population served by the collaborative practice;

vii. the collaborative practice agreement must contain acknowledgment of responsibility by the collaborating physician to ensure that the controlled substance authority of an APRN is utilized in a manner that is consistent with any rule or regulation imposed upon the APRN's practice;

viii. the APRN who is authorized to prescribe controlled substances must determine the type, dosage form, frequency of application of controlled substances prescribed to a patient. This responsibility must never be delegated to any other personnel;

ix. the APRN shall insure that the complete name and address of the patient to whom the APRN is prescribing the controlled substance appears on the prescription;

x. the APRN shall not permit any prescription for controlled substances to be signed by any other person in the place of or on behalf of the APRN;

xi. the APRN may utilize telefaxes as original prescriptions for Schedule III-V as long as it has a true electronic signature;

xii. no more than one controlled substance shall be issued on a single prescription blank; and

xiii. no APRN shall prescribe any controlled substance or other drug having addiction-forming or addiction-sustaining liability without a good faith prior examination and medical indication.

3. Maintenance of Patient Records (controlled substances)

a. Patient Record. An APRN who prescribes a controlled substance shall maintain a complete record of the examination, evaluation and treatment of the patient which must include documentation of the diagnosis and reason for prescribing controlled substances. The name, dose, strength, quantity of the controlled substance and the date that the controlled substance was prescribed must be documented in the record.

b. The Louisiana State Board of Nursing has the authority to conduct random audits of patient records at

practice sites where APRNs have been granted approval for prescribing controlled substances.

4. Drug Maintenance, Labeling and Distribution Requirements

a. APRNs shall not receive samples of controlled substances. An APRN may receive and distribute pre-packaged medications or samples of non-controlled substances for which the APRN has prescriptive authority.

b. An APRN must distribute the medication. For the purpose of this regulation "distribute" shall mean hand the pre-packaged medication to the patient or the patient's authorized agent.

c. All drug products which are maintained/stored at the site of practice of an APRN, shall be maintained/stored in the manufacturer's or re-packager's original package. The label of any container in which drugs are maintained must bear the drug name, strength, the manufacturer's control lot number and the expiration date.

d. All drug products shall be maintained, stored and distributed in such a manner as to maintain the integrity of the product.

5. Continued Competency for Prescriptive Authority. Each year an APRN with prescriptive authority shall obtain six contact hours of continuing education in pharmacotherapeutics in their category and area of specialization. Documentation of completion of the continuing education contact hours required for prescriptive authority shall be submitted at the request of the board in a random audit procedure at the time of the APRN's license renewal. In order for the continuing education program to be approved by the board, the program shall:

a. be provided by a board approved national certifying organization or provider approved by the board;

b. include content relevant to advanced practice nursing and the use of pharmacological agents in the prevention of illness, and the restoration and maintenance of health;

6. APRN prescriptive authority may be renewed after review and approval by the board;

7. changes in prescriptive authority. Prior to changes with the collaborating physician, or physicians or coverage physician, when applicable, the APRN shall notify the board in writing requesting approval of such changes and submit a new collaborative practice agreement. The APRN shall notify the board in writing within 30 days of all changes regarding practice sites. Failure to notify the board may result in disciplinary action;

8. the board shall be responsible for maintaining a current up-to-date public list of APRNs who have authority to prescribe in the state;

9. the board shall supply whatever data is needed by the Office of Narcotics and Dangerous Drugs of the Department of Health and Hospitals of the State of Louisiana;

10. an APRN shall demonstrate compliance with the board's rules relating to authorized practice, section LAC 46:XLVII.4513.C.

11. Limitation

a. An APRN's prescriptive and distributing authority is personal to that individual APRN and is not delegable. An APRN shall not enter into any agreement, arrangement or contract with another health care provider,

practitioner, person or individual which in any manner transfers any of the prescribing or distributing authority that the APRN derives as a result of approval by the board.

b. Only registered practitioners of medicine, dentistry, or veterinary medicine are authorized to compound and dispense drugs in accord with R.S.37:1201.

c. Exclusion. Nothing herein shall require a CRNA to have prescriptive authority to provide anesthesia care, including the administration of drugs or medicine necessary for anesthesia care.

d. Continuance. Those APRNs who have previously been granted prescriptive and distributing authority by the Joint Administrative Committee or the LSBN shall continue under these rules.

e. Reinstatement. An APRN who has been granted approval by the board for prescriptive and distributive authority and who has ceased practicing with prescriptive authority for more than 12 months may apply for reinstatement of such authority.

f. In the event that the time period is greater than 12 months but less than four years the APRN shall:

i. meet the requirements as set forth in LAC 46:XLVII.4513.D.1.a, b., and c; and

ii. provide evidence of six contact hours of continuing education in pharmacotherapeutics for each 12 month period of non-prescribing in their category and area of specialization. The APRN may obtain the required advanced pharmacotherapeutic hours through continuing education offerings. The required advanced pharmacotherapeutic hours may be non-lecture offerings or Continuing Medical Education Units (CMEs) provided that the offering documents the number of advanced pharmacotherapeutic hours in the educational offering. Pharmacotherapeutics hours must be delineated on the certificate. In order for the continuing education program to be approved by the board, the program shall:

(a). be provided by a board approved national certifying organization or provider approved by the board; and

(b). include content relevant to advanced practice nursing and the use of pharmacological agents in the prevention of illness, and the restoration and maintenance of health.

g. In the event that the time period is greater than four years the APRN shall meet the requirements as set forth in LAC 46:XLVII.4513.D.1.a, b, c, and d.

12. Termination of Prescriptive Privileges

a. Prescriptive privileges may be terminated for violation of any rules and regulations of the board.

b. Prescriptive authority will be designated as "Inactive" when an APRN has no current collaborative practice agreement with a collaborating physician.

c. Prescriptive authority will be designated as "Inactive" in the event the RN and/or APRN license is revoked, suspended, made inactive or becomes delinquent.

13. Financial Disclosure

a. The APRN is subject to the rules LAC 46:XLVII.3605, "Disclosure of Financial Interest".

14. Freedom of Choice

a. An APRN shall not be influenced in the prescribing of drugs, devices or appliances by a direct or indirect financial interest in a pharmaceutical firm,

pharmacy or other supplier or other health care related business.

b. Patients are entitled to the same freedom of choice in selecting who will fill their prescription needs as they are in the choice of an APRN. The prescription is a written direction for a therapeutic or corrective agent. A patient is entitled to a copy of the APRN's prescription for drugs or other devices. The patient has a right to have the prescription filled wherever the patient wishes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:598 (August 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:981 (October 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 25:1245 (July 1999), amended by the Department of Health and Hospitals, Board of Nursing, LR 27: 727 (May 2001), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 28:487 (March 2002), repromulgated LR 28:1205 (June 2002), amended LR 31:2023 (August 2005).

§4515. Continued Competence of Advanced Practice Registered Nurses

A. Continued competence requirements shall apply as follows:

1. APRNs maintain advanced practice recertification in accordance with the nationally recognized certifying body's criteria as approved by the board; or

2. when advanced practice certification/recertification is not available, or APRNs who are licensed by grandfathering, without advanced practice certification, the APRN shall meet the requirements for renewal as specified in the LAC 46:XLVII.4507.E.2.

B. Continuous Quality Improvement. The board may perform on-site review for APRNs to determine compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:284 (April 1996), amended LR 27: 727 (May 2001), amended LR 31:2027 (August 2005).

§4517. Additional Standards for Each Advanced Practice Nurse Category

A. The APRN is responsible and accountable for compliance to the specific standards of practice for his/her specialty and functional role and for other state and federal rules and regulations that effect his/her patient population(s).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:284 (April 1996), amended LR 27:727 (May 2001), LR 31:2027 (August 2005).

Barbara L. Morvant
Executive Director

0508#021

RULE

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

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

In accordance with the provisions of the Administrative Procedures Act, R.S.49:950 et seq., the Board of Nursing (Board) pursuant to the authority vested in the board by R.S.37:918, R.S.37:927 adopts a Rule amending the professional and occupational standards pertaining to fees for registration and licensure. The amendment of the Rules are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

**Subchapter C. Registration and Registered Nurse
Licensure**

§3341. Fees for Registration and Licensure

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

1. Licensure
 - a. RN Examination Application \$100
 - b. RN Endorsement Application \$100
 - c. Enrollment Application \$ 20
 - d. RN Renewal Fee \$ 80
 - e. RN Late Fee \$ 25
(plus Renewal Fee)
 - f. Retired License Fee \$ 80
(one time fee)
 - g. RN Reinstatement Application \$100
Fee
 - h. Initial APRN Licensure \$100
Application
 - i. RN/APRN Endorsement \$ 50
Temporary Permit Fee
 - j. APRN Endorsement Application \$100
 - k. APRN Renewal Fee \$ 80
 - l. APRN Late Fee \$ 25
(plus Renewal Fee)
 - m. APRN Reinstatement \$100
Application Fee
 - n. APRN Prescriptive Authority \$100
Application
 - o. APRN Prescriptive Authority \$ 25
Site Change
 - p. Reinstatement of Prescriptive \$ 50
Authority Privileges

- q. Verification of Licensure \$ 25
- r. Duplicate Application \$ 10
- s. Duplicate License \$ 10
- 2. Miscellaneous
 - a. Consultation \$100/hour
 - b. Photocopies \$ 0.50/page
 - c. Certified Documents \$ 1/page
 - d. Listing of Registered Nurses/Advanced Practice
 - Registered Nurses \$10 programming fee plus costs as follows:
\$0.02/per name on disk
 - e. Special Programming Request Actual Costs (minimum \$100 per program)

B. Fees for Returned Checks

1. The board shall collect a \$25 fee for returned checks for any of the fees discussed in LAC 46:XLVII.3341.A.

2. If the nurse fails to make restitution within 14 days from the date of the letter of notification of the returned check, then the nurse's current license shall become lapsed and practice as a registered nurse is no longer legal.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 8:417 (August 1982), amended by the Department of Health and Hospitals, Board of Nursing, LR 14:533 (August 1988), LR 22:981 (October 1996), repromulgated LR 24:1293 (July 1998), amended LR 26:84 (January 2000), LR 30:2829 (December 2004), LR:31:2027 (August 2005).

Barbara L. Morvant
Executive Director

0508#020

RULE

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

Targeted Case Management Nurse Family Partnership Program (LAC 50:XV.Chapter 111)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services amends LAC 50.XXI.11101-11105 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 111. Nurse Family Partnership Program

§11101. Introduction

A. Nurse Family Partnership (NFP) targeted case management is a prenatal and early childhood intervention program designed to improve the health and social functioning of Medicaid eligible first time mothers and their babies.

B. NFP case management is available in all Department of Health and Hospitals (DHH) administrative regions.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services LR 30:1041 (May 2004), amended LR 31:2028 (August 2005).

§11103. Recipient Qualifications

A. ...

1. is expecting her first live birth and has never parented a child;

2. has previously been pregnant, but experienced a stillbirth; or

3. is expecting her first live birth, but has parented stepchildren or younger siblings.

A.4. - 6. Repealed.

B. - B.3. ...

C. After the birth of the child, the focus of Nurse Family Partnership (NFP) case management is transferred from the mother to the child and services may continue until the child's second birthday. However, recipients may not receive more than one type of Medicaid funded case management at a time. To incorporate the child's needs into the plan of care, a complete reassessment and an update of the comprehensive plan of care must be completed within six weeks of the date of delivery and no less than 35 days prior to the child's first birthday. If during the reassessment it is determined that the child qualifies for services offered under Part C of the Individuals with Disabilities Education Act (IDEA) and Infants and Toddlers case management, the NFP case manager shall refer the child to the Early Steps Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services LR 30:1041 (May 2004), amended LR 31:2028 (August 2005).

§11105. Staff Qualifications

A. - A.1. ...

2. certification of training in the Nurse Family Partnership Program (formerly the David Olds Prenatal and Early Childhood Nurses Home Visit Model).

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services LR 30:1042 (May 2004), amended LR 31:2028 (August 2005).

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

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

0508#087

RULE

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

American Indians Health Services Tribal "638" Facilities
(LAC 50:XV.Chapters 201-207)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC XV.Chapters 201-207 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49: 950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing adopts the following provisions governing Medicaid coverage and reimbursement of health services provided to American Indians through tribal "638" facilities in Louisiana.

Title 50

PUBLIC HEALTH- MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 15. Health Services for American Indians

Chapter 201. General Provisions

§20101. Reserved

§20103. Cancellation of Participation

A. A "638" facility's participation in the Medicaid Program may be cancelled if it is determined that the facility is not providing care in compliance with Medicaid regulations and/or state laws.

B. The Department of Health and Hospitals may, at its discretion, cancel the participation of these facilities if:

1. it determines that the health care needs of the Louisiana's American Indian population are not being met by the facility; or

2. CMS discontinues the terms of the Memorandum of Agreement with Indian Health Service which allow states to claim 100 percent federal medical assistance percentage for payments made by the state for services rendered to Medicaid eligible American Indians through an IHS owned or leased facility or a tribal "638" facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2029 (August 2005).

Chapter 203. Provider Participation

§20301. "638" Facilities

A. In order to participate in the Medicaid Program as a "638" facility, the facility must provide health services and be operated by:

1. a federally recognized tribe that meets the definition as set forth in 25 U.S.C. §1603(d); or

2. a tribal organization as that term is defined in 25 U.S.C. §450b(1); or

3. an inter-tribal consortium as that term is defined in 25 U.S.C. §458aaa(a)(5).

B. A "638" facility must:

1. comply with all provider enrollment requirements for the Louisiana Medicaid Program, including an attestation stating they will only seek reimbursement for services

rendered to Medicaid eligible tribe members and Medicaid eligible individuals who are statutorily eligible under 25 U.S.C. §1680c (a) to receive treatment at an IHS facility;

2. employ or have a contractual agreement with the licensed health professionals who will perform the required services included in the encounter rate. These health care professionals must meet the participation standards required for Medicaid enrollment of their respective provider type;

3. comply with the Medicaid rules and regulations governing those services included in the facility's encounter rate;

4. assure that services will be provided on-site; and

5. have a physician on-site at least 20 hours per week during normal business hours and other health care professionals available as needed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2029 (August 2005).

Chapter 205. Recipient Eligibility

§20501. Target Population

A. A recipient qualifies as a member of the target population if he/she meets the definition of an Indian as set forth in 25 U.S.C. §1603 (c) or the definition of a statutorily eligible individual as set forth in 25 U.S.C. §1680c(a)(1) and (2).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2029 (August 2005).

Chapter 207. Covered Services

§20701. Outpatient Services

A. A "638" facility shall provide preventive, diagnostic, therapeutic, rehabilitative or palliative services that are furnished to outpatients by or under the direction of a:

1. physician;

2. dentist;

3. physician's assistant;

4. psychologist or licensed counselor;

5. nurse practitioner, nurse midwife or clinical nurse specialist;

6. x-ray technician; or

7. pharmacist.

B. The facility shall furnish covered services as an "encounter", which is defined as a face-to-face visit between a facility health professional and an eligible patient for the purpose of providing outpatient services. An encounter shall, at a minimum, consist of the following:

1. a detailed history (chief complaint, history of present illness, problem pertinent system review, pertinent past history/social);

2. a detailed exam (extended exam of the affected body area(s) and other symptomatic or related organ systems); and

3. low to moderate complexity of medical decision making based on the number of possible diagnoses/management options; the amount and complexity of medical records, diagnostic tests and other information to be reviewed; and the risk of complications, morbidity and/or mortality associated with the patient's presenting problems.

C. The following services shall be provided on-site by the "638" facility and included as part of the encounter:

1. physician and mid-level practitioner services;
2. dental services;
3. psychological services;
4. prescription drugs services;
5. laboratory services;
6. x-ray services; and
7. nutrition services.

D. The facility may not bill an encounter rate if the only "services" performed were tasks incidental to services including, but not limited to:

1. taking blood pressure and temperature;
2. giving an injection;
3. changing dressings;
4. diagnostic procedures;
5. laboratory services such as EKG, Peak Flow, Spirometry Respiratory Flow Volume, Loop and injections; or
6. a referral for other services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2029 (August 2005).

§20703. Service Limitations

A. Consultations with more than one facility health professional on the same day and at a single location constitute a single encounter. Services shall not be arbitrarily delayed or split in order to bill additional encounters. A maximum of one encounter per recipient per 24-hour period shall be reimbursed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2030 (August 2005).

§20705. Reimbursement Methodology

A. Reimbursement shall be the encounter rate established by the U.S. Department of Health and Human Services, Indian Health Service for "638" facilities.

B. Reimbursement for prescribed drugs is included in the encounter rate when the prescription is dispensed during the same time period as a visit with one or more facility health professionals. Reimbursement for refilling a prescription shall be the established encounter rate for the facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2030 (August 2005).

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

Frederick P. Cerise, MD, MPH
Secretary

0508#088

RULE

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

EPSDTPC Health Services Reimbursement; Early Intervention for Infants and Toddlers with Disabilities (LAC 50:XV.7107, 8103-8109)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.7101 and repeals §§8103-8109 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement rates by 25 percent for health services provided through the Early Steps Program (Part C of IDEA) for infants and toddlers with disabilities under the Early and Periodic Screening, Diagnosis and Treatment Program.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening,

Diagnosis, and Treatment

Chapter 71. Health Services

§7107. Reimbursement

A. Early Steps (Part C of IDEA). The reimbursement for health services rendered to infants and toddlers with disabilities who are age birth to 3 years shall be the lower of billed charges or 75 percent of the rate (a 25 percent reduction) in effect on January 31, 2005.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:800 (April 2004), amended LR 31:2030 (August 2005).

Chapter 81. Early Intervention Services for Infants and Toddlers with Disabilities

§8103. Recipient Qualifications

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:800 (April 2004), repealed LR 31:2030 (August 2005).

§8105. Covered Services

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:800 (April 2004), repealed LR 31:2030 (August 2005).

§8107. Provider Participation

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:800 (April 2004), repealed LR 31:2031 (August 2005).

§8109. Reimbursement

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:800 (April 2004), repealed LR 31:2031 (August 2005).

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

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

0508#089

RULE

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

**Medicaid Eligibility Treatment of Loans, Mortgages,
Promissory Notes and Other Property Agreements**

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

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions of the May 20, 1996 Rule governing treatment of transfer of assets in the determination of Medicaid eligibility. This policy change applies to applications, renewals of eligibility or changes in situation for all individuals except for those persons receiving Supplemental Security Income (SSI) or deemed to be receiving SSI.

Definitions

A. Unless otherwise specifically provided herein, the words and terms used in this rule shall be defined as follows:

Entities include, but are not limited to, partnerships, corporations, limited liability corporations, sole proprietorships, and any other entity or group.

Family Member/Relative includes, but is not limited to, the following categories of relatives of the applicant for medical assistance:

- a. adopted child;
- b. stepchild;
- c. stepparent;
- d. stepsister or stepbrother;
- e. mother- or father-in-law;
- f. daughter- or son-in-law;
- g. sister- or brother-in-law; or
- h. any descendants, ascendants, or collaterals by blood or consanguinity.

Loans, Mortgages, Promissory Notes, and Property

Agreements or Assignments

A. A loan, mortgage, promissory note, property agreement or property assignment is a countable resource and a potential transfer of assets. If a loan, mortgage, promissory note, property agreement or property assignment is made by or between family members or relatives, the full face value of the instrument will be a countable resource in Medicaid eligibility determination regardless of any non-negotiability, non-transferability or non-assignability provisions contained therein. This policy shall also apply to any such instruments by or between any entities owned, either partially or wholly, by family members or relatives of the applicant for medical assistance.

B. Existing loans, mortgages, promissory notes, property agreements or property assignments which are labeled non-negotiable, non-assignable or non-transferable, will be evaluated in regard to whether the buyer has been making good faith efforts (i.e., making scheduled payments) since the agreement was executed to fulfill the contractual obligation. Failure to make good-faith efforts to fulfill the contractual obligation shall result in the full face value of the instrument being considered a countable resource in Medicaid eligibility determination.

Instruments containing Certain Provisions

A. Regardless of any non-assignability, non-negotiability or non-transferability provisions contained therein, any loans, mortgages, promissory, property agreements or property assignments executed with any individual or entity which contains any of the following provisions will be considered a resource without any further evaluation:

- 1. payments are not in equal monthly installments (contain balloon payments or interest only payments) even if the principle is due within life expectancy;
- 2. terms for repayment that exceed the holder's life expectancy;
- 3. self-canceling clauses;
- 4. interest rates at execution are less than the national prime rate; or
- 5. clauses that forgive a portion of the principal.

B. Existing loans, mortgages, promissory notes, property agreements or property assignments which are labeled non-negotiable, non-assignable or non-transferable and were established before the effective date of this rule will be evaluated under transfer of resource policy.

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

0508#090

RULE

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

**Targeted Case Management Reimbursement
(LAC 50:XV.10701)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.10701 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for targeted case management services for infants and toddlers.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 107. Reimbursement

§10701. Reimbursement

A. – B.2. ...

C. Effective for dates of service on or after February 1, 2005, the reimbursement rate for targeted case management services for infants and toddlers shall be 75 percent of the rate (a 25 percent reduction) in effect on January 31, 2005.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005).

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

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

0508#091

RULE

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

**Telemedicine
(LAC 50:I.501and 503)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:I.501-503 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act pertaining to telemedicine. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the

following provisions governing Medicaid services furnished via telemedicine.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part I. Administration

Subpart 1. General Provisions

Chapter 5. Telemedicine

§501. Introduction

A. Telemedicine is the use of an interactive audio and video telecommunications system to permit real time communication between a distant site health care practitioner and the recipient.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2032 (August 2005).

§503. Claim Submissions

A. Medicaid covered services provided via an interactive audio and video telecommunications system (telemedicine) shall be identified on claim submissions by appending the Health Insurance Portability and Accountability Act (HIPAA) of 1996 compliant modifier 'GT' to the appropriate procedure code.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2032 (August 2005).

Frederick P. Cerise, MD, MPH
Secretary

0508#092

RULE

**Department of Public Safety and Corrections
Corrections Services**

Death Penalty (LAC 22:I.103)

Editor's Note: This document was printed in error in the July 20, 2005 edition of the *Louisiana Register* and is being promulgated this month to specify the accurate effective date, which is upon promulgation.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Louisiana Department of Public Safety and Corrections, Corrections Services, amends the contents of §103, Death Penalty.

The purpose of the amendment of the aforementioned regulation is so that it may cite the statutory requirements of R.S. 15:567.1 regarding mental competency.

Title 22

Part I. CORRECTIONS

Chapter 1. Secretary's Office

§103. Death Penalty

A. Purpose. To set forth procedures to be followed for the lethal injection of those individuals sentenced to death.

B. Applicability. Chief of Operations, Assistant secretary and the wardens of the Louisiana State Penitentiary and the Louisiana Correctional Institute for Women.

C. Incarceration Prior to Execution. Male inmates sentenced to death shall be incarcerated at the Louisiana State Penitentiary at Angola, Louisiana. Female inmates

sentenced to death shall be incarcerated at the Louisiana Correctional Institute for Women at St. Gabriel, Louisiana. Until the time for execution, the warden shall incarcerate the inmate in a manner affording maximum protection to the general public, the employees of the department, and the security of the institution. Female inmates shall be transported to the Louisiana State Penitentiary for execution as directed by the secretary.

D. Mental Competency. Pursuant to the provisions of R.S. 15:567.1, a person who is not competent to proceed to execution may not be executed. A person is not competent to proceed to execution when he lacks the competence to understand that he is to be executed, and the reason he is to suffer that penalty. Any person sentenced to death may raise the issue of his mental incompetence to proceed to execution by filing an appropriate petition in the sentencing court. A person acting as petitioner's "next friend" or the Secretary of the Department of Public Safety and Corrections may also file the petition. The petition shall contain the information enumerated in R.S. 15:567.1C. The sentencing court shall then determine the inmate's mental competency in accordance with R.S. 15:567.1.

E. Visits

1. Prior to the scheduled execution, the warden may approve special visits for the condemned inmate.

2. Visits will normally terminate by 3 p.m. on the day of the execution except visits with a priest, minister, religious advisor, or attorney which will terminate at the direction of the warden or his designee.

F. Media Access

1. Pursuant to the provisions of Department Regulation No. C-01-013, the media may contact the warden's office to request interviews. If the warden, inmate, and attorney (if represented by counsel) consent, the interview shall be scheduled for a time convenient to the institution.

2. Should the demand for interviews be great, the warden may set a day and time for all interviews to be conducted and may specify whether interviews will be done individually or in "press conference" fashion.

G. Pre-Execution Activities

1. The warden shall select an appropriate area to serve as a press room.

2. In the five days prior to the execution, access to the execution room will be restricted in accordance with institution policy.

3. All persons selected as witnesses will sign copies of the witness agreement prior to being transported to the execution room.

H. Time And Place. The execution shall take place at the Louisiana State Penitentiary between the hours of 6 p.m. and 9 p.m. [R.S. 15:570(C)]

I. Witnesses

1. The execution shall take place in the presence of the following witnesses:

- a. the warden of the Louisiana State Penitentiary or designee;
- b. the coroner of West Feliciana Parish or deputy;
- c. a physician chosen by the warden;
- d. a competent person selected by the warden to administer the lethal injection; and

e. a priest, minister, or religious advisor, if the inmate so requests.

2. Not less than five nor more than seven other witnesses are required by law to be present. [R.S. 15:570(A)] These witnesses will be selected as follows.

a.i. Three witnesses will be members of the news media selected by the secretary from the following categories:

- (a). a representative from the Associated Press;
- (b). a representative selected from the media persons requesting to be present from the parish where the crime was committed; and
- (c). a representative selected from all other media persons requesting to be present.

ii. These witnesses must agree to act as pool reporters for the remainder of the media present and meet with all media representatives immediately following the execution.

b. The remaining witnesses will be selected by the secretary from persons who he feels have a legitimate interest in being present.

3. Victim relationship witnesses are authorized to attend the execution [R.S. 15:570(D).]

a. At least 10 days prior to the execution, the secretary shall give either written or verbal notice, (followed by written notice placed in the United States mail within five days thereafter), of the date and time of execution to the victim's parents, or guardian, spouse and any adult children who have indicated to the secretary that they desire such notice. The named parties shall be given the option of attending the execution and shall, within three days of their receipt of the notification, notify, either verbally or in writing, the secretary's office of their intention to attend.

b. The number of victim relationship witnesses may be limited to two. If more than two victim relationship witnesses desire to attend the execution, the secretary is authorized to select from the interested parties the two victim relationship witnesses who will be authorized to attend.

4. All witnesses must be residents of the state of Louisiana, over 18 years of age and all must agree to sign the report of the execution. (R.S. 15:570-571)

J. Procedures

1. The witnesses will enter the witness room where they will receive a copy of the inmate's written last statement, if a written statement is issued.

2. The inmate will then be taken to the lethal injection room by the escorting officers. Once in the room, the inmate will be afforded the opportunity to make a last verbal statement if he so desires. He will then be assisted onto the lethal injection table and properly secured to the table by the officers. Once the officers exit the room, the warden will close the curtain to the witness room and signal the I.V. technician(s) to enter. The I.V. technician(s) will appropriately prepare the inmate for execution and exit the room. The warden will reopen the witness room curtain.

3. The person designated by the warden and at the warden's direction, will then administer, by intravenous injection, the appropriate substances in a lethal quantity into the body of the inmate until he is deceased.

4. At the conclusion of the execution, the coroner or his deputy shall pronounce the inmate dead. The deceased shall then be immediately taken to an awaiting ambulance for transportation to a place designated by the next of kin or in accordance with other arrangements made prior to the execution.

5. The warden will make a written report reciting the manner and date of the execution which he and all of the witnesses will sign. The report shall be filed with the clerk of court in the parish where the sentence was originally imposed. (R.S. 15:571)

6. No employee, including employee witnesses to the execution, except the secretary or the warden or their designee, shall communicate with the press regarding any aspect of the execution except as required by law.

7. No cameras or recording devices, either audio or video, will be permitted in the execution room.

8. The identity of the persons, other than those specified in Subsection I.1.a, b, c, and d, 2, and 3, who participate in an execution, either directly or indirectly, shall remain strictly confidential and shall not be subject to public disclosure in any manner whatsoever.

AGREEMENT BY WITNESS TO EXECUTION

I, _____, a person of full age and majority, and citizen of the state of Louisiana, hereby agree to the following conditions precedent to being a witness to the execution of a sentence of death at Louisiana State Penitentiary, Angola, Louisiana.

1. I agree that my presence at the execution is voluntary.
2. I agree to sign the report of the execution as required by law.
3. I agree to comply with all rules and regulations of the Department of Public Safety and Corrections and the Louisiana State Penitentiary during the course of the proceedings leading up to, during, and after the completion of the execution.
4. I agree that I will not electronically record or photograph any activities while I am present in the lethal injection room.
5. I agree to submit to a search of my person before and after the execution if requested to do so by the warden of the Louisiana State Penitentiary.
6. If I am a member of the press selected as a witness to the execution, I agree to act as a pool reporter for the media representatives not present at the execution, and I agree to meet with all media representatives present at the penitentiary immediately after the execution.
7. If I am an employee of the Department of Public Safety and Corrections, I agree that I will make no public statements about the execution without prior approval of the warden of the Louisiana State Penitentiary.

I have read the above agreement, understand it, and have signed it in the presence of the listed witnesses on this date _____.

(Day, Month, Year)

WITNESSES TO SIGNATURE:

Signature of Selected Witness

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:567-571 (as amended by Act No. 717 of the 1990 Regular Session of the Louisiana Legislature, by Act No. 159 of the 1991 Regular Session, Act No. 145 of the 2002 First Extraordinary Session and Act No. 283 of the 2003 Regular Session).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of the Secretary, LR 6:10 (January 1980), amended LR 7:177 (April 1981), amended by the Department of Public Safety and Corrections, Corrections Services, LR 17:202 (February 1991), LR 18:77 (January 1992), LR 24:342 (February 1998), LR 25:2410 (December 1999), LR 28:2552 (December

2002), LR 29:2847 (December 2003), amended LR 31:2032 (August 2005).

Richard L. Stalder
Secretary

0508#046

RULE

**Department of Revenue
Office of Alcohol and Tobacco Control**

Alcoholic Beverage Permits ~~C~~ Prohibitive Acts; Tobacco
Permits ~~C~~ Age Verification Requirements
(LAC 55:VII.305 and 3115)

Under the authority of R.S. 47:874 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 LAC 55:VII.305 and adopted §3115 pertaining to purchases of alcoholic beverages, tobacco, and tobacco products through unattended self-checkout counters.

Louisiana Administrative Code 55:VII.305 and 3115, entitled "Prohibited Acts By Retailer" and "Age Verification Requirements," respectively, provides that a clerk must verify the age of persons attempting to purchase alcoholic beverages, tobacco, and tobacco products through unattended self-checkout counters prior to that person's approach of the counter.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart 1. Beer and Liquor

Chapter 3. Alcoholic Beverage Permits

§305. Prohibitive Acts

A. - C. ...

D. No retailer may sell or deliver beer, spirits, wine or any other alcoholic beverage, whether high or low alcoholic content, in a retail establishment to any person through any unattended or self-service checkout counter or mechanical device unless the purchaser submits to a clerk a valid driver's license, selective service card, or other lawful identification which on its face establishes the age of the person as 21 years or older and there is no reason to doubt the authenticity and correctness of the identification prior to approaching the self-checkout counter.

1. Violation of Subsection D by a retail dealer's agent, associate, employee, representative, or servant will be considered the retail dealer's act for purposes of suspension or revocation of a permit.

2. Violation of Subsection D subjects the retail dealer to penalties provided in R.S. 26:90, including but not limited to suspension or revocation of his permit and penalty provisions in R.S. 26:171.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:32 and 793.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of Alcoholic Beverage Control, 1968, amended in 1973, filed at the Office of the State Register, 1974, amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 31:2034 (August 2005).

Subpart 2. Tobacco

Chapter 31. Tobacco Permits

§3115. Age Verification Requirements

A. Before a seller mails, ships, or otherwise delivers cigarettes cigars, pipe tobacco, chewing tobacco, smokeless tobacco, or any other tobacco product of any kind in connection with a sale, the seller must verify the consumer's age through electronic or written communication.

B. Persons accepting purchase orders for delivery sales may request that prospective consumers provide their e-mail addresses.

C. No retailer may sell or deliver cigarettes, cigars, pipe tobacco, chewing tobacco, smokeless tobacco, or any other tobacco product of any kind in a retail establishment to any person through any unattended or self-service checkout counter or mechanical device unless the customer submits to a clerk a valid driver's license, selective service card, or other lawful identification that on its face establishes the age of the person as 18 years or older and there is no reason to doubt the authenticity and correctness of the identification prior to approaching the self-checkout counter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:833.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office Alcohol and Tobacco Control, LR 31:2035 (August 2005).

Murphy J. Painter
Commissioner

0508#062

RULE

**Department of Revenue
Office of Alcohol and Tobacco Control**

Prohibitive Acts (LAC 55:VII.305)

Under the authority of R.S. 26:793 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 LAC 55:VII.305 pertaining to certain acts which are prohibited from taking place on the premises of a licensed alcoholic beverage outlet.

Louisiana Administrative Code 55:VII.305 prohibits certain improper forms of entertainment from being displayed or conducted on the licensed premises of an alcoholic beverage outlet in Louisiana. This amendment prohibits certain improper entertainment, namely gambling games, from being conducted on a licensed premises.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart 1. Beer and Liquor

Chapter 3. Alcoholic Beverages

§305. Prohibitive Acts

A. - B. ...

C. Contest and Game Promotions. Except as otherwise provided by law, contest and game promotions are allowed in accordance with the following restrictions.

1. No manufacturer, wholesaler, or retailer may allow, encourage, or otherwise entice any patron to risk the loss of

anything of value or require any purchase payment or proof of purchase as a condition of entering or participating in any contest or game promotion or receiving any prize. Each patron allowed, encouraged, enticed, or required to make any purchase as a condition of entering any contest or game prohibited by this Subsection will constitute a separate violation.

2. No manufacturer, wholesaler, or retailer may collect an entry fee or cover charge as a condition of entering or participating in any contest or game promotion or receiving any prize. Each patron from whom an entry fee or cover charge is collected in violation of this Subsection will constitute a separate violation.

3. No manufacturer, wholesaler, or retailer may collect, hold, redistribute, possess or otherwise handle any prize money on behalf of players in any contest or game. Each patron for or from whom any such prize money is collected, held, or otherwise handled will constitute a separate violation of this Subsection.

4. No manufacturer, wholesaler, or retailer may encourage or otherwise entice any patron to participate in poker, blackjack, craps, or any other gambling game conducted on the licensed premises. Encouragement and enticement includes, but is not limited to, advertising in any form, including broadcast, print, indoor or outdoor signage, and word-of-mouth advertising. Advertising in any form will constitute prima facie evidence of a violation of this Subsection. Each patron responding to any such encouragement or enticement will constitute a separate violation of this Subsection.

5. No manufacturer, wholesaler, or retailer may allow any patron or other third party to conduct, manage, direct, or otherwise organize games, tournaments, or leagues involving multiple tables on their licensed premises. Each patron or other third party conducting, managing, directing, or otherwise organizing such games will constitute a separate violation of this Subsection. Each patron participating in games, tournaments, or leagues played on multiple tables will constitute a separate violation of this Subsection.

6. No manufacturer, wholesaler, or retailer may maintain or furnish any gambling paraphernalia to any patron for purposes of engaging in a contest prohibited by this Subsection. Gambling paraphernalia includes, but is not limited to, playing cards, poker chips, tokens, markers, buttons, card tables, dice, seating cards, and containers or other means of storage of wagers for safekeeping during any prohibited game. Pool or billiard tables, cues, chalk, racks, and balls; darts, dart boards, and score boards; bowling balls and shoes are not subject to provisions of this Subsection.

7. All prizes awarded must be furnished by the retailer hosting, or the sponsor of, any such contest or game promotion. Any and all prizes awarded in violation of this Subsection will constitute a separate violation.

8. Athletic competitions and games, including but not limited to pool or billiards, darts, golf, bowling, and softball, are not subject to provisions of this Section.

9. Legalized gaming, as provided for in R.S. 27:1 et seq., and charitable gaming, as provided for in R.S. 4:701 et seq., are not subject to provisions of this Section

10. Except as otherwise provided by law, contests based on the score of athletic competitions, or the outcomes or scores of a series of athletic competitions, commonly

known as "football boards," "basketball pools," and other similar contests, are not subject to provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:32 and 793.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of Alcoholic Beverage Control, 1968, amended in 1973, filed at the Office of the State Register, 1974, amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 31:2035 (August 2005).

Murphy J. Painter
Commissioner

0508#060

RULE

Department of Revenue Office of Alcohol and Tobacco Control

Tobacco Permits Importation of Cigarettes by Wholesaler (LAC 55:VII.3117)

Under the authority of R.S. 47:874 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 adopted LAC 55:VII.3117 pertaining to importation of cigarettes.

LAC 55:VII.3117, entitled "Importation of Cigarettes," provides that cigarettes may only be imported into Louisiana by a wholesaler.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart 2. Tobacco

Chapter 31. Tobacco Permits

§3117. Importation of Cigarettes by Wholesaler Only

A. Except as provided in Subsection B of this Section, cigarettes, as defined in R.S. 26:901, produced or manufactured outside of this state cannot be sold or offered for sale in Louisiana, or shipped or transported into the state except to the holder of a wholesaler's permit. Delivery of cigarettes produced or manufactured outside of this state must be made at the place of business of the wholesaler shown on the wholesaler's permit, and must be received and warehoused by the wholesaler at that place of business, where such cigarettes must come to rest before delivery is made to any retailer.

B.1. Notwithstanding the provisions of Subsection A of this Section, cigarettes may be sold and shipped directly to a consumer in Louisiana by the manufacturer or retailer of such cigarettes domiciled outside of Louisiana, provided both that all taxes levied in R.S. 47:841 have been paid in full and that all of the following apply.

- a. The consumer is 18 years of age or older.
- b. The cigarettes are for that consumer's personal consumption.
- c. The total amount of cigarettes shipped to any single household address does not exceed 4 cartons totaling 800 cigarettes in any individual shipment or 48 cartons totaling 9,600 cigarettes per calendar year.
- d. The manufacturer or retailer engaging in such direct sales holds a valid manufacturer's or retailer's license issued by the state of its domicile.

e. The package in which the cigarettes are shipped is prominently labeled as containing cigarettes.

f. The package in which such cigarettes are shipped is received by a person 18 years of age or older.

g. The package contains an invoice indicating the date of the shipment, providing a full and complete description of all items included in the shipment, and stating the price thereof.

h. The manufacturer or retailer has complied with the provisions of Subsections C and D of this Section.

i. The seller or shipper who is a manufacturer is not a party, directly or indirectly, to any agreement in which a wholesaler licensed by the state of Louisiana has been granted the right to purchase and to sell cigarettes produced by the manufacturer. This does not include any sale of cigarettes perfected on the premises of the manufacturer and completed by shipment to a consumer in Louisiana otherwise made in accordance with the provisions of this Subsection.

2. For all purposes under this Title, the point of sale for transactions made pursuant to this Subsection shall be the place of domicile of the manufacturer or retailer. Delivery to the consumer in Louisiana shall be deemed to have occurred upon the placing of such cigarettes into the possession of a common carrier for transport into the state of Louisiana.

C. Any manufacturer or retailer who sells and ships directly to a consumer in Louisiana pursuant to Subsection B of this Section must, within 20 days after the end of each calendar month, file with the Secretary of the Department of Revenue a statement showing the total amount of cigarettes sold and shipped during the preceding calendar month, the number of packages sent in each shipment, the name brand of each package of cigarettes included in such shipments, the quantities of cigarettes included in such shipments, and the price of each item included in such shipments. All excise and sales or use taxes due to the state of Louisiana on the cigarettes sold and shipped pursuant to Subsection B of this Section must be remitted by certified check or by electronic funds transfer at the time of the filing of the required statement and copies of all invoices transmitted with each such shipment must be attached to the statement. This statement must be made on forms prescribed and furnished by the Secretary of the Department of Revenue and must include such other information as the Secretary of the Department of Revenue may require.

D. Any retailer of cigarettes who violates any provision of this Section will be subject to a civil penalty in the amount of \$25,000. Any retailer that sells and ships directly to consumers in Louisiana pursuant to Subsection B of this Section must, on the application for authority to make such shipments filed with the Secretary of the Department of Revenue in accordance with Subsection C of this Section, acknowledge in writing the civil penalty established in this Subsection and must consent to the imposition thereof upon violation of this Section. The secretary may initiate and maintain a civil action in a court of competent jurisdiction to enjoin any violation of this Section and to recover the civil penalty established in this Subsection, together with all costs and attorney fees incurred by the secretary incidental to any such action.

E. Upon determination by the Secretary of the Department of Revenue that an illegal sale or shipment of cigarettes has been made to a consumer in Louisiana by either a manufacturer or retailer of such cigarettes, the secretary must notify both the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury and the licensing authority for the state in which the manufacturer or retailer is domiciled that a state law pertaining to the regulation of cigarettes has been violated and shall request those agencies to take appropriate action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:922.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 31:2036 (August 2005).

Murphy J. Painter
Commissioner

0508#061

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 113 **C**Louisiana's Reading and Language Competencies for Teachers (LAC 28:XC.V.Chapter 1)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 113 **C**Louisiana's Reading and Language Competencies for New Teachers*. The proposed changes more clearly define the reading competencies to be addressed in the courses required by BESE for certification, including but not limited to the reading courses required in R.S. 17:7.1. The current Chapter 1, Foundational Concepts **C**Strand A is being moved to Chapter 2 to allow for placement of new introductory text. These changes align Louisiana's reading instruction more closely with principles of Scientifically Based Reading Research as required by Title I **C**Improving the Academic Achievement of the Disadvantaged: Section 1001.Statement of Purpose.

"The purpose of this title is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state academic assessments. This purpose can be accomplished by-

"(1). Ensuring that high-quality academic assessments, accountability systems, teacher preparation and training, curriculum, and instructional materials are aligned with challenging State academic standards so that students, teachers, parents, and administrators can measure progress against common expectations for student academic achievement.

"(9). Promoting schoolwide reform and ensuring that access of children to effective, scientifically based instructional strategies and challenging academic content."

Title 28 EDUCATION

Part XC.V. Bulletin 113 **C**Louisiana's Reading and Language Competencies for Teachers

NOTE: The current Chapter 1, Foundational Concepts **C**Strand A is being moved to Chapter 2 to allow for placement of new introductory text.

Chapter 1. Introduction

§111. Reading and Language Competencies

A. During spring 2002, the Governor's Office, Board of Regents, State Board of Elementary and Secondary Education, and Louisiana Department of Education submitted a proposal to the National Governor's Association to participate in a Literacy Institute at Harvard University. Louisiana was one of five states selected to send a team of 20 state, district, and university leaders to participate in a one-week institute during August 2002. In conjunction with the institute, the state made a commitment to have Louisiana's Harvard Literacy Team develop a set of Reading

and Language competencies for use within university settings when preparing teacher candidates to work with PK-12 students. An awareness existed that it would be difficult to help teachers expand upon their pre-service knowledge and skills for reading and language if consensus did not exist regarding the required knowledge and skills for teachers in the area of reading and language.

B. Louisiana's Harvard Literacy Team met on five occasions during fall 2002 and spring 2003. After extensive discussions pertaining to appropriate competencies, a decision was made to adapt a document developed by Louisa C. Moats entitled *A Blueprint for Professional Development of Teachers of Reading: Knowledge, Skills, and Learning Activities* and combine elements of the document with the NCATE Standards for Reading Professionals and other state documents. By doing so, the five components of effective reading programs as defined in the National Reading Panel (2000) could be fully addressed as well as expectations for NCATE accreditation, Louisiana's K-12 English Language Arts standards, and Louisiana's K-12 Grade Level Expectations for Reading and Language Arts. Louisiana's Harvard Literacy Team then identified knowledge and disposition statements that would address the following eight strands:

1. Foundational Concepts;
2. Assessment;
3. Phonemic Awareness and Letter Knowledge;
4. Phonics and Word Recognition;
5. Fluent, Automatic Reading of Text;
6. Vocabulary;
7. Text Comprehension;
8. Spelling and Writing.

C. All universities with approved Teacher Preparation Units shall address Louisiana's Reading and Language Competencies for Teachers in each of the teacher preparation programs offered by the university. These competencies shall be addressed in the courses required by BESE for certification, including but not limited to the reading courses required in R.S. 17:7.1. Additionally, in teacher preparation programs that prepare candidates for certification in any grades K-3, teacher candidates shall be instructed in the administration, interpretation, and use of the scientifically-based reading assessments adopted by BESE (e.g.; Dynamic Indicators of Basic Early Literacy Skills).

D. During Spring 2005, the State Board of Elementary and Secondary Education shall require the Louisiana Department of Education to prepare and disseminate to all universities submission guidelines for an alignment study of the degree to which universities are addressing the Reading and Language Competencies contained in this bulletin and assessing their students' attainment of the competencies in each of their teacher preparation programs. Submission requirements shall include an alignment matrix for each teacher preparation program offered, course syllabi, and instructional and assessment materials for each course in which a competency is addressed, as well additional documentation as determined by the Louisiana Department

of Education. Universities shall be required to submit the required alignment matrix for each teacher preparation program offered, showing the alignment of each program to the Reading and Language Competencies and rubrics based on certification levels for the programs in Fall 2005.

E. The Louisiana Department of Education shall oversee a review of the materials submitted to determine the alignment of the courses in these programs to scientifically based reading research as delineated through the Reading and Language Competencies. The department shall produce a report regarding this alignment and shall submit this report to BESE no later than January 2006. Based on this report, BESE shall take action with regard to individual universities and deficiencies regarding alignment to the competencies noted in the report, if any. Such action shall include, but not be limited to, a corrective action plan to address the deficiencies, resubmission of the program for approval of the specific courses in question, or withdrawal of program approval. The report shall also be made public via the Louisiana Department of Education's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A) (10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office, which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., October 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 113 Louisiana's Reading and Language Competencies for Teachers**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs (savings) to state governmental units. The cost of printing the Notice of Intent in the Louisiana Register is estimated to be \$240. The

proposed changes more clearly define the reading competencies to be addressed in the courses required by BESE for certification, included but not limited to the reading courses required in R.S. 17:7.1.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0508#032

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education Adult Education Services

Bulletin 120 **Adult Education Data Quality and Procedures**
(LAC 28: CXVII. Chapters 1-7)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement *Bulletin 120 Adult Education Data Quality and Procedures*. Bulletin 120 will be printed in codified format as Part CXVII of the Louisiana Administrative Code. *The Louisiana Adult Education Data Quality and Procedures* has been developed to assist local adult education programs with the processes of gathering, inputting, and reporting data on adult education program performance. The bulletin provides written policies and procedures for the assessment of adult education students by adult education programs funded by the Louisiana Department of Education. The Louisiana Adult Education Data Quality and Procedures has been developed to meet the USDE National Reporting System for Adult Education requirement that all states have written policies and procedures for the assessment of adult education students.

Title 28

EDUCATION

Part CXVII. **Bulletin 120 Adult Education Data Quality and Procedures**

Chapter 1. **General Provisions**

§101. **Introduction**

A. The Louisiana Department of Education, Division of Family, Career and Technical Education developed *Bulletin 120 Adult Education Data Quality and Procedures* to assist local adult education programs in meeting the reporting requirements of the National Reporting System (NRS) for Adult Education. This bulletin is designed to:

1. assist local adult education programs with the processes of gathering student data;
2. inputting data into the LiteracyPro system;
3. reporting data on program performance; and

4. reviewing data to plan for and facilitate program improvement.

B. This Part CXVII is applicable to all local adult and family literacy programs which are funded through the Louisiana Department of Education. This Part CXVII is in compliance with NRS requirements, which is the official accountability system for federally funded adult education programs. NRS reporting components include:

1. student assessment measures;
2. data collection methodologies;
3. reporting forms; and
4. program procedures.

C. The Louisiana Department of Education, Division of Family, Career and Technical Education and the National Reporting System for Adult Education are committed to assisting local adult education programs in improving the quality and utility of program data. Questions regarding this bulletin or this Part CXVII should be directed to the Louisiana Department of Education, Division of Family, Career and Technical Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:

Chapter 3. Assessment and Student Placement

§301. Standardized Assessments

A. NRS policies require local adult education programs to assess and place students at an educational functioning level (EFL) upon intake and at least one other time during the program year. Standardized assessments used to place students or demonstrate educational growth must be both valid and normed for adult students. The initial assessments are to be administered at intake or within a short period thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:

§303. Approved Assessments

A. The Louisiana Department of Education has approved certain assessments, which are aligned with educational functioning levels within NRS to measure student level and growth. Only assessments on this list may be used to determine student placement upon intake or demonstrate educational growth: No other assessments are to be used by local programs for placement purposes or to demonstrate educational growth at an educational functioning level.

B. Assessments for Adult Basic Education and Adult Secondary Students:

1. Test of Adult Basic Education (TABE);
2. Adult Measure of Essential Skills (AMES);
3. Comprehensive Adult Student Assessment System (CASAS);
4. WorkKeys (to be used at the Adult Secondary Education educational functioning levels only).

C. Assessments for English-as-a-Second Language Students:

1. Basic English Skills Test (BEST) and BEST Plus;
2. Comprehensive Adult Student Assessment System (CASAS);
3. Student Performance Levels (SPL).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:

§305. Placement in an Educational Functioning Level

A. Upon administration of an approved assessment, local programs are to place students at an educational functioning level. Charts developed from the *NRS Implementation Guidelines* are used for determining the appropriate EFL for a student. These charts are included in the instructor manual pertaining to this Part CXVII.

B. A student may be assigned to an EFL based upon the descriptors on the charts in the instructor manual pertaining to this Part CXVII, but growth can only be shown through the administration of an approved pre-test and post-test or by passing the GED test. A student who passes the GED may be given credit for completing the High Adult Secondary (ASE) level. This is the only method to show completion of this level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:

§307. Follow-up Assessments

A. NRS reporting policies state that programs use a different form of the same test for the follow-up (post-test) assessment for a student. Both the pre-test and post-test shall be administered and scored according to the test directions provided by the publisher. Post-tests shall be administered after the student has:

1. attended for 50 hours; or
2. been enrolled for 90 days; or
3. has completed an Individualized Prescription of Instruction (IPI) for the area being used for NRS reporting purposes.

The subject area (math, reading or language) being used for NRS reporting purposes is the lowest score from the pre-test.

B. The department's goal for the percentage of students tested is 40 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:

§309. Special Populations

A. Assessments for special populations are administered with appropriate accommodations as specified by the publisher of the approved assessment. Accommodations for the administration of assessments shall be based on copies of the student's IEP or 504 plan. Placement at an EFL level for special populations may be by the descriptors for each level.

B. Accommodations for approved assessments will likely differ from accommodations for the GED test. There are two types of disabilities, learning and physical, which are applicable to students registered for the GED test. Disabilities must be documented on an appropriate form, which are available from a GED chief examiner. Although a student may receive accommodations for assessments for placement or to measure growth by a local program, this does not guarantee or imply that the same accommodations will be appropriate or provided for the GED test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:

Chapter 5. Adult Education Core Measures

§501. NRS Core and Secondary Measures

A. NRS measures include both core measures and secondary measures. NRS core measures apply to all adult education students. There are three types of core measures:

1. outcome measures, which include:
 - a. educational gain;
 - b. entered employment;
 - c. retained employment;
 - d. receipt of secondary school diploma or GED; and
 - e. placement in postsecondary education or training;
2. descriptive measures, including:
 - a. student demographics;
 - b. reasons for attending and student status; and
3. participation measures of contact hours received and enrollment in instructional programs for special populations or topics (such as family literacy or workplace literacy).

B. NRS secondary measures include additional outcome measures related to employment, family and community that adult education stakeholders believe are important to understanding and evaluating adult education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:

§503. Reporting Core Measures

A. NRS policies mandate that all local adult education programs must report core measures. Educational gains are calculated on all learners in the program year, July 1–June 30. Core measures which must be reported include:

1. Educational Gains that are in relation to the student's EFL in reading, writing, speaking and listening, and functional areas. This measure applies to all students;
2. *Entered Employment*—students who obtain a job by the end of the first quarter after exit quarter. This measure applies to students who have set this as a goal*;
3. *Retained Employment*—students who remain employed in the third quarter after program exit. This measure applies to students who have set this as a goal*;
4. *Receipt of Secondary School Diploma or GED*—students who obtain a GED, secondary school diploma or recognized equivalent. This measure applies to students who have set this as a goal*;
5. *Placement in Postsecondary Education or Training*—a learner who enrolls in a postsecondary educational or occupational skills program, building on prior services or training received. This measure applies to students who have set this as a goal.*

*Data-matching is used for these goals to measure program outcome.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:

§505. Student Goal Setting for Core Measures

A. Adult learners enter adult education programs for any number of reasons, which are reflective of the student's educational, vocational, and personal goals. The goal setting process occurs at intake and is intended to define the areas to focus instruction and learning. Student goals serve to provide a basis to measure student and program performance, and thus it is imperative that goals be both attainable and measurable.

B. NRS policies state that goals set by learners will be measured at the end of the program year and that goals must be attainable within that program year. If the goal is not attainable within the year, it shall not be entered as the NRS goal but as a long-term goal of the learner. When the student's skills have improved to a level at which attainment of the goal would be feasible within the fiscal year, the long-term goal shall be entered as a goal for that year.

C. Goals will be reviewed upon reassessment of the student and updated accordingly. It is the role of the adult education instructor or coordinator to provide students with guidance on how to set and work toward meeting learning goals. Adult education instructors and coordinators will discuss with students the time frame to meet goals and discuss accessible resources for working toward the goal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:

§507. Data Matching

A. The state of Louisiana uses data matching as the methodology to follow up on NRS core measures. The Social Security Number (SSN) of the learner will be used to match data with Louisiana Department of Labor (LDOL) employment records and other records used in developing the WIA scorecard by the Department of Labor.

B. The SSN of the individual student is used by the LDOL only to search records and is not released by LDOL to any other third party individual or agency. Data is reported in aggregate format without any individual identifiable information. Accurate Social Security Numbers are critical to the success of the data matching process. Local programs are responsible for checking enrollment forms for missing or invalid SSNs and are prohibited from "making up" a SSN for a student. If a student fails to provide his/her SSN, local programs should follow up with the student to obtain the SSN. A student may refuse to provide his/her SSN to a local program; however, local program personnel will explain how this information is used and its importance in demonstrating program performance.

C. Upon completion of the data-matching process, LDOL provides the Department of Education with a list of students who achieved the specified outcomes and these outcomes are reported back to local programs. The data-matching process specifically tracks those students who set employment as a goal, but also matches all students in the database for the core measures. This process allows programs to know which students met their specified goal(s) and those who have achieved other outcomes while enrolled in the program. These outcomes are to be entered as an achievement in the LiteracyPro System, not as a goal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:

Chapter 7. Data Reporting

§701. Data Accuracy and Entry

A. The following data must be entered by local programs in order to ensure that the National Reporting System provides valid and accurate data. Data entry errors, which go uncorrected, often do not reflect the progress of the student or the program, and often affect funding for local programs. Timely review of data assists in ensuring its accuracy and adherence to programmatic guidelines. The following represents Louisiana Department of Education data collection and entry policies as well as common data entry errors.

Data	Entry Guidelines
Social Security Number	1. Enter the learner's real Social Security Number. 2. Enter the alien identification number if ESL students do not have a Social Security Number.
Contact Information	1. Enter as many phone numbers that are available for the student (e.g., home, work, etc.). 2. Enter a complete mailing address including a number, street, apartment (if applicable), town and zip code. 3. Use the learner's parish of residence (not where the program is located).
Enrollment Status	1. Enter the learner's status: enrolled, active, or left. *A learner shall be separated and his/her status changed to left after nonattendance for 90 days according to NRS policies.
Attendance	1. Attendance must be recorded daily on sign-in sheets. It is recommended that attendance be entered on a weekly basis. *Attendance hours are counted for instruction or instructional activities. Instructional activities include classroom instruction, assessment, tutoring or participation in a learning lab. Virtual or on-line attendance hours may be recorded only if the center can provide authentic documentation of the hours of instruction.
Test Scores	1. Enter test results (pre-test or post-test) upon completion of approved assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:

§703. Quarterly Reporting

A. The Louisiana Department of Education, Division of Family, Career and Technical Education requires that local programs submit data for each quarter during a program year. City or parish supervisors or program directors are responsible for timely submission of local program data and ensuring its accuracy. Department of Education staff will review data for errors and contact supervisors or program directors to discuss needed corrections to local program data. Local program data is reported quarterly on the twenty-sixth day of January, April, July, and October.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:

§705. LiteracyPro Data System

A. The Louisiana Department of Education mandates that adult education programs, which it funds, must use the LiteracyPro System, Inc. Adult Education Data System. Local programs are responsible for covering the costs of implementing and maintaining the LiteracyPro System with a portion of their local grant funds. Staff from the Louisiana Department of Education and staff from LiteracyPro are committed to improving data quality by providing professional development workshops each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:

§707. Resolving Data Analysis Problems and Deviations

A. Upon receipt of data submitted by local programs, the Louisiana Department of Education, Division of Family, Career and Technical Education staff review program data quarterly for errors. It is the responsibility of the local program supervisor or director to conduct the initial review of the data, using the diagnostic features of the LiteracyPro System and other instructions provided by department staff. The initial review of data shall be conducted prior to the quarterly submission of data to the Louisiana Department of Education.

B. Upon receipt of local program data, department staff shall run the diagnostic features of the Literacy Pro System to search again for common and obvious data errors, such as invalid attendance dates, birthdates, and/or Social Security Numbers. Staff further reviews data using other searches to determine if additional data analysis problems and deviations exist. Department staff shall send a report to local program supervisors or directors detailing any data analysis problems or deviations. It is the responsibility of local program supervisors and directors to correct any data analysis problems or deviations within two weeks of notification of such problems by department staff.

C. Data analysis problems or deviations must be corrected to accurately reflect student progress, evaluate program success and determine future funding. Local program supervisors or directors must sign the data extract each quarter upon submission and acceptance of data by department staff. The signed program extract confirms that the local program supervisor or director states that the data is correct to the best of his/her knowledge, the local program has adhered to Department of Education data guidelines, and data has been reviewed for errors prior to quarterly submission. The data reflected in the signed extract is used to determine subsequent year funding and serves as the record of program performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., October 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 120 Louisiana Adult Education Data Quality and Procedures

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated costs to implement the Louisiana Adult Education Data Quality and Procedures will include the cost of printing 200 copies for a total of \$238.00 that will be distributed to local adult education programs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated effects on revenue collections for state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits that will directly affect persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment based upon implementation of the proposed action.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0508#025

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 Louisiana Handbook for School Administrators Course Code Changes for Carnegie Units (LAC 28: CXV.2333, 2355, 2364 and 2369)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741 Louisiana Handbook for School Administrators* (LAC 28, Part Number CXV). The proposed special education course codes will allow students with disabilities and gifted and talented students to earn Carnegie units and it will allow districts to track the courses in which the students are enrolled. Based on an expressed need from the Local Education Agencies and an analysis of the special education course codes, revisions were needed to provide an appropriate curriculum for students with exceptionalities.

Title 28

EDUCATION

Part CXV. Bulletin 741 Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2333. Art

A. Art course offerings shall be as follows.

Course Title(s)	Units
Art I, II, III, IV	1 each
Talented Art I, II, III, IV	1 each

B. Art I is a prerequisite to Art II and Art III.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:

§2355. Music

A. The music course offerings shall be as follows.

Course Title(s)	Units
Applied Music	1
Beginning Band	1
Beginning Choir	1
Sectional Rehearsal	1
Studio Piano I, II, III	1 each
Advanced Band	1
Advanced Choir	1
Advanced Orchestra	1
Small Vocal Ensemble	1
Wind Ensemble	1
Jazz Ensemble	1
Talented Music I, II, III, IV	1 each

B. Advanced Choir, Advanced Band, Advanced Orchestra, Small Vocal Ensemble, Wind Ensemble, Applied

Music, Jazz Ensemble, and Studio Piano III are performance classes with new literature each year; they may be repeated more than once.

C. Approval by DOE is required before private piano and studio strings instruction can be given for credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:

§2364. Special Education

A. The special education course offerings shall be as follows.

Course Title(s)	Units
Study Skills I, II, III, IV	1 each
Transition I, II, III, IV	1 each
Gifted Independent Research I, II, III, IV	1 each
Gifted College and Career Choices	1 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:

§2369. Theatre Arts

A. The theatre arts course offerings shall be as follows.

Course Title(s)	Units
Theatre I	1
Advanced Theatre	1
Talented Theater I, II, III, IV	1 each

B. Advanced Theatre is a performance class with new literature each year; it may be repeated more than once.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule effect the stability of the family? No.
2. Will the proposed Rule effect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule effect the functioning of the family? No.
4. Will the proposed Rule effect family earnings and family budget? No.
5. Will the proposed Rule effect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., October 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741 Louisiana Handbook
for School Administrators
Course Code Changes for Carnegie Units**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There is no anticipated increase or decrease in costs to implement the proposed rule to state agencies. These courses are currently available through a data report. Publication can be accomplished via the Department's website.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
These changes will have no impact on revenue collections of state or local government units as a result of this measure. These courses are currently available through a data report.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no cost or economic benefits to non-governmental groups affected by this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated impact on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0508#030

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 Louisiana Handbook for School
Administrators Curriculum Standards
(LAC 28: CXV.2301)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to Bulletin 741, *Louisiana Handbook for School Administrators* (LAC 28: CXV). R.S. 17:24.4 requires BESE and the Department of Education to develop statewide curriculum standards for required subjects. The recent approval of the Grade-Level Expectations marks the first major revision to Louisiana content standards documents since 1997. This proposed policy change revision to Bulletin 741 establishes a timeline for the revision of content standards. This revision to the BESE policy will ensure that content standards are reviewed and revised on a regular basis.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741 Louisiana Handbook for
School Administrators**

**Chapter 23. Curriculum and Instruction
§2301. Standards and Curriculum**

A. - B. ...

C. The Louisiana content standards shall be subject to regular review and revision to maintain rigor and high expectations for teaching and learning. Such review of each content area shall occur at least once every seven years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 31:

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., October 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741 Louisiana Handbook for School Administrators Curriculum Standards

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The implementation of changes requires no cost or savings to state or local governmental units. This revision to Bulletin 741 establishes a timeline for the revision of content standards.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0508#034

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 Louisiana Handbook for School Administrators High School Graduation Requirements (LAC 28: CXV.2319)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741 Louisiana Handbook for School Administrators* (LAC Part Number CXV). The addition of Chapter 23. Curriculum and Instruction, §2319. High School Graduation Requirements, is to meet established guidelines for a waiver for students with disabilities who have earned the required 23 Carnegie units and have passed two of the three required components of the GEE in order to earn a high school diploma. Many students with disabilities were able to earn the required 23 Carnegie units needed for a high school diploma. These students were able to pass two, but not all three, components of the GEE due to their disability. In many instances it was the disability that significantly impacted the students' ability to pass the final required GEE component, thus denying the students a high school diploma. The waiver of the final component of the GEE will allow the students with disabilities to earn a high school diploma.

Title 28

EDUCATION

Part CXV. Bulletin 741 Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction. §2319. High School Graduation Requirements.

A. - A.1. ...

B. In addition to completing a minimum of 23 Carnegie credits, students must pass the English language arts and mathematics components of the GEE and either the science or social studies portions of the GEE to earn a standard high school diploma. For students with disabilities who have passed two of the three required components of the GEE and have exhausted all opportunities available through the end of the 12th grade to pass the remaining required GEE component, that GEE component may be waived by the Superintendent of Education if the Department of Education determines the student's disability significantly impacts their ability to pass the final required GEE component.

B.1. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.2; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? Yes.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? Yes.

4. Will the proposed Rule affect family earnings and family budget? Yes.

5. Will the proposed Rule affect the behavior and personal responsibility of children?

6. Is the family or a local government able to perform the function as contained in the proposed rule? No.

Interested persons may submit comments until 4:30 p.m., October 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 741** **Louisiana Handbook for School Administrators** **High School Graduation Requirements**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department of Education is adding to Louisiana's Handbook for School Administrators, Bulletin 741, Chapter 23 Curriculum and Instruction, §2319 High School Graduation Requirements. The only cost associated with this change is the preparation and printing of the document and that is projected to be approximately \$200.00. Publication can be accomplished via the Department's web site.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to non-governmental groups.

Students with disabilities who meet this criterion, earning a high school diploma, will have viable employment options.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Students with disabilities who meet this criterion, earning a high school diploma, will have viable employment options.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0508#029

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 **Louisiana Handbook for School Administrators**
Private Summer School Providers
(LAC 28: CXV.2504)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741 Louisiana Handbook for School Administrators* (LAC Title 28, Part Number CXV). These revisions will allow districts to let students attend summer school from private providers if the summer school applications from the private provider are approved by the district. Districts must ensure that the private provider meets the policy requirements and send the application to the department. The requirements in policy are similar to the requirements for public elementary and secondary summer school programs. Some districts are not able to offer regular summer school due to the commitment of teachers and resources to summer programs for LEAP and GEE remediation. Students needing summer school for the removal of deficiencies have had to find summer schools in neighboring districts or nonpublic schools.

Title 28 EDUCATION

Part CXV. **Bulletin 741 Louisiana Handbook for School Administrators** **Chapter 25. Summer Schools, Special Ed Extended School Year Programs** **§2504. Private Summer School Providers**

A. Any LEA may approve private summer school providers if the provider and the LEA adhere to the standards listed below.

B. The LEA shall submit an application to the DOE for the summer school administered by the private provider.

1. An application for each summer school's offering shall be filed no later than the end of the first week after the summer session begins.

2. The application forms provided by the DOE shall be submitted to the Director of Student Standards and Assessments.

3. The application shall be approved by the superintendent of the LEA.

4. The DOE shall verify that the information in the application meets the standards listed below.

5. An on-site evaluation of each summer school program shall be made by personnel from the DOE to verify information submitted on the report, to evaluate the quality of the instructional program, and to approve its acceptance by the LEA.

C. Summer school programs shall have a certified principal.

D. Teachers employed to teach summer school shall hold a standard A, B, or C teaching certificate in the subject area or areas of teaching.

E. The library/media center or library books as well as all regular teaching aids and equipment shall be available for summer school use.

F. Textbooks, supplementary materials, and supplies adequate for effective instruction shall be provided.

1. Textbooks used during the summer school shall be chosen from the DOE-approved list.

G. Elementary Summer School Programs

1. The purpose of summer school shall be to enable students who have failed in subjects to remove deficiencies and be considered for promotion to the next grade.

2. Each teacher shall teach only one subject for removal of deficiencies during a single period.

3. A student attending summer school for promotional purposes shall not enroll for more than two subjects.

4. The minimum attendance for all elementary students to receive credit or pass a subject shall be 60 hours for one subject unless the LEA imposes a stricter attendance policy.

5. Elementary summer schools shall offer a minimum of 70 hours of instruction per subject for removal of deficiencies.

6. Students attending summer school for promotional purposes shall have written consent by the principal of the last school they attended.

7. The class size shall not exceed 20 students per teacher, per subject in a regular summer school.

H. Secondary Summer School Programs

1. The purpose of summer school shall be to enable students to schedule courses to enrich their experiences or take new subjects and to enable students who have failed in subjects to remove deficiencies.

2. No teacher shall be allowed to teach more than two subjects during one period of time.

3. Summer schools shall offer 90 hours of instruction for 1/2 unit of new credit, 180 hours for one unit of new credit, 60 hours of instruction for 1/2 unit of repeat credit, and 120 hours for one unit of repeat credit.

4. In order to be eligible to receive credit, summer school students shall be in attendance a minimum of 70 hours for 1/2 unit of new credit, 140 hours for 1 unit of new credit, 47 hours for 1/2 unit of repeat credit, and 94 hours for one unit of repeat credit.

5. The teaching load and class size shall not exceed that of a regular school session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., October 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Bulletin 741

**Louisiana Handbook for School Administrators
Private Summer School Providers**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of changes requires no cost or savings to state or local governmental units. This revision to Bulletin 741 allows local school districts to approve private providers of summer school that meet certain requirements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0508#027

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Nonpublic Bulletin 741 **C**Louisiana Handbook for Nonpublic School Administrators **C**Programs of Study (LAC 28:LXXIX.Chapters 1-31)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Nonpublic Bulletin 741 Louisiana Handbook for Nonpublic School Administrators*. These changes include additions to Programs of Study, revisions based on legislation, and revisions to summer school policy. These changes are intended to correct numbering errors in the previous revision and to align the bulletin with recent changes in public school policy.

Title 28
EDUCATION

Part LXXIX. Louisiana Handbook for Nonpublic School Administrators

Chapter 1. Operation and Administration

§101. General Authority

A. The nonpublic school board or governing body shall pass a resolution establishing the nonpublic school and setting forth its goals and objectives.

B. Nonpublic schools are designed to meet the needs of a specific group of students. Each nonpublic school will evaluate itself on the basis of its stated goals and objectives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2342 (November 2003), amended LR 31:

§103. School Administration

A. The educational program shall be designed to implement the stated goals and objectives and shall be directly related to the unique educational requirements of its student body.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2342 (November 2003), amended LR 31:

§105. Philosophy and Purposes of School

A. Each nonpublic school shall develop and maintain a written statement of its philosophy and/or mission statement and the major purposes to be served by its program. The statement shall reflect the individual character of the school and the characteristics and needs of the students it serves.

B. The statement of philosophy and/or mission statement shall be reviewed annually and shall be revised as necessary.

C. Written evidence that these requirements are being met shall be on file.

D. Copies of the philosophy and/or mission statement shall be furnished to all staff members and made available to interested persons on request.

E. Each school shall maintain on the file the following:

1. written statement of philosophy and/or mission statement;
2. goals and objectives for the current year; and
3. plan for implementation of these goals and objectives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2342 (November 2003), amended LR 31:

§107. School Approval

A. In order to benefit from state and federal funds, each school shall have a state approval classification and shall be in compliance with *Brumfield vs. Dodd*.

B. Each state-approved nonpublic school receiving state and/or federal funds shall permit all colleges, universities and branches of the military to have equal access to the schools for the purpose of college recruitment.

C. When applying to the State Department of Education for a classification category, all nonpublic schools seeking

state approval shall include all grades/programs taught at the school.

1. Classification Categories. Schools shall be classified according to the following categories.

a. Approved (A) School meets all standards specified in Standards for Approval of Nonpublic Schools.

b. Provisionally Approved (PA) School has some deficiencies in standards, such as: class size and number(s) of the faculty teaching in an area of which qualifications specified are not met, etc.

c. Probationally Approved (P) School has one or more of the following deviations from standards:

i. principal does not hold a master's degree or principalship certification;

ii. non-degreed teacher with fewer than five years teaching experience is employed;

iii. school has been on provisional approval for the previous two years for the same deficiency.

d. Unapproved (U) School maintains any of the above-mentioned deviations from standards which placed it in the probationally approved category the preceding year. A school may not maintain a probationally approved category for two consecutive years. A school which loses annual school approval shall become ineligible for state and federal funding.

D. The Department of Education shall submit to the SBESE a yearly report recommending the classification status of the nonpublic schools in accordance with the nonpublic school standards.

E. After the Annual School Reports are submitted by the State Department of Education to the State Board of Elementary and Secondary Education (SBESE) for approval, all nonpublic schools seeking to change their classification category must submit their request to the SBESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2342 (November 2003), amended LR 31:

§109. Initial Classification

A. Schools seeking initial approval must be qualified to be classified as either approved or provisionally approved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003), amended LR 31:

§111. Re-Applying for State Approval

A. An unapproved school reapplying for state approval must qualify as either approved or provisionally approved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003), amended LR 31:

§113. School Self-Evaluation

A. School self-evaluation shall be used to effect improvement in the purposes of the school and in the understanding of pupils, instructional methods, and educational outcomes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003), amended LR 31:

§115. Pre-Kindergarten/Kindergarten

A. The local educational governing authority shall have the option of establishing a pre-kindergarten and/or kindergarten program on a half-day or full-day schedule.

B. The pre-kindergarten program shall be listed on the annual school report when operated as a developmental program within the total school program.

C. Any other program which operates in a school as a childcare program shall follow the day care standards as prescribed by the appropriate state agency and is not to be listed on the annual school report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003), amended LR 31:

§117. Minimum Session/Instructional Day

A. Each school shall adopt a calendar for a minimum session of 180 days, of which at least 175 days consisting of 330 minutes of instructional time, or the equivalent, shall be scheduled.

1. If a daily schedule must be abbreviated, the class schedule must be abbreviated in such a manner to ensure that all classes are taught during partial days, except in self-contained classrooms.

2. Each school may include in its calendar a provision for dismissal of senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time.

B. If a local school does not meet at least 175 school days, the State Board of Elementary and Secondary Education (SBESE) shall require the school to adjust its calendar to meet the minimum days of required instructional time by such means as Saturday classes, reduced holidays, expanded calendar length, etc.

1. A school system and/or independent school shall notify the State Board of Elementary and Secondary Education (SBESE) immediately when the minimum number of days of required instructional time cannot be met in crises such as fire, natural disasters, and so forth.

2. An alternate proposal to the original school calendar which meets the minimum number of 175 days or annual instructional minutes shall also be provided by the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003), amended LR 31:

§119. Written Policies

A. Each school system and/or independent school shall have written policies and/or regulations governing the general operation of the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003), amended LR 31:

§121. Emergency Planning and Procedures

A. Each school system and/or independent school shall have written plans and procedures that address the immediate response to emergency situations that may develop in the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003), amended LR 31:

§123. Personnel

A. Each school shall request in writing that the Louisiana Bureau of Criminal Identification and Information supply information to ascertain whether an applicant for employment as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or any other school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children, has been convicted of, or pled *nolo contendere* to, any one or more of the crimes enumerated in R.S. 15:5871.1.

1. The request must be on a form prepared by the bureau and signed by a responsible officer or official of the school making the request.

2. It must include a statement signed by the person about whom the request is made which gives his or her permission for such information to be released and must include the person's fingerprints in a form acceptable to the bureau.

3. A person who has submitted his or her fingerprints to the bureau may be temporarily hired pending the report from the bureau as to any convictions of, or pleas of *nolo contendere* to, by the person to a crime listed in R.S. 15:5871.1. The request must be on a form prepared by the bureau and signed by a responsible officer or official of the school making the request.

B. No person who has been convicted of or has pled *nolo contendere* to a crime listed in R.S. 15:5871.1 shall be hired by an elementary or secondary school as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or as any school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children unless approved in writing by a district judge of the parish and the parish district attorney.

1. This statement of approval shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

2. Not later than thirty days after its being placed on file by the school, the school principal shall submit a copy of the statement of approval to the State Superintendent of Education.

C. The school shall dismiss any permanent teacher or any other school employee having supervisory or disciplinary authority over school children, if such teacher or other employee is convicted of, or pled *nolo contendere* to, any crime listed in R.S. 15:L587.1(c) except R.S. 14:74.

D. A school may reemploy a teacher or other school employee who has been convicted of, or pled *nolo contendere* to, a crime listed in R.S. 15:L587.1(c), except R.S. 14:74, only upon written approval of the district judge

of the parish and the district attorney or upon written documentation from the court in which the conviction occurred stating that the conviction has been reversed, set aside, or vacated.

1. Any such statement of approval of the judge and the district attorney and any such written documentation from the court shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

2. Not later than 30 days after its being placed on file by the school, the school principal shall submit a copy of any such statement of approval or written documentation from the court to the state superintendent of education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7 (6); R.S. 17:10; R.S. 17:15; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411; R.S. 17:587.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003), amended LR 31:

Chapter 3. Certification of Personnel

§301. Principal

A. A nonpublic school principal, assistant principal, or headmaster must hold a master's degree in any area from an accredited institution or have principalship on his Louisiana teaching certificate. The principal is to be a full-time, on-site employee. (The principal may be a teacher as well as the educational administrator of the school.)

B. Assistant principals who do not meet minimum qualifications may be retained in a school provided they were employed in that school during the 1992-93 school year as an assistant principal.

C. A list of these assistant principals is to be maintained on file in the State Department of Education. Upon their retirement or replacement, these assistant principals must be replaced with properly qualified personnel under the nonpublic school standards. These individuals may not be transferred or employed by another school unless they meet the requirements stated in the above standard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003), amended LR 31:

§303. Instructional Staff

A.1. All members of the instructional staff teaching secular subjects, pre-kindergarten through 12, shall have received a bachelor's degree from a regionally accredited institution.

2. They shall also have completed a minimum of 12 semester hours of professional education courses. A beginning teacher shall have a two-year period in which to meet this 12-semester hour standard. The teacher shall be required to have a certificate or college major in the field of work for which the teacher is responsible during one half or more of the school day or shall have earned credits in the required specific specialized academic courses as described in Bulletin 746, *Louisiana Standards for State Certification of School Personnel*. A teacher may work in areas other than the major field for a period of time that is less than one-half of the school day provided that he has earned at least 12

semester hours in each such area. (Exception may be made for teachers in Trade and Industrial Education classes.)

a. Teachers of the pre-kindergarten class shall be minimally qualified in either elementary, kindergarten, or nursery school or have earned 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Family and Consumer Sciences.

b. Teachers of the kindergarten class shall be minimally qualified in either elementary or kindergarten or have earned 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Family and Consumer Sciences.

c. The term *minimally qualified* is defined as having a college major or other documentation showing course completion in elementary, kindergarten or nursery school.

B. Staff members teaching religion at the high school level (9-12) for Carnegie units must have a minimum of a bachelor's degree. Staff members teaching religion that do not meet minimum qualifications may be retained in a school provided they were employed during the 1995-96 school year as teachers of religion.

C. Professional and/or technical personnel (e.g., C.P.A.s, doctors, college or university professors, lab technicians, lawyers, and so forth, may teach less than one-half of a school day in their area of expertise.

D. Non-degreed teachers having taught for a period of at least five years prior to September 1, 1977, may be rehired in a school provided their teaching performance was satisfactory; however, these teachers are eligible to teach only in the subject areas as listed prior to September 1, 1977. Upon retirement or replacement, these teachers must be replaced with degreed teachers eligible under the nonpublic school standards.

E. Credentials for graduates of foreign universities or colleges may be accepted by the local administrator, as qualified to teach in nonpublic schools subject to the review by the Nonpublic School Commission.

1. Applicants with foreign credentials seeking state certification should follow procedures as outlined by the State Department.

F. Teachers in nonpublic schools seeking state certification shall follow the approved procedure.

1. Secondary and elementary personnel may teach grades pre K-12 in their qualified areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003), amended LR 31:

§305. Professional Staff Development

A. Regular and planned faculty meetings on professional issues shall be held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003), amended LR 31:

Chapter 5. Records and Reports
Subchapter A. Maintenance and Use of School Records and Reports

§501. General

A. The school shall maintain accurate and current information on students, personnel, instructional programs, facilities, and finances.

B. There shall be procedures in place to ensure confidentiality and parental access to records, in accordance with applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003), amended LR 31:

§503. School Records

A. Each school shall maintain necessary records for the effective operation of the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003), amended LR 31:

§505. Student Records

A. Each school shall keep records which shall provide for the registration and attendance of students and shall maintain an up-to-date permanent record of individual students showing personal data and progress through school.

B. Schools shall not reveal a student's confidential records, except by his or her parents/guardian consent, or for the purpose of the state's conduct of other activities, e.g., Department of Health and Human Resources surveying and monitoring of personnel, or use by other educational institutions and law enforcement officials, or by the order of a court, or pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, et seq., and 34 CFR, et seq.

C. If a school discontinues its operation, it must provide the parent or receiving school with an up-to-date copy of the permanent student record, if requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003), amended LR 31:

§507. Use of School Records

A. Student records shall be reviewed regularly, and results shall be used for instructional planning, student guidance, and placement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003), amended LR 31:

§509. Transfer of Student Records from Approved Schools

A. A student transferred from a state-approved school, in- or out-of-state, will be allowed credit for work completed in the former school. When a student transfers from one school to another, a properly certified transcript, showing the

students record of attendance, achievement, and the units of credit earned are required.

B. Every nonpublic school, approved or nonapproved, shall provide written notification directly to the public school in which the student was previously enrolled. This notification shall take place within 10 days of enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003), amended LR 31:

§511. Transfer of Student Records from Schools that are not State Approved

A. Local school principals from any state-approved school receiving a student from an unapproved school, in- or out-of-state, will determine the placement and/or credits for the student. The principal and/or superintendent may require the student to take an entrance examination on any subject matter for which credit is claimed. The school issuing the high school diploma shall account for all the credit required for graduation, and its records will show when and where the credit was earned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003), amended LR 31:

§513. Students Transferring from Home Study

A. The school shall adhere to the policies and procedures established by the school system/school for students entering the system from an approved home study program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003), amended LR 31:

§515. Students Transferring from Foreign Schools

A. The school shall determine placement of students transferring from foreign schools. This determination shall be accepted by the State Department of Education (SDE).

B. Credits earned by students in American schools in foreign countries shall be accepted at face value.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003), amended LR 31:

§517. Textbook Records

A. A record of all state-purchased textbooks shall be kept. This shall include textbooks on hand at the beginning of the session, those added, and those lost or worn-out.

B. State funds allocated for buying textbooks shall be used to buy books on the state-adopted textbook lists and academically related ancillary materials according to the state guidelines.

1. Local schools may use state textbook dollars for the purchase of non-adopted instructional materials, when they are purchasing instructional materials for grades K-3 that are manipulative concrete materials, or gross motor materials; or

when they do not exceed 10 percent of the total state textbook allocation.

2. Schools may petition in writing the State Department of Education for permission to spend in excess of the 10 percent allowance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2345 (November 2003), amended LR 31:

§519. Health Records

A. A health record shall be maintained on each student from pre-kindergarten through grade 12.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003), amended LR 31:

Subchapter B. School Reports

§525. General

A. Reports required by the State Department of Education and BESE shall be made on appropriate forms, shall contain accurate information, and shall be returned by the specified date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003), amended LR 31:

§527. Annual School Report

A. Each nonpublic school shall submit an annual school report to the appropriate division within the State Department of Education, according to the established time line.

B. By October 15, the principal shall forward a report through the nonpublic superintendent's or administrator's office, to the State Department of Education, on forms provided for that purpose. This report shall be authorized by the administrative head of the school. One copy shall be filed with the nonpublic school superintendent's or administrator's office and another copy shall be filed in the principal's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003), amended LR 31:

§529. Annual Financial and Statistical Report

A. Information required for the completion of the annual financial and statistical report shall be recorded on forms furnished by the State Department of Education.

B. A copy of this report shall be filed in the principal's office and a copy forwarded to the appropriate office in the State Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003), amended LR 31:

§531. Reports of High School Credits

A. Before a student may graduate from a nonpublic high school, a certificate of high school credits (transcript) shall be submitted to and approved by the State Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003), amended LR 31:

§533. Reporting Student Progress to Parents

A. Reports covering the students' achievement and progress shall be made to parents or guardians periodically. These reports shall contain an evaluation of the pupil's scholastic achievement and conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003), amended LR 31:

§535. Other Reports

A. Any other records and reports applicable to nonpublic schools that may be required by the State Board of Elementary and Secondary Education (SBESE) or the State Department of Education shall be submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003), amended LR 31:

Chapter 7. Scheduling

§701. General

A. The purpose of scheduling within available time frames and staff resources shall be to meet educational needs of students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003), amended LR 31:

§703. Secondary Scheduling

A. The minimum length of periods for any high school class in which a Carnegie unit is earned shall be no less than 55 minutes of instructional time in a six-period day and no less than 50 minutes of time in a seven-period day.

B. The minimum length of any high school class in which one-half Carnegie unit of credit is earned shall be no less than one-half of the total minutes required for one full Carnegie unit of credit.

C. Any high school class scheduled for a 90 minute per period block of instructional time must meet for a minimum of one full semester, or the equivalent, in order to earn a Carnegie unit.

D. The schedule of subjects offered in the program of studies may be arranged by school principals in order to reduce or increase the number of class periods per week provided that the yearly aggregate time requirements are met.

E. Significant accommodations and/or modifications may be made for special education students in accordance with the Individualized Education Program (IEP), provided that the integrity of the Carnegie unit is not diminished.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2346 (November 2003), amended LR 31:

§705. Length of the School Day

A. The minimum instructional day for a full-day kindergarten program shall be 330 minutes and for a one-half day kindergarten program, the minimum instructional day shall be 165 minutes.

B. For grades 1-12, the minimum school day shall include 330 minutes of instructional time exclusive of recess, lunch, and planning periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003), amended LR 31:

§707. Class Size and Ratio

A. The maximum enrollment allowed in any class or section shall not exceed 35 students except in certain activity classes such as physical education, music, art, etc.

B. The class size for pre-kindergarten developmental programs shall not exceed 20 children for one teacher. Schools that choose to use the assistance of a full-time aide may have a maximum of 30 children per class.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003), amended LR 31:

Chapter 9. Student Services

§901. Attendance

A. Students who have attained the age of seven years shall attend a public or private day school or participate in an approved home study program until they reach the age of 17 years; however, a student between the ages of 16 and 17 years of age may withdraw from school with the written consent of his parent, tutor, or legal guardian.

B.1. A student is considered to be in attendance when he or she:

a. is physically present at a school site or is participating in an authorized school activity; and

b. is under the supervision of authorized personnel.

2. This definition for attendance would extend to students who are homebound, assigned to and participating in drug rehabilitation programs that contain a state-approved education component, or participating in school-authorized field trips.

a. Half-Day Attendance. A student is considered to be in attendance for one-half day when he or she:

i. is physically present at a school site or is participating in an authorized school activity; and

ii. is under the supervision of authorized personnel for more than 25 percent but not more than half (26 percent-50 percent) of the student's instructional day.

b. Whole-Day Attendance. A student is considered to be in attendance for a whole day when he or she:

i. is physically present at a school site or is participating in an authorized school activity; and

ii. is under the supervision of authorized personnel for more than 50 percent (51 percent-100 percent) of the student's instructional day.

C. In order to be eligible to receive grades, high school students shall be in attendance a minimum of 80 days per course each semester or 160 days per course during a school year for schools not operating on a semester basis. Elementary students shall be in attendance a minimum of 160 days a school year.

1. Students attending high school classes operating in 90 minute blocks of instructional time shall be in attendance 80 days, or its equivalent, in order to be eligible to receive grades.

D. Each school shall develop and implement a system whereby a student's parent, tutor, or legal guardian is given notice when that student has been excessively absent from school and at intervals thereafter. This notification shall be provided each semester for those high schools operating on a semester basis.

E. Exception to the attendance policy can be made only in the event of extended personal illness, verified by a physician, or at the discretion of the principal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003), amended LR 31:

§903. Entrance Requirements

A. All students, upon entering Louisiana schools for the first time, shall present:

1. an official birth certificate;
2. a record of immunization; and
3. an official Social Security Card.

B. If no official Social Security Card is available, the student shall be assigned an identification number by the school. Other official records may be used for verification upon the discretion of appropriate school officials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003), amended LR 31:

§905. Age Requirements

A. The minimum age for kindergarten shall be one year younger than the age requirement for that child to enter first grade.

B. Each school system and/or independent school may adopt by rule and enforce ages for entrance into first grade in school. It is recommended that a child entering first grade be six years of age on or before September 30 of that school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:

Chapter 11. Health

§1101. Immunization

A. The school principal of each school shall be responsible for checking student records to ensure that immunization requirements are enforced. Refer to R.S. 17:170.

B. After parental notification that a student's immunization schedule is not up-to-date, the student shall be excluded from school until evidence has been presented that the required immunization program is in progress or unless Section E of R.S. 17:170 is invoked. Refer to R.S. 17:170

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:

Chapter 13. Preventive Programs

§1301. Substance Abuse

A. Each school is encouraged to include in the curriculum a program of substance abuse prevention.

B. Each school shall develop a method by which to mark drug free zones, including the use of signs or other markings suitable to the situation. Signs or other markings shall be located in a visible manner on or near each school and on and in each school bus indicating that such area is a drug free zone, that such zone extends to one thousand feet of school property, and that a felony violation of the Uniform Controlled Dangerous Substances Law will subject the offender to severe penalties under law. Refer to R.S. 17:405.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:

§1303. Abuse

A. Any school employee having reasonable cause to believe that a student has been mentally, physically, or sexually abused shall report these facts to the appropriate authorities.

B. Any person making a report in good faith regarding child abuse shall have immunity from civil liability that may be otherwise incurred. Refer to R.S. 14:403.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:

§1305. Weapons

A. Carrying a firearm or dangerous weapon, as defined in R.S. 14:2(3), by a student or non-student on school property, at a school function, or in a firearm-free zone is unlawful and shall be defined as possession of any firearm or dangerous weapon, on one's person, at any time while on a school campus, on school transportation, or at any school-sponsored function in a specific designated area including, but not limited to, athletic competitions, dances, parties, or any extracurricular activities, or within one thousand feet of any school campus. Refer to R.S. 14:95.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:

§1307. Search and Seizure

A. It is recommended that each school shall adopt a policy to provide for reasonable search and seizure by school teachers, by principals, and by other school administrators, of students' desks, lockers, or other school areas for illegal drugs, weapons, alcohol, stolen goods, or other material or objects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:

Chapter 15. Building Operation and Maintenance

§1501. Building and Maintenance

A. The school site and building shall include appropriate physical facilities and custodial services to meet the needs of the education program and to safeguard the health and safety of the pupils in each school.

B. Each school system/independent school must be in compliance with any state or local regulations regarding health and safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:

Chapter 17. Instructional Support

§1701. School Libraries/Media Centers

A. It is recommended that all school libraries and media centers provide students access to information through monitored electronic formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:

§1703. Elementary Libraries/Media Centers

A. It is recommended that elementary schools with a centralized library/media center have a trained librarian/media specialist for at least 20 hours per week. This person does not have to be a certified librarian, but should have at least a bachelor's degree from an accredited institution.

B. It is recommended that elementary schools have library books at the ratio of 10 volumes per pupil. Three subscriptions per 100 students are recommended for elementary schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:

§1705. Secondary Libraries/Media Centers

A. Secondary schools with more than 350 students are required to have a full-time librarian with at least 18 hours of library science or certification in library science. Secondary schools with fewer than 350 students are required to have a

part-time librarian with at least 12 hours of library science or certification in library science.

B. Secondary schools are recommended to have library books at the ratio of 10 volumes per pupil. Three subscriptions per 100 students are recommended for secondary schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2349 (November 2003), amended LR 31:

Chapter 19. Support Services

§1901. Transportation

A. If transportation is not provided by the public school board, parents of students attending nonpublic schools shall be reimbursed for transportation, provided funds are appropriated. Refer to R.S. 17: 158.C, D, H.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2349 (November 2003), amended LR 31:

§1903. School Food Service

A. Any recognized school of high school grade or under shall be eligible to participate in the school food service programs administered by the State Department of Education, provided that requirements set forth in the agreements with the local educational governing authority are met.

B. Reimbursement payments shall be made only to schools operating under an agreement between the school's governing body, called "school food authority" in the agreement and the State Department of Education (SDE). Agreements shall be signed by the designated representative of each school's governing body. Agreements shall be renewed by a signed statement annually unless an amendment is necessary. These agreements may be terminated by either party or may be canceled at any time by the State Department of Education upon evidence that terms of agreements have not been fully met.

C. Participating schools shall adhere to conditions of agreement as stipulated in Louisiana Food and Nutrition Programs, Policies of Operation, Bulletin 1196, and all other applicable State and Federal laws regulations, policies, and requirements established for the school food service program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2349 (November 2003), amended LR 31:

Chapter 21. Curriculum and Instruction

Subchapter A. General

§2101. Curriculum

A. The school shall plan and implement a continuous program of skills, concepts, and instruction in a learning environment designed to promote excellence in order that every individual may be afforded an equal opportunity to develop to his/her potential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2349 (November 2003), amended LR 31:

Subchapter B. Elementary Program of Studies

§2103. Minimum Time Requirements

A. Pre-Kindergarten/Kindergarten

1. The pre-kindergarten and/or kindergarten should be planned to meet the developmental needs of young children and should be informal in nature, with teacher-directed and student-initiated activities.

2.a. Suggested time requirements for pre-kindergarten are as follows.

Teacher-directed activities (whole or small group)	35 percent
Student-initiated activities (learning center)	35 percent
Snack and restroom time	10 percent
Lunch, rest period and/or quiet activities	20 percent

b. The above suggested time requirements shall be flexibly scheduled to meet the developmental needs of young students.

3.a. Suggested time requirements for kindergarten are as follows.

Teacher-directed activities (whole or small group)	40 percent
Student-initiated activities (learning center)	35 percent
Snack and restroom time	10 percent
Lunch, rest period and/or quiet activities	15 percent

b. The above minimum suggested time requirements shall be flexibly scheduled to meet the developmental needs of young students.

B. Elementary Schools

1. Nonpublic elementary schools shall devote no less than 50 percent of the school day to the skill subjects: reading, language arts, and mathematics. The remainder of the school day may be devoted to such subjects as social studies, arts, religion, science, physical education, or other electives.

2. The following elementary program of studies will be followed for nonpublic elementary schools.

Program of Studies for Nonpublic Elementary Schools Self-Contained Classrooms	
Subject	Percent of School Day
Reading	50% (minimum)
Language Arts	
Mathematics	
Social Studies	50% (maximum)
Fine Arts	
Science	
Physical Education/Health	
Religion and/or Electives	

3. An articulated elementary foreign language program is recommended for academically able students and optional for all others.

4. The above minimum time requirements shall apply to all students performing at or above grade levels in language arts and mathematics. Subject to review and approval of the principal, teachers may vary the daily schedule for the various subject time requirements as long as the weekly aggregate of time for each subjects is in accordance with the above.

5. For students performing below grade level in language arts or mathematics, teachers may increase the daily/weekly time in language arts or mathematics by reducing instructional time in other subjects.

Departmental Classes 6-Period Day Option		
	Periods per Week	Minimum
Language Arts	5	55
Mathematics and Introduction to Algebra	5	55
Social Studies (LA Studies & Am. History)	5	55
Science	5	55
Health and Physical Education, Religion and/or Electives	10	10
330 minutes per day		

Departmental Classes 7-Period Day Option		
	Periods per Week	Minimum
Language Arts	5	50
Mathematics and Introduction to Algebra	5	50
Social Studies (LA Studies & Am. History)	5	50
Science	5	50
Health and Physical Education, Religion and/or Electives	15	130
330 minutes per day		

6. Grades 7 and 8 (including grade 6 when grouped with grades 7 and 8) may offer electives from the following:

- a. Reading;
- b. Mathematics;
- c. Writing;
- d. Social Studies;
- e. Exploratory Agriscience;
- f. Exploratory Technology Education Science:
 - i. Construction;
 - ii. Manufacturing;
 - iii. Communication;
 - iv. Transportation;
 - v. Production;
- g. Exploratory Family and Consumer Sciences;
- h. Art;
- i. Foreign Languages;
- j. Instrumental or Vocal Music;
- k. Keyboarding/Typing;
- l. Speech;
- m. Computer Literacy/Computer Science.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2349 (November 2003), amended LR 31:

§2105. Adding Electives to the Program of Studies for Middle Schools

A. A school choosing to add an elective course to its program of studies shall apply to the director of the Division of Student Standards and Assessments, State Department of Education (SDE), at least 30 days prior to the anticipated date of implementation.

B. The application for an elective course shall be signed by the school principal and superintendent, if applicable, and shall contain the following information:

1. detailed outline of course content;
2. time requirements (minutes per day; days per year or semester);
3. detailed course objectives and how they shall be measured;
4. qualifications of the instructor;
5. when the course is to begin;
6. approximate number of students;
7. criteria for enrollment.

C. If the course is to be offered for the succeeding school year, an end-of-the-year evaluation shall be sent, along with the second and third year applications, to the Division of Student Standards and Assessments, for determining its continuation.

D. After an elective course has been in effect for three successive school years and the school wants the course to be a permanent part of its curriculum, the school principal and/or superintendent, if applicable, shall apply by letter to the Director of the Division of Student Standards and Assessments, Department of Education for permission to include it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2350 (November 2003), amended LR 31:

Subchapter C. Secondary Schools

§2107. Unit of Credit

A. The basic unit of high school credit shall be the Carnegie unit. One unit of credit shall be equivalent to one Carnegie unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2350 (November 2003), amended LR 31:

§2109. High School Graduation Requirements

A. A student shall complete a minimum of 23 Carnegie units of credit in an individual program which shall be cooperatively planned by the student, the student's parents, and the school to meet high school graduation requirements.

B. The 23 units required for graduation shall include 15 required units and 8 elective units.

C. Minimum Requirements (Effective for Incoming Freshmen 1999-2000 and Thereafter).

1. English ~~4~~ units, shall be English I, II, and III, in consecutive order; and English IV or Business English.

2. Mathematics ~~3~~ units

a. Effective for incoming freshmen 2005-2006 and beyond, all students must:

- i. complete one of the following:
 - (a.). Algebra I (1 unit); or
 - (b). Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units);

or

- (c). Integrated Mathematics I (1 unit);
- ii. the remaining unit(s) shall come from the following:

- (a). Integrated Mathematics II;
- (b). Integrated Mathematics III;
- (c). Geometry;
- (d). Algebra II;
- (e). Financial Mathematics;
- (f). Advanced Mathematics I;
- (g). Advanced Mathematics II;
- (h). Pre-Calculus;
- (i). Calculus;
- (j). Probability and Statistics;
- (k). Discrete Mathematics.

b. For incoming freshmen between 1998 and 2004-2005, the three required mathematics units shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra 1-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics 1 (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

3. Science **C3** units, shall be the following:

- a. 1 unit of Biology
- b. 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I
- c. 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, an additional course from the physical science cluster, or a locally initiated science elective.
- d. Students may not take both Integrated Science and Physical Science
- e. Agriscience I is a prerequisite for Agriscience II and is an elective course.

4. Social Studies **C3** units, shall be American History; one-half unit of Civics, one-half unit of Free Enterprise or one full unit of Civics or AP American Government; and one of the following: World History, World Geography, Western Civilization, or AP European History.

5. Health and Physical Education **C2** units, shall be Health and Physical Education I and Health and Physical Education II, or Adapted Physical Education for eligible special education students.

NOTE: The substitution of JROTC is permissible. A maximum of four units may be used toward graduation.

6. Electives (Including a maximum of four credits in religion) **C8** units.

7. Total **C23** units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:

§2111. Graduation Exit Examination

A. Any approved nonpublic school may award a school diploma to any student who meets the state minimum high school graduation requirements.

B.1. Any approved nonpublic school that participates in the state Graduation Exit Examination (GEE 21) shall award a state and/or school diploma to a student who successfully completes the state's minimum graduation requirements and successfully pass English/Language Arts and Mathematics and either Science or Social Studies components of the examination.

2. A student who attends a school that opts to administer the test but who does not successfully complete the state's minimum graduation requirements and required components of the examination shall not be eligible for either a state or a school diploma.

C.1. Any state-approved nonpublic school that wishes to award the state diploma to its students shall contact the state department for time lines and other administrative guidelines for administering the State Exit Testing Program.

2. Any nonpublic school that opts to give the graduation exit examination shall follow rules and regulations set by the State Board of Elementary and Secondary Education.

D. Any approved nonpublic school that does not choose to administer the state graduation exit examination to its students may grant a school diploma, which shall carry the same privileges as one issued by a state-approved public school.

E. The awarding of high school diplomas shall in no way effect the school approval classifications of any school (see Addendum for The State Test Security Policy).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 31:636 (March 2005), LR 31:

§2113. State Diplomas

A. A nonpublic high school choosing to issue a state diploma shall meet state requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2352 (November 2003), amended LR 31:

§2115. Special Requirements

A. Each school shall follow established procedures for special requirements for high school graduation that will allow each school to address individual differences of all students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2352 (November 2003), amended LR 31:

§2117. High School Credit for Elementary Students

A.1. An elementary student shall be eligible to receive high school credit in a course listed in the programs of study in mathematics, science, English, social studies, or foreign language; or keyboarding/keyboarding applications, or computer/technology literacy provided that:

- a. the time requirement for the awarding of a Carnegie unit is met;
- b. the student has mastered the set standards of the course taken; and
- c. the teacher is qualified at the secondary level in the course taught; or the student has passed the credit examination in the subject taken, mastering the set standards for the course.
 - i. The credit examination shall be submitted each year for approval to the Division of Student Standards and Assessments or the Division of Family, Career and Technical Education of the DOE.

- ii. School principals may request the state Algebra I credit examination by notifying the Division of Student Standards and Assessments.

2. The school may grant credit on either a letter grade or a pass or fail (P/F) basis. The course title, year taken, P/F (pass or fail) or the letter grade and unit of credit shall be entered on the Certificate of High school Credits (transcript). High School Credit (H.S.C.) must be indicated in the remarks column.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2352 (November 2003), amended LR 31:

§2119. Proficiency Examination for High School Students

A. High school credit shall be granted to a student following the student's passing of a proficiency examination for the eligible course. Refer to §513 for students transferring from an approved Home Study Program.

1. A proficiency examination shall be made available to a student when a school official believes that a student has mastered eligible subject matter and has reached the same or a higher degree of proficiency as that of a student who successfully completed an equivalent course at the regular high school or college level.

2. The testing instrument and the passing score shall be submitted for approval to the State Department of Education. The course title, year taken, P/F (pass or fail) and unit of credit earned shall be entered on the certificate of high school credits (transcript). Minimum proficiency standards (M.P.S.) must be indicated in the remarks column.

B. Students shall not be allowed to take proficiency examinations in courses previously completed in high school or at a level below that which they have completed.

1. Proficiency examinations may be given in the following subjects: Computer Literacy, Computer Science I-II, English I-IV, Advanced Mathematics I-II, Algebra I-II, Calculus, Geometry, and Keyboarding/Keyboarding Applications.

2. Additionally, credit may be given in all courses listed in the Programs of Study in foreign languages, science and social studies. Exceptions may be made by the Division

of Student Standards and Assessment, State Department of Education, upon request of the local superintendent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2352 (November 2003), amended LR 31:

§2121. Advanced Placement Program

A. High school credit shall be granted to a student successfully completing an advanced placement course or a course designated as advanced placement regardless of his test score on the examination provided by the College Board.

B. Procedures and curriculum established by the College Board must be followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003), amended LR 31:

§2123. Service Credit

A. Two units of elective credit toward high school graduation shall be awarded to any member of the United States Armed Forces, their reserve components, the National Guard, or to any honorably discharged veteran who has completed his/her basic training, upon presentation of a military record attesting to such completion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003), amended LR 31:

§2125. Adding Electives Course to the Program of Studies

A. A school choosing to add an elective course to its program of studies shall apply to the Director of the Division of Student Standards and Assessment, State Department of Education (SDE) through the local superintendent, (if applicable) at least 30 days prior to the anticipated date of implementation.

B. The application for an elective course shall be signed by the school principal and superintendent (if applicable) and shall contain the following:

1. detailed outline of course content;
2. units of credit to be granted;
3. detailed course objectives and how they shall be measured;
4. qualifications of the instructor;
5. when the course is to begin;
6. approximate number of students;
7. criteria for enrollment.

C. If the course is to be offered for the succeeding school year, an end-of-the-year evaluation shall be sent with the second and third year application to the Division of Student Standards and Assessments for determining its continuation.

D. After an elective course has been in effect for three successive school years and if the school/system wants the course to be a permanent part of its curriculum, the school principal through the local superintendent (if applicable) shall apply by letter to the Director of the Division of

Student Standards and Assessment for permission to include it.

E. Approved elective courses shall not be used as required courses for meeting graduation requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2360 (November 2003), amended LR 31:

§2127. Approval of Experimental Programs

A. Experimental programs are programs which deviate from established standards. Such programs shall be approved by the State Department of Education and carried out under controlled conditions.

B. Approval of experimental programs shall be granted on a yearly basis not to exceed three years, after which time permanent approval shall be considered using the following procedures.

1. A letter of intent containing the following information shall be submitted to the Division of Student Standards and Assessments, State Department of Education, at least 90 days prior to the anticipated date of implementation:

- a. proposed title of program;
- b. name and address of school;
- c. name and address of local school system;
- d. name and signature of principal/superintendent;
- e. name, title, address, and telephone number of the person submitting proposal;
- f. units of credit to be granted;
- g. source of funding.

2. A brief narrative report stating the intent of the program and how the program will be conducted and evaluated, and the following:

- a. a statement documenting support for the intended program;
- b. a statement outlining the exact guideline deviations necessary to implement the program;
- c. a statement outlining specific time lines for the planning implementing phases of the program, including intended procedures;
- d. a statement of the evaluation procedures to be used in determining the program's effectiveness (these procedures should spell out specific objectives to be accomplished);
- e. a statement indicating approximate number of students to be involved in the project;
- f. a statement of qualifications or certification of instructional personnel; and
- g. a statement stipulating that applicable local, state, and federal regulations will be followed.

C. An evaluation by the local governing authority shall be submitted annually at the close of the school year to the Division of Student Standards and Assessments until permanent status is granted.

D. Southern Association of Colleges and Schools member schools should comply with appropriate Southern Association Standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2360 (November 2003), amended LR 31:

§2129. Correspondence Study Courses

A. Credit toward high school graduation should be earned through correspondence work from the General Extension Division of Louisiana State University.

B. An application to the General Extension Division for correspondence study courses shall be approved by the local superintendent, (if applicable) and the high school principal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2361 (November 2003), amended LR 31:

§2131. High School Credit for College Credit Courses (Applies to Student Attending College Part Time)

A. The principal of the school shall approve the advanced offering to be taken by the student in college.

B. The student shall meet the entrance requirements established by the college.

C. The student shall earn at least two or three college hours of credit per semester. A course consisting of at least two college hours shall be counted as no more than one unit of credit toward high school graduation.

D. The high school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six or nine-week intervals.

E. College courses shall be counted as high school subjects for students to meet eligibility requirements to participate in extracurricular activities governed by voluntary state organizations.

F. Students may participate in college courses and special programs during regular or summer sessions. High school credit for summer courses is subject to §2929.A-E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2361 (November 2003), amended LR 31:

§2133. High School Credit for College Courses for Evaluated Gifted Students

A. Secondary students shall be in attendance in at least one high school class while enrolled in college classes.

B. An elementary or secondary student shall have at least a 3.0 cumulative average on a 4.0 scale for all subjects taken during the previous two years.

C. Entry into a college course of credit shall be stated in the student's Individualized Education Program (IEP).

D. The student shall earn at least two or three college hours of credit per semester. A course, consisting of at least two hours, shall be counted as no more than one unit of credit toward high school graduation.

E. The school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six- or nine-week intervals.

F. College courses shall be counted as high school subjects for students to meet eligibility requirements to participate in extracurricular activities governed by voluntary state organizations.

G. After 12 Carnegie units have been earned, students shall follow §2929.A-E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2361 (November 2003), amended LR 31:

§2135. Early College Admissions Policy (Applies Only to High School Students Attending College Full Time)

A. High school students of high ability may be admitted to a college on a full-time basis.

B. A student shall have maintained a "B" or better average on all work pursued during the preceding three years (six semesters) of high school.

C. The student shall have earned a minimum composite score of 25 on the ACT or a SAT score of 1050; this score must be submitted to the college.

D. A student shall be recommended by his high school principal.

E. Upon earning a minimum of 24 semester hours at the college level, the student shall be eligible to receive a high school diploma.

F. The high school principal shall submit to the State Department of Education the following:

1. forms provided by the State Department of Education and completed by the college registrar, certifying that the student has earned 24 semester hours of college credit; and
2. a certificate of high school credits in duplicate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2361 (November 2003), amended LR 31:

Chapter 23. High School Program of Studies

§2301. General

A. The high school shall provide a comprehensive college preparatory and/or vocational curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003), amended LR 31:

§2303. General and Academic Course Offerings

A. One-half unit of credit may be awarded by the local school authority for all one-unit courses listed in the academic and vocational course offerings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003), amended LR 31:

§2305. Art

A. Art course offerings shall be as follows.

Course Title	Unit(s)
Art I, II, III, IV	1 each

B. Fine Arts Survey (Art). Fine arts survey shall be taught by a qualified art teacher and the other semester by a qualified music teacher. If one or both of these teachers is not available, the principal is authorized to select the most qualified teacher, preferably one with a strong liberal arts or humanities background.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003), amended LR 31:

§2307. Computer Education

A. Computer education/technology course offerings shall be as follows.

Course Title	Unit(s)
Computer Applications	1
Computer Architecture Occupations	1
Computer Science I	1
Computer Science II	1
Computer Systems and Networking	1
Computer Systems and Networking I	1
Computer/Technology Literacy	1/2
Desktop Publishing	1/2
Digital Graphics and Animation	1/2
Multimedia Productions	1
Web Mastering	1/2
Independent Study in Technology Application	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003), amended LR 31:

§2309. Dance

A. Dance course offerings shall be as follows.

Course Title	Unit(s)
Dance I	1
Advanced Dance	1

B. Advanced Dance is a performance class with new literature each year; it may be repeated more than once.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:

§2311. Driver Education

A. Driver Education course offerings shall be as follows.

Course Title	Unit(s)
Driver Education and Traffic Safety	1/2

§2313. English

A. Four units of English shall be required for graduation. They shall be English I, II, and III in consecutive order; and English IV or Business English. The English course offerings shall be as follows.

Course Title	Unit(s)
English I, II, III, IV	1 each
Business English	1
Reading I, II	1 each
English as Second Language (ESL) I, II, III	1 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003), amended LR 31:

§2315. English as a Second Language (ESL)

A. Only students who have limited English proficiency are permitted to enroll in English as a Second Language (ESL) courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003), amended LR 31:

§2317. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title	Unit(s)
Chinese I, II, III, IV	1 each
French I, II, III, IV, V	1 each
German I, II, III, IV, V	1 each
Greek I, II, III, IV	1 each
Hebrew I, II, III, IV	1 each
Italian I, II, III, IV, V	1 each
Latin I, II, III, IV, V	1 each
Russian I, II, III, IV, V	1 each
Spanish I, II, III, IV, V	1 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 31:

§2319. Health and Physical Education

A. Two units of Health and Physical Education shall be required for graduation. They shall be Health and Physical Education I and Health and Physical Education II, or Adapted Physical Education for eligible special education students. The Health and Physical Education course offerings shall be as follows.

Course Title	Unit(s)
Adapted Physical	1 each
Health and Physical Education I-IV	1 each

1. It is recommended that Physical Education I and II be taught in the ninth and tenth grades.

2. A minimum of 30 hours of Health Instruction shall be taught in each of the two required Health and Physical Education units.

3. Cardiopulmonary Resuscitation (CPR) is required.

B. No more than four units of Health and Physical Education shall be allowed for meeting high school graduation requirements.

C. In schools having approved Junior Reserve Officer Training Corps (R.O.T.C.) training, credits may, at the option of the local school board, be substituted for the required credits in Health and Physical Education, including required hours in health instruction.

D. Extra- or co-curricular experiences such as intramural, athletics, band, majorettes, drill team, dance team, cheerleaders, or any other kind of extra activities cannot be counted for credit toward the required Health and Physical Education units.

E. Students shall be exempted from the requirements in Health and Physical Education for medical reasons only; however, the minimum number of credits required for graduation shall remain 23.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 31:

§2321. Journalism

A. Journalism course offerings shall be as follows.

Course Title	Unit(s)
Journalism I, II	1 each
Publications I, II (Yearbook)	1 each
Publications I, II (Newspaper)	1 each

1. Teachers must be qualified in journalism to teach journalism.

2. Teachers qualified in the areas of journalism, English, and/or business education are qualified to teach Publications I and II (Yearbook).

3. Teachers qualified in the areas of journalism, and/or English are qualified to teach Publications I and II (Newspaper).

4. Publications I is a prerequisite to Publications II.

5. A maximum of two Carnegie units within the 23 required for graduation may be earned from the six courses listed under journalism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 31:

§2323. Mathematics

A. Three units of mathematics are required for graduation. Effective for incoming freshmen 2005-2006 and beyond, all students must:

1. complete one of the following:

- a. Algebra I (1 unit); or
- b. Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units); or
- c. Integrated Mathematics I (1 unit).

2. The remaining unit(s) shall come from the following:

- a. Integrated Mathematics II;
- b. Integrated Mathematics III;
- c. Geometry;
- d. Algebra II;
- e. Financial Mathematics;
- f. Advanced Mathematics I;

- g. Advanced Mathematics II;
- h. Pre-Calculus;
- i. Calculus;
- j. Probability and Statistics;
- k. Discrete Mathematics.

B. For incoming freshmen between 1998 and 2004-2005, the three required mathematics units shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra 1-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics 1 (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

Course Title	Unit(s)
Advanced Mathematics I	1
Advanced Mathematics II	1
Algebra I	1
Algebra I-Part I	1
Algebra I-Part II	1
Algebra II	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics	1
Geometry	1
Integrated Mathematics I	1
Integrated Mathematics II	1
Integrated Mathematics III	1
Pre-Calculus	1
Probability and Statistics	1

C. Financial Mathematics may be taught by the Business Education Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 30:2776 (December 2004), LR 31:

§2325. Music

A. Music course offerings shall be as follows.

Course Title	Unit(s)
Beginning Band	1
Beginning Choir	1
Beginning Orchestra	1
Composition	1
Conducting	1
General Music	1
Guitar Class	1
Intermediate Band	1
Intermediate Choir	1
Intermediate Orchestra	1
Instrument Technique Class	1
Jazz Ensemble	1
Jazz Improvisation	1
Music Appreciation	1
Music History	1
Music Theory I, II	1 each
Piano class	1
Sectional Rehearsal	1
Studio Piano, I, II, III	1 each
Advanced Band	1

Advanced Choir	1
Advanced Orchestra	1
Applied Music	1
Small Vocal Ensemble	1
Wind Ensemble	1

B. Advanced Choir, Advanced Band, Advanced Orchestra, Small Vocal Ensemble, Wind Ensemble, Applied Music, Jazz Ensemble, and Studio Piano III are performance classes with new literature each year; they may be repeated more than once.

C. Refer to §2741 for credit for private piano and studio strings instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2355 (November 2003), amended LR 31:

§2327. Reserve Officer Training

A. Reserve Officer Training course offerings shall be as follows.

Course Title	Unit(s)
JROTC I, II, III, IV	1 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2355 (November 2003), amended LR 31:

§2329. Science

A. Effective for incoming freshmen 2002-2003 and thereafter, the science graduation requirements shall be as follows:

1. 1 unit of Biology
2. 1 unit from the following physical science cluster:
 - a. Physical Science
 - b. Integrated Science
 - c. Chemistry I
 - d. Physics I
 - e. Physics of Technology I
3. 1 unit from the following courses:
 - a. Aerospace Science
 - b. Biology II
 - c. Chemistry II
 - d. Earth Science
 - e. Environmental Science
 - f. Physics II
 - g. Physics of Technology II
 - h. Agriscience II (See paragraph (C) below.)
 - i. an additional course from the physical science cluster, or
 - j. a locally initiated science elective.

B. Students may not take both Integrated Science and Physical Science.

C. Agriscience I is a prerequisite for Agriscience II and is an elective course.

D. The Science course offerings shall be as follows:

Course Title	Unit(s)
Aerospace Science	1
Agriscience II	1

Course Title	Unit(s)
Biology I, II	1 each
Chemistry I, II	1 each
Earth Science	1
Environmental Science	1
Integrated Science	1
Physical Science	1
Physics I, II	1 each
Physics for Technology I, II	1 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2355 (November 2003), amended LR 31:

§2331. Social Studies

A. Three units of Social Studies shall be required for graduation. They shall be (a) American History; (b) Civics, AP American Government, or 1/2 unit of Civics and 1/2 unit of Free Enterprise; and (c) one of the following: World History, World Geography, Western Civilization, or AP European History. Social Studies course offerings shall be as follows.

Course Title	Unit(s)
American Government	1
American History	1
Civics	1 (or 1/2)
Economics	1
Free Enterprise System	1/2
Law Studies	1
Psychology	1
Sociology	1
Western Civilization	1
World Geography	1
World History	1
AP European History	1

B. Economics may be taught by a teacher qualified in Business Education.

C. Free Enterprise shall be taught by teachers qualified in Social Studies, Business Education, or Distributive Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003), amended LR 31:

§2333. Speech

A. Speech course offerings shall be as follows.

Course Title	Unit(s)
Speech I (Fundamentals)	1
Speech II	1
Speech III	1
Speech IV	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:

§2335. Course Credit for Religion

A. A maximum of four units in religion shall be granted to students transferring from state-approved private and sectarian high schools who have completed such course work. Those credits shall be accepted in meeting the requirements for high school graduation.

Course Title	Units
Religion I	1
Religion II	1
Religion III	1
Religion IV	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003), amended LR 31:

§2337. Theatre Arts

The theatre arts course offerings shall be as follows.

Course Title	Unit(s)
Theatre I	1
Advanced Theatre	1

B. Advanced Theatre is a performance class with new literature each year; it may be repeated more than once.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003), amended LR 31:

§2339. Course Credit for Private Piano and Studio Strings Lessons

A. Approval by the State Department of Education shall be granted before private piano and studio strings instruction can be given for credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003).

Chapter 25. Career/Technical Education Course Offerings

§2501. Agricultural Education

A. The Agricultural Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Exploratory Agriscience	7-8	1
Agribusiness	11-12	1
Agricultural Education Elective, I, II	9-12	1
Agriscience I	9-12	1
Agriscience II	10-12	1
Agriscience III	11-12	1/2
Agriscience IV	12	1/2
Agriscience III Laboratory	11-12	
Agriscience IV Laboratory	12	1/2
Agriscience-Construction	11-12	1/2
Agriscience Elective	9-12	1/2
Agriscience-Entrepreneurship	11-12	1/2

Course Title	Recommended Grade Level	Unit(s)
Agriscience Internship I	11-12	1/2
Agriscience Internship II	11-12	1/2
Agriscience-Leadership Development	11-12	1/2
Agriscience-Welding Systems I	11-12	1/2
Agriscience-Welding Systems II	11-12	1/2
Animal Systems	11-12	1/2
Aquaculture	11-12	1/2
Biotechnology	11-12	1
Care and Management of Small Animals I	11-12	1/2
Care and Management of Small Animals II	11-12	1/2
Cooperative Agriscience Education I	11-12	3
Cooperative Agriscience Education II	12	3
Crop Systems	11-12	1/2
Environmental Applications	11-12	1/2
Equine Science	11-12	1/2
Food and Fiber	11-12	1/2
Forestry	11-12	1/2
Horticulture I	11-12	1/2
Horticulture II	11-12	1/2
Precision Agriculture	11-12	1
Small Engines (Applications)	11-12	1/2
Industry-Based Certifications		
ABC Welding in Agriscience	11-12	1-3
ABC Carpentry in Agriscience	11-12	1-3
ABC Electricity in Agriscience	11-12	1-3
ABC Pipefitting in Agriscience	11-12	1-3

B. Agriscience III and IV Laboratory, Agriscience Internship I and II, and Cooperative Agriscience Education I and II are offered only to students who are also enrolled in Agriscience III or Agriscience IV for two consecutive semester courses during the year.

C. Semester courses are designed to be offered in the place of, or in addition to, Agriscience III and/or IV

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003), amended LR 31:

§2503. Business Education

A. Business Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Exploratory Keyboarding (Middle School)	6-8	-
Accounting I	10-12	1
Accounting II	11-12	1
Administrative Support Occupations	11-12	1
Business Communications	10-12	1
Business Computer Applications	10-12	1
Business Education Elective I, II	9-12	1/2-3
Business English	11-12	1
Business Internship I	11-12	2
Business Internship II	12	2
Business Law	11-12	1/2
Computer Technology Literacy	9-12	1
Computer Multimedia Presentations	11-12	1/2
Cooperative Education (COE)	12	3
Desktop Publishing	11-12	1
Economics	11-12	1
Entrepreneurship	11-12	1
Financial Mathematics	10-12	1
Introduction to Business Computer Applications	9-12	1

Course Title	Recommended Grade Level	Unit(s)
Keyboarding	9-12	1/2
Keyboarding Applications	9-12	1/2
Lodging Management I	10-12	1-3
Lodging Management II	11-12	1-3
Principles of Business	9-12	1
Telecommunications	10-12	1/2
Web Design	10-12	1/2
Word processing	11-12	1 or 1/2

B. Cooperative Office Education shall be limited to seniors. The students shall have successfully completed Keyboarding/Keyboarding Applications or Introduction to Business Computer Applications and one of the following: ASO or Word Processing or BCA, and have maintained an overall "C" average. The students' attendance records should also be considered. Other prerequisites may be required by the individual school system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2357 (November 2003), amended LR 31:

§2505. General Cooperative Education

A. General Cooperative Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
CTE Internship I	11-12	2
CTE Internship II	12	2
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3
Education for Careers	9-12	1/2-1
STAR I	11-12	1
STAR II	12	1
Advanced Television Broadcasting I	10-12	1-3
Advanced Television Broadcasting II	11-12	1-3
Digital Media I	10-12	1-3
Digital Media II	11-12	1-3
Oracle Internet Academy		
Data Modeling & Relational Database Design	11-12	1/2
Introduction to SQL	11-12	1/2
Introduction to Java	11-12	1/2
Java Programming	11-12	1/2
Finance Academy		
Economics and the World of Finance	11-12	1/2
Banking and Credit	11-12	1/2
Financial Planning	11-12	1/2
Securities	11-12	1/2
Insurance	11-12	1/2
International Finance	11-12	1/2
Introduction to Financial Services	11-12	1/2- 1
Hospitality and Tourism Academy		
Introduction to Travel and Tourism	11-12	1/2
Travel and Tourism II	11-12	1/2
Travel Destinations I, II	11-12	1/2
Systems Applications	11-12	1/2
Economics for Travel and Tourism	11-12	1/2
Information Technology Academy		
Introduction to Information Technology	11-12	1/2
Digital Networks	11-12	1/2
Advanced Web Tools	11-12	1/2
Databases	11-12	1/2

B. General Cooperative education courses shall be limited to students who meet the specific prerequisites and requirements of one of the specialized cooperative education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2357 (November 2003), amended LR 31:

§2507. Health Occupations

A. Health Occupations course offerings shall be as follows.

Course Title	Grade Level	Unit(s)
AHEC of a Summer Career Exploration	9-12	1/2
Allied Health Services I	10-12	1-2
Allied Health Services II	10-12	1-2
Cooperative Health Occupations	11-12	3
Dental Assistant I	10-12	1-2
Dental Assistant II	11-12	2-3
Emergency Medical Technician—Basic	10-12	2
First Responder	9-12	1/2-2
Health Occupations Elective I, II	9-12	1/2-3
Health Occupations Internship I	11-12	2
Health Occupations Internship II	12	2
Health Science I	11-12	1-2
Health Science II	12	1-2
Introduction to Emergency Medical Technology	10-12	2
Introduction to Health Occupations I	9-12	1
Introduction to Pharmacy Assistant	10-12	1-2
Medical Assistant I	10-12	1-2
Medical Assistant II	11-12	1-2
Medical Assistant III	12	1-2
Medical Terminology	9-12	1
Nursing Assistant I	10-12	1-3
Nursing Assistant II	11-12	1-3
Pharmacy Technician	12	1-2
Sports Medicine I	10-12	1-2
Sports Medicine II	11-12	1-2

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2357 (November 2003), amended LR 31:

§2509. Family and Consumer Sciences Education

A. Family and Consumer Sciences Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Exploratory FACS	7-8	-
Family and Consumer Sciences I	9-12	1
Family and Consumer Sciences II	10-12	1
Food Science	10-12	1
Adult Responsibilities	11-12	1/2
Child Development	10-12	1/2
Personal and Family Finance	10-12	1/2
Family Life Education	10-12	1/2
Clothing and Textiles	10-12	1/2
Housing and Interior Design	10-12	1/2
Family Life Education	10-12	1/2
Clothing and Textiles	10-12	1/2
Housing and Interior Design	10-12	1/2
Nutrition and Food	10-12	1/2
Parenthood Education	110-12	1/2

Course Title	Recommended Grade Level	Unit(s)
Advanced Child Development*	10-12	1/2
Advanced Clothing and Textiles*	10-12	1/2
Advanced Nutrition and Food*	10-12	1/2
FACS Elective I, II	9-12	1/2-3
*The related beginning semester course is prerequisite to the advanced semester course		
Occupational Courses		
Clothing & Textile Occupations I	11-12	1-3
Clothing & Textile Occupations II	12	1-3
Early Childhood Education I	11-12	1-3
Early Childhood Education II	12	1-3
FACS Internship I	11-12	2
FACS Internship II	12	2
Food Services I	11-12	1-3
Food Services II	11-12	1-3
Food Service Technician	11-12	1
Housing & Interior Design Occupations	11-12	1-3
ProStart I	11-12	1-3
ProStart II	12	1-3
Cooperative FACS Education	12	3

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2358 (November 2003), amended LR 31:

§2511. Technology Education

A. Technology education course (formerly industrial arts) offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Communication/Middle School	6-8	-
Construction/Middle School	6-8	-
Manufacturing Technology/Middle School	6-8	-
Modular Technology/Middle School	6-8	-
Transportation Technology/Middle School	6-8	-
Advanced Electricity/Electronics	10-12	1
Advanced Metal Technology	10-12	1
Advanced Technical Drafting	10-12	1
Advanced Wood Technology	10-12	1
Architectural Drafting	10-12	1
Basic Electricity/Electronics	9-12	1
Basic Metal Technology	9-12	1
Basic Technical Drafting	9-12	1
Basic Wood Technology	9-12	1
Communication Technology I	9-12	1
Construction Technology	10-12	1
Cooperative Technology Education	10-12	3
Power and Energy and Transportation Technology	9-12	1
General Technology Education	9-12	1
Manufacturing Technology	9-12	1
Materials and Processes	10-12	1
Physics of Technology I	10-12	1
Physics of Technology II	11-12	1
Power Mechanics	9-12	1
Technology Education Computer Applications	9-12	1
Technology Education Elective I, II	9-12	1/2-3
Technology Education Internship I	11-12	2
Technology Education Internship II	12	2
Welding Technology	10-12	1
Industry-Based Certifications		
Process Technician I, II	11-12	1
ABC Carpentry I, II TE	11-12	1-3

Course Title	Recommended Grade Level	Unit(s)
ABC Electrical I, II TE	11-12	1-3
ABC Instrumentation Control Mechanic I, II	11-12	1-3
ABC Pipe Fitter I, II TE	11-12	1-3
ABC Welding Technology I, II TE	11-12	1-3

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2358 (November 2003), amended LR 31:

§2513. Marketing Education

A. Marketing Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Advertising and Sales Promotion	11-12	1/2, 1 or 3
Cooperative Marketing Education I	11-12	3
Cooperative Marketing Education II	12	3
Entrepreneurship	11-12	1/2, 1 or 3
Marketing Education Elective I, II	9-12	1/2-3
Marketing Internship I	11-12	2
Marketing Internship II	12	2
Marketing Management	11-12	1/2, 1 or 3
Marketing Research	11-12	1/2, 1 or 3
Principles of Marketing I	9-12	1
Principles of Marketing II	12	1
Retail Marketing	11-12	1
Tourism Marketing	11-12	1/2, 1 or 3

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2359 (November 2003), amended LR 31:

§2515. Trade and Industrial Education

A. Trade and Industrial Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Air Conditioning/ Refrigeration I, II	11-12	1-3
Air Conditioning/ Refrigeration III, IV	11-12	2-3
Auto Body Repair I, II	11-12	1-3
Auto Body Repair III, IV	11-12	2-3
Automotive Technician I, II	11-12	1-3
Automotive Technician III, IV, V, VI	11-12	1-3
General Automotive Maintenance	11-12	1-3
G. M. Technician I, II	11-12	1-3
ABC Carpentry I, II	11-12	1-3
ABC Electrical I, II	11-12	1-3
ABC Instrumentation Control Mechanic I, II	11-12	1-3
ABC Pipe Fitter I, II	11-12	1-3
ABC Welding Technology I, II	11-12	1-3
Masonry I-II	11-12	1-3
Cabinetmaking I-II	11-12	1-3
Carpentry I-II	11-12	1-3
Carpentry III, IV	11-12	2-3
Culinary Occupations I-II	11-12	1-3
Culinary Occupations III, IV	11-12	2-3
Custom Sewing I-II	11-12	1-3
Computer Electronics I-II	11-12	1-3

Course Title	Recommended Grade Level	Unit(s)
Commercial Art I-II	11-12	1-3
Trade and Industrial Cooperative Education (TICE) I	11-12	1-3
T & I Cooperative Education (TICE) II	12	1-3
T & I Elective	11-12	1-3
Cosmetology I-II	11-12	1-3
Cosmetology III, IV	11-12	2-3
Diesel Mechanics I-II	11-12	1-3
Diesel Mechanics III, IV	11-12	2-3
Drafting and Design Technology I-II	11-12	1-3
Drafting and Design Technology III, IV	11-12	2-3
Basic Electricity I-II	11-12	1-3
Electronics I-II	11-12	1-3
Industrial Electronics I-II	11-12	1-3
Electrician I-II	11-12	1-3
Electrician III, IV	11-12	2-3
Graphic Arts I-II	11-12	1-3
Graphic Arts III, IV	11-12	2-3
Horticulture I-II	11-12	1-3
Industrial Engines I-II	11-12	1-3
Laboratory Technology I-II	11-12	1-3
Industrial Machine Shop I-II	11-12	1-3
Industrial Machine Shop III, IV	11-12	2-3
Marine Operations I-II	11-12	1-3
Photography I, II	11-12	1-3
Plumbing I, II	11-12	1-3
Printing I, II	11-12	1-3
Sheet Metal I, II	11-12	1-3
Outdoor Power Equipment Technician I, II	11-12	1-3
Outdoor Power Equipment Technician III, IV	11-12	2-3
Television Production I, II	11-12	1-3
Upholstery I, II	11-12	1-3
Welding I, II	11-12	1-3
Welding III, IV	11-12	2-3

B. Trade and Industrial Education Programs may be offered in two consecutive class periods, five days per week, for 36 weeks each year for two units of credit, or may be offered with three consecutive class periods for three units of credit in the selected Trade and Industrial Education Program.

C. Each school or school system that operates a career/technical center or comprehensive high school may award 1 1/2 units of credit to students enrolled in a two-hour block for 36 weeks, or 2 1/2 units of credit to students enrolled in a three-hour block for 36 weeks in approved Trade and Industrial Education Programs.

D. A school may offer a one-hour trade and industrial education program for one unit of credit at the ninth or tenth grade level as a prerequisite to enrollment in a related trade and industrial education program at the tenth, eleventh, or twelfth grade level. The course shall be in the programmatic area in which the trade and industrial education instructor is certified to teach.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2359 (November 2003), amended LR 31:

§2517. Credit for Career and Technical Education Courses

A. Credits for partial completion of two- or three-hour blocks of career and technical education courses shall be granted for unusual or extenuating circumstances only.

B. Request for partial credit because of unusual or extenuating circumstances shall be made as follows.

1. Written requests from the local school principal and approved by the local superintendent (if applicable) shall be made to the Division of Family, Career and Technical Education, Louisiana Department of Education.

2. A copy of the written responses shall accompany the student's transcript when it is sent to the Division of School Standards, Accountability and Assessment prior to his/her graduation if the request for partial credit has been granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2360 (November 2003), amended LR 31:

§2519. Secondary Students Attending a Private Cosmetology School

A. Secondary students attending an approved cosmetology school, licensed by the Louisiana State Board of Cosmetology, may receive trade and industrial education credit if time requirements for Carnegie units are met and if an equivalent course is not offered at the student's local school.

B. A copy of the written agreement between the school and the private cosmetology school shall be on file in the school office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2360 (November 2003), amended LR 31:

§2521. High School Credit for College Courses in Career/Technical Education (Applies to Students Attending College Part Time)

A. The student shall meet the entrance requirements established by the college.

1. The principal of the school shall approve the advanced offering to be taken by the student in college.

2. The high school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six or nine-week intervals.

3. The awarding of the Carnegie units of credit will be in accordance with individual program requirements as stated in Bulletin 741.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2361 (November 2003), amended LR 31:

§2521. Distance Learning

A. A school choosing to implement a distance education program shall establish policy and procedures for reviewing and approving programs that meet the following Standards for Distance Education as established by BESE.

1. Distance education shall comply with all BESE policies related to nonpublic schools.

2. Development of Distance Education Program.

a. The school shall ensure that each distance education course is provided by an institution accredited by a nationally recognized accrediting body or is authorized by the DOE.

b. The school shall ensure that the content, instruction and assessment of each distance education course are comparable in rigor and breadth to a traditionally delivered course.

c. The providing school or agency shall define minimum prerequisite technology competencies for student participation in distance education courses if such competencies are required for course access.

d. The providing school or agency and the school receiving distance education courses shall provide necessary and relevant resources, including, but not limited to research information, periodicals, supplemental materials and/or extension resources.

e. The providing school or agency shall ensure that teachers delivering instruction in distance education courses use a variety of methods to assess student mastery of the content.

f. The providing school or agency shall ensure that teachers delivering instruction in distance education courses provide timely and informative feedback for support and remediation.

g. The receiving school shall ensure that instruction is provided by qualified teachers with appropriate credentials.

h. The providing school or agency shall provide a complete syllabus prior to course implementation.

i. The providing school or agency shall provide course content that is systematically designed, clearly written and revised based on student performance and feedback.

j. The providing school or agency shall provide courses which are designed to engage students in learning activities based on various learning styles and to accommodate individual differences, including student disabilities.

k. The receiving school shall evaluate the effectiveness of each distance education course received.

l. The providing school or agency shall ensure that all course content complies with copyright fair use laws and policies.

m. The providing school or agency shall ensure that instruction provides opportunities for student-to-teacher and student-to-student interaction.

3. Management and Administration

a. The providing and receiving school or agency shall judiciously address issues relative to course load and student-teacher ratio as appropriate for the particular method of delivery and particular course content and as recommended in the *Louisiana Distance Education Handbook*.

b. The receiving district shall ensure that a facilitator who is a qualified teacher is assigned fulltime to each class participating in distance education courses.

c. The providing and receiving school or agency shall ensure that the teacher providing instruction and the

facilitator adhere to guidelines stated in the *Louisiana Distance Education Handbook*.

d. The receiving school shall award credit for distance education courses.

e. The providing and receiving school or agency shall ensure that the teacher providing instruction and the facilitator are provided adequate technical support to ensure ease of use for faculty and students.

f. The teacher delivering instruction and the facilitator shall be responsible for verifying student participation and performance.

g. The providing school or agency shall provide training and/or support in designing course content to fit the delivery methods proposed for distance education courses.

h. The receiving school shall provide adequate and appropriate technical support to students and facilitator.

i. The teacher delivering instruction shall provide alternate course procedures and activities for use in case of technical problems when the technical problems prevent normal course delivery.

j. The teacher delivering instruction shall maintain a secure environment which includes, but is not limited to monitoring online discussions and other instructional activities.

k. The teacher delivering instruction and the facilitator shall practice ethical and legal use of equipment.

l. The receiving school shall provide the facilitator ongoing staff development to support distance education courses technically and instructionally.

m. The facilitator shall implement alternate course procedures and activities when technical problems prevent normal course delivery.

n. The facilitator shall maintain secure environments, including, but not limited to, monitoring online discussions and other instructional activities as they occur in the classroom as directed by the teacher delivering instruction.

o. The receiving school shall ensure that students have appropriate and adequate access to equipment required for course participation.

4. Specifications

a. The receiving school shall provide students enrolled in distance education courses technical access which meets specifications in the *Louisiana Distance Education Handbook*.

b. The receiving school shall provide instructional and communication hardware which meets current industry standards.

c. The receiving school shall provide adequate funding for hardware maintenance.

d. The receiving school shall provide immediate and sustained technical support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:183.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:

Chapter 27. Summer Schools

Subchapter A. Elementary Summer Schools

§2701. General

A. An approved elementary summer school shall be organized and operated under the administrative and

supervisory control of the chief administrative officer of the school system only for purposes of removing student deficiencies.

B. The principal of the school shall apply to the State Department of Education for approval of each summer school program offered to remove student deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003), amended LR 31:

§2703. Administration

A. A summer school with seven or more teachers shall have a principal with at least a master's degree.

B. The principal of the school shall apply to the State Department of Education for approval of each summer school program.

C. An application for approval of the offerings of each summer school shall be filed no later than the end of the first week after the summer session begins.

D. The application forms, provided by the State Department of Education, shall be submitted to the appropriate office.

E. The application shall carry the approval of the chief administrative officer of the school system and the principal of the summer school, if applicable.

F. In order for summer schools to be approved, an on-site visit shall be made by personnel from the SDE to verify information submitted on the report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003), amended LR 31:

§2705. Faculty

A. The eligibility of the faculty shall be equal to that required during the regular session.

B. The teaching load shall not exceed 20 students per class.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003), amended LR 31:

§2707. Instruction

A. A teacher will be allowed to teach only one subject for removal of deficiencies during a single period.

B. A student attending summer school for promotional purposes shall not enroll for more than two subjects.

C. The library or library books as well as all regular teaching aids and equipment shall be available for summer school use.

D. Textbooks, supplementary materials, and supplies adequate for effective instruction shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003), amended LR 31:

§2709. Attendance

A. The minimum attendance for all elementary students to receive credit or pass a subject shall be 60 hours for one subject.

1. The school may impose a more strict minimum attendance policy.

B. Students attending summer school for promotional purposes must have written consent by the principal of the last school they attended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003), amended LR 31:

§2711. Time Requirements

A. Elementary summer schools shall offer a minimum of 70 hours of instruction per subject for removal of deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003), amended LR 31:

§2713. Classification Categories

A. Summer schools shall be given one of the following classification categories:

1. approved **C**meets all summer school standards;
2. unapproved **C**deviates from one or more of the summer school standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003), amended LR 31:

§2715. Sanctions

A. Any unapproved summer school cannot operate a summer school the following year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003), amended LR 31:

Subchapter B. Secondary Summer Schools

§2717. General

A. Schools which offer summer school may do so to enable students to schedule courses which tend to enrich their experiences, to take new subjects, and to enable students who have failed in subjects to remove deficiencies. Local school systems which offer summer school shall adhere to the following standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003), amended LR 31:

§2719. Administration

A. A summer school must be organized and operated under the administrative and supervisory control of the chief administrative office of the school system.

B. A summer school with seven or more teachers shall have a principal with at least a master's degree.

C. The summer school administrator shall have written permission from the principal of the student's home school for the student to attend summer school if credit is to be awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003), amended LR 31:

§2721. Application

A. All summer schools must apply to the State Department of Education for approval.

B. An application for approval of summer school offerings must be filed no later than the end of the first week after school is in session.

C. The application forms provided by the State Department of Education, shall be submitted to the appropriate office.

D. The application must carry the approval of the chief administrative officer of the school system, principal of the school for the regular session, and the principal of the summer school, if applicable.

E. An on-site visit shall be made by personnel from the State Department of Education to verify information submitted on the report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2362 (November 2003), amended LR 31:

§2723. Faculty

A. The eligibility of the faculty shall be equal to that required during the regular session.

B. Teaching load and class size shall not exceed that of the regular session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2363 (November 2003), amended LR 31:

§2725. Instruction

A. No teacher shall be allowed to teach more than two subjects during one period.

B. Library, laboratory, and audiovisual aids shall be available in the facilities used for summer school.

C. Textbooks, supplementary materials, and supplies adequate for effective instruction shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2363 (November 2003), amended LR 31:

§2727. Attendance

A. In order to be eligible to receive grades, summer school students shall be in attendance a minimum of 70 hours for 1/2 unit of new credit, or 47 hours for 1/2 unit of repeat credit.

B. The school system or independent school may impose a stricter minimum attendance policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2363 (November 2003), amended LR 31:

§2729. Time Requirements

A. Summer schools shall offer 90 hours of instruction for 1/2 unit of new credit and 60 hours of instruction for 1/2 unit of repeat credit in all subjects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2363 (November 2003), amended LR 31:

§2731. Classification Categories

A. Summer school shall be given one of the following classification categories:

1. approved meets all summer school standards;
2. unapproved deviates from one or more of the summer school standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2363 (November 2003), amended LR 31:

§2733. Sanctions

A. Any unapproved summer school cannot operate a summer school the following year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2363 (November 2003), amended LR 31:

§2735. Instruction by Private Teachers

A. Credit may be allowed for high school work completed under private instructors, subject to the following conditions.

1. The instruction must be under the direction of a private tutor only when the tutor is eligible for regular employment in an approved nonpublic high school.
2. The time requirements for credits in a regular high school will apply.
3. The necessary facilities peculiar to a particular subject must be available for instructional purposes.
4. Prior to enrolling a privately tutored course, a student must obtain written approval from the principal of the high school in which he/she is enrolled.

B. Southern Association of Colleges and Schools members school should comply with Principle D Standard 6. (Member schools shall not give credit for private tutoring.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2363 (November 2003), amended LR 31:

Chapter 29. Standards for Approval of Alternative Schools/Programs

Subchapter A. Operation and Administration

§2901. Philosophy and Need for Alternative Schools/Programs

A. If alternative school programs are to be developed and established, they shall respond to particular educational needs within the community.

B. The local educational governing authority shall pass a resolution establishing the need for the alternative school/program and setting forth its goals and objectives.

C. Each alternative school/program shall develop and maintain a written statement of its philosophy and the major purposes to be served by the school/program. The statement shall reflect the individual character of the school/program and the characteristics and needs of the students it serves.

D. The educational school/program shall be designed to implement the stated goals and objectives which shall be directly related to the unique educational requirements of its student body.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2364 (November 2003), amended LR 31:

§2903. Approval of Alternative Schools/Programs

A. Alternative schools/programs shall comply with prescribed policies and standards for regular schools, except for those deviations granted by the State Board of Elementary and Secondary Education.

B. Approval shall be obtained from the State Department of Education prior to the establishment of the alternative school/program.

C. A narrative proposal describing the alternative school/program shall be submitted and shall include the following information:

1. purpose;
2. needs assessment;
3. type (alternative within regular education or alternative to regular education placement);
4. list of the Bulletin 741 Louisiana Handbook for School Administrators, policy and standard deviations;
5. anticipated date of implementation;
6. student eligibility;
7. entrance and exit criteria;
8. total number of students;
9. individual class sizes;
10. detailed outline of curriculum;
11. methods of instruction to meet individual student needs;
12. type and number of staff including qualifications/certification;
13. plan for awarding Carnegie units, when applicable;
14. grading and reporting procedures;
15. plan for parental and community involvement;
16. educational support services;
17. in-service (professional development for personnel);
18. type and location of physical facility;

19. procedure for program evaluation.

D. A school system choosing to implement an alternative school/program shall submit the above proposal to the Division of Family, Career and Technical Education by May 1 for fall semester implementation and November 1 for spring semester implementation

E. Refer to the Alternative Education Handbook.

F. The State Department of Education will provide the SBESE with a listing of approved alternative schools/programs twice annually, in June and December of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2364 (November 2003), amended LR 31:

§2905. Final Approval to Operate

A. Prior to final approval, the school shall be visited by State Department of Education (SDE) representatives, who will determine the school's suitability for SDE approval.

B. An annual school report based upon the standards for approval of alternative schools shall be made to the State Department of Education (SDE) on or before the date prescribed by the department. Final approval is contingent upon review and satisfactory compliance with the requirements of the annual school report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2364 (November 2003), amended LR 31:

§2907. Special Education

A. Special Education programs within an alternative school shall comply with all applicable State and Federal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2364 (November 2003), amended LR 31:

§2909. The Earning of Carnegie Units for Use in Meeting Graduation Requirements

A. Students enrolled in an alternative school/program shall be allowed to earn Carnegie units when possible.

B. The integrity of the Carnegie unit shall not be diminished by any alternative school/program.

C. The Carnegie units shall be granted by regular or special education teachers qualified in the subject matter areas in which they are teaching.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2364 (November 2003), amended LR 31:

§2911. Program Evaluation

A. The education program of the alternative school shall be evaluated on the basis of its stated goals and objectives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2364 (November 2003), amended LR 31:

§2913. Operation and Administration

A. Each nonpublic school that desires State Board of Elementary and Secondary Education (SBESE) approval and has students receiving special education services shall comply with all applicable federal and state law and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2365 (November 2003), amended LR 31:

Chapter 31. Addendum

§3101. Test Security Policy

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

B. Test Security

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

- a. all criterion-referenced tests (CRTs) and norm-referenced tests (NRTs);
- b. all alternate assessments.

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

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

- a. administer tests in a manner that is inconsistent with the administrative instructions provided by the Louisiana Department of Education (LDE) that would give examinees an unfair advantage or disadvantage;
- b. give examinees access to test questions prior to testing;
- c. examine any test item at any time (except for students during the test or test administrators while providing the accommodations "Tests Read Aloud" or "Communication Assistance" for students determined to be eligible for those accommodations);
- d. copy, reproduce, discuss or use at any time in a manner inconsistent with test regulations all or part of any secure test booklet, answer document, or supplementary secure materials (e.g., writing prompts, science tasks);
- e. coach examinees in any manner during testing or alter or interfere with examinees' responses in any manner;
- f. provide answers to students in any manner during the test, including provision of cues, clues, hints, and/or actual answers in any form, written, printed, verbal, or nonverbal;
- g. administer published parallel, previously administered, or current forms of any statewide assessment (e.g., Louisiana Educational Assessment Program for the 21st Century (LEAP 21), Graduation Exit Examination for

the 21st Century (GEE 21), Graduation Exit Examination ("old" GEE), LEAP Alternate Assessment (LAA), or Forms K, L, M, and all new forms of The Iowa Tests) as a practice test or study guide;

h. fail to follow security regulations for distribution and return of secure test booklets, answer documents, supplementary secure materials (e.g., writing prompts, science tasks), as well as overages as directed; or fail to account for and secure test materials before, during, or after testing;

i. conduct testing in environments that differ from the usual classroom environment without prior written permission from the Louisiana Department of Education, Division of Student Standards and Assessments;

j. fail to report any testing irregularities to the district test coordinator (a "testing irregularity" is any incident in test handling or administration that leads to a question regarding the security of the test or the accuracy of the test data), who must report such incidents to the Division of Student Standards and Assessments;

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

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

a. for the security of the test materials during testing, including test booklets, answer documents, supplementary secure materials (e.g., writing prompts, science tasks), video tapes, and completed observation sheets;

b. for the storage of all tests materials, except district and school test coordinator manuals and test administration manuals, in a predetermined, secure, locked area before, during, and after testing; all secure materials, including any parallel forms of a test, must be kept in locked storage at both the district and school levels; secure materials must never be left in open areas or unattended;

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

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

e. procedures for investigating any testing irregularities, including violations in test security, such as plagiarism and excessive wrong-to-right erasures identified through erasure analysis;

f. procedures for the investigation of employees accused of irregularities or improprieties in the administration of standardized tests, as required by the amended R.S. 17:81.6;

g. procedures for the investigation of any missing test booklets, answer documents, or supplementary secure material (e.g., writing projects, science tasks);

h. procedures for ensuring the security of individual student test data in electronic and paper formats.

5. Procedures for investigating missing secure materials, any testing irregularity (including cheating), and any employees accused of improprieties must, at a minimum, include the following.

a. The district test coordinator shall initiate the investigation upon the district's determination of an irregularity or breach of security or upon notification by the State Department of Education. The investigation shall be conducted by the district test coordinator and other central office staff as designated by the district superintendent.

b. The location of the predetermined, locked, secure area for storage of materials shall be examined, and the individuals with access to secure materials shall be identified.

c. Interviews regarding testing administration and security procedures shall be conducted with the principal, school test coordinator(s), test administrator(s), and proctor(s) at the identified schools. All individuals who had access to the test materials at any time must be interviewed.

d. Interviews shall be conducted with students in the identified classes regarding testing procedures, layout of the classroom, access to test materials before the test, and access to unauthorized materials during testing.

e. After completion of the investigation, the district shall provide a report of the investigation and a written plan of action to the state superintendent within 30 calendar days of the initiation of the investigation. At a minimum, the report shall include the nature of the situation, the time and place of occurrence, and the names of the persons involved in or witness to the occurrence. Officials from the Louisiana Department of Education are authorized to conduct additional investigations.

6. Test materials, including all test booklets, answer documents, and supplementary secure materials (e.g., writing prompts, science tasks) containing secure test questions, shall be kept secure and accounted for in accordance with the procedures specified in the test administration manuals and other communications provided by the Louisiana Department of Education. Secure test materials include test booklets, answer documents, and any supplementary secure materials (e.g., writing prompts, science tasks). Procedures described in the test manuals shall include, but are not limited to, the following.

a. All test booklets, answer documents, and supplementary secure materials (e.g., writing prompts, science tasks) must be kept in a predetermined, secure, locked storage area prior to and after administration of any test; test administrators are to be given access to the tests and any supplementary secure materials only on the day the test is to be administered, and these are to be retrieved immediately after testing is completed for the day and stored in a locked, secure location each day of testing.

b. All test booklets, answer documents, and supplementary secure materials (e.g., writing prompts, science tasks) must be accounted for and written documentation kept by test administrators and proctors for

each point at which test materials are distributed and returned.

c. Any discrepancies noted in the serial numbers of test booklets, answer documents, and any supplementary secure materials (e.g., writing prompts, science tasks), or the quantity received from contractors must be reported to the Division of Student Standards and Assessments (LDE) by the designated institutional or school district personnel prior to the administration of the test.

d. In the event that test booklets, answer documents, or supplementary secure materials (e.g., writing prompts, science tasks) are determined to be missing while in the possession of the institution or school district or in the event of any other testing irregularities or breaches of security, the designated institutional or school district personnel must immediately notify by telephone the Division of Student Standards and Assessments (LDE) and follow the detailed procedures for investigating and reporting specified in this policy.

7. Only personnel trained in test security and administration shall be allowed to have access to or administer any standardized tests.

8. Each district superintendent or institution must annually designate one individual in the district or institution as district test coordinator who is authorized to procure test materials that are utilized in testing programs administered by or through the State Board of Elementary and Secondary Education of the Louisiana Department of Education. The name of the individual designated must be provided in writing to the Division of Student Standards and Assessments (LDE) and included on the statement of assurance.

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

10. The State Superintendent of Education may disallow test results that may be achieved in a manner that is in violation of test security.

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

a. improbable achievement of test score gains in consecutive years;

b. situations in which collaboration between or among individuals may occur during the testing process;

c. a verification of the number of all test distributed and the number of tests returned;

d. excessive wrong-to-right erasures for multiple-choice tests;

e. any violation to written composition or open-ended responses that involves plagiarism;

f. any other situation that may result in invalidation of test results.

12. In cases in which test results are not accepted because of a breach of test security or action by the Louisiana Department of Education, any programmatic, evaluative, or graduation criteria dependent upon the data shall be deemed not to have been met, but individuals will be allowed to retake the test at the next test administration.

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

14. Any individual knowingly engages in any activity during testing that results in invalidation of scores derived from the Louisiana Educational Assessment Program for the 21st Century (LEAP 21), graduation exit examination for the 21st Century (GEE 21), or graduation exit examination ("old" GEE) shall forfeit the test results but will be allowed to retake the test at the next test administration.

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

16. School districts must ensure that individual student test data are protected from unauthorized access and disclosure. District test coordinators, principals, school test coordinators and other authorized users of the *LEAPweb* reporting system and *LEAPdata* system must ensure the security of passwords, any disks or CDs with downloaded individual student test data, and student-level test data open on a computer screen. All users must sign a statement guaranteeing they will not share the password with unauthorized individuals and maintain the confidentiality of student data. A copy of the signed statement should be sent to the district test coordinator to be kept on file. Users who have access to these systems and leave their positions at a district or school site must not use or share the password. District test coordinators are responsible for providing training regarding the security and confidentiality of individual student test data (in paper and electronic format) and of aggregated data of fewer than ten students.

17. Louisiana Department of Education staff will conduct site visits during testing to observe test administration procedures and to ensure that appropriate test security procedures are being followed. Schools with prior violations of test security or other testing irregularities will be identified for visits. Other schools will be randomly selected.

18. Any teachers or other school personnel who breach test security or allow breaches in test security shall be disciplined in accordance with the provisions of R.S. 17:416 et seq., R.S. 17:441 et seq., R.S. 17:81.6 et seq., policy and regulations adopted by the Board of Elementary and Secondary Education, and any and all laws that may be enacted by the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2365 (November 2003), amended LR 31:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., October 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nonpublic Bulletin 741 Louisiana Handbook for Nonpublic School Administrators

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The implementation of changes requires no cost or savings to state or local governmental units. These changes are intended to correct numbering errors in the previous revision and to align the bulletin with recent changes in public school policy. These changes include additions to Programs of Study, revisions based on legislation, and revisions to summer school policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0508#016

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 Louisiana Handbook for School Administrators Social Studies Graduation Requirement (LAC 28: CXV.2319 and 2363)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741 Louisiana Handbook for School Administrators* (LAC Title 28, Part Number CXV). The Advanced Placement Program (AP), sponsored by the College Board, allows high school students to take college-level courses and exams, and to earn college credit or placement while still in high school. These policy revisions will allow two AP courses to meet graduation requirements. The revisions will add AP European History to the list of courses meeting graduation requirements in Social Studies and will allow AP American Government to meet the Civics requirement for graduation. AP American Government is a one-credit course and Civics is a one-half credit course.

**Title 28
EDUCATION**

Part CXV. Bulletin 741 Louisiana Handbook for School Administrators

**Chapter 23. Curriculum and Instruction
§2319. High School Graduation Requirements**

- A. - D. ...
- E. Minimum Course Requirements for High School Graduation

Social Studies	3 units
Shall be American History, one-half unit of Civics or one unit of AP American Government, one-half unit of Free Enterprise; and one of the following: World History, World Geography, Western Civilization, or AP European History	

- F. - J. ...
- AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.2; R.S. 17: 395.
- HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:
- §2363. Social Studies**

- A. Three units of Social Studies shall be required for graduation. They shall be American History; 1/2 unit of Civics or one unit of AP American Government, and 1/2 unit of Free Enterprise; and one of the following: World History, World Geography, Western Civilization, or AP European History.
- B. The Social Studies course offerings shall be as follows.

Course Title(s)	Units
American Government	1
American History	1
Civics	1
Economics	1
Free Enterprise	1/2

Course Title(s)	Units
Law Studies	1
Psychology	1
Sociology	1
AP European History	1

C. Economics may be taught by a teacher certified in business education.

D. Free Enterprise shall include instruction in personal finance. Such instruction shall included but shall not be limited to the following components:

1. income;
2. money management;
3. spending and credit;
4. savings and investing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:274-274.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 31:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., October 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 741 Louisiana Handbook for School Administrators Social Studies Graduation Requirement**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of changes requires no cost or savings to state or local governmental units. This revision to Bulletin 741 will add AP European History to the list of courses meeting graduation requirements in social studies and AP American Government to meet the Civics requirement for graduation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0508#028

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for
State Certification of School Personnel
Educational Diagnostician
(LAC 28:1.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:1.903.A. This policy allows the issuance of a one-year provisional endorsement as an Educational Diagnostician to an individual who has completed all requirements for certification in this area with the exception of the 100 clock-hour internship. At the present time an individual must have certification as an Educational Diagnostician to serve in this capacity. This one-year provisional endorsement will allow an individual who has not completed the internship the ability to serve in this position while the internship is being completed.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183 (April 1975), LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:435 (October 1975), LR 1:541 (December 1975); LR 28:2505 (December 2002); LR 29:117 (February 2003); LR 29:119 (February 2003); LR 29:121 (February 2003), LR 31:

* * *

Educational Diagnostician (Special Education)

A. Endorsement Requirements:

1. a minimum of a master's degree in education earned from a regionally accredited institution of higher education;

2. hold a valid Type B or Level 2 Louisiana teaching certificate, and meet one of the following guidelines:

a. hold generic special education certification, with at least one year of classroom teaching experience in a properly certified area of special education;

b. hold certification in at least two special education disability areas (e.g., mentally retarded, learning disabled), with at least one year of teaching experience in a properly certified area of special education. Academically gifted is not an accepted special education area;

3. reading credit, as follows:

a. elementary/middle grades majors: Six semester hours in diagnosis and remediation of reading problems, three semester hours of which may be undergraduate coursework;

b. secondary/all-level majors: Nine semester hours of reading coursework, with six of the semester hours in diagnosis and remediation of reading problems and three of the semester hours in foundations of reading. Three of the required semester hours may be undergraduate coursework;

4. have completed a minimum of 21 semester hours of graduate credit, as follows:

a. applied learning theory, 3 semester hours;

b. behavioral intervention strategies, including systematic behavioral assessment (this course must include 25 child contact hours), 3 semester hours;

c. consulting teacher strategies, 3 semester hours;

d. precision assessment and diagnostic/prescriptive strategies, 3 semester hours;

e. test theory, 3 semester hours;

f. educational diagnosis, 3 semester hours;

g. supervised internship, to include 100 child contact clock hours*, 3 semester hours.

*This course must include fieldwork involving the administration, scoring, and interpretation of norm-referenced and criterion-referenced individual educational tests; working with School Building Level Committees; teacher consultation; and implications for educational intervention through the development of the individualized assessment/intervention plan. This course may be completed while employed on a provisional endorsement.

B. Provisional Educational Diagnostician: A one-year provisional endorsement as an Educational Diagnostician may be issued if all requirements have been completed, with the exception of the 100-contact-hour internship. The intern employed on a provisional endorsement must work under a certified Educational Diagnostician who has a minimum of five years of field experience in that position. At the time of employment, the Louisiana employing authority must submit verification of the supervision component. Until the internship is completed and the provisional status is removed from the intern's certificate, the supervising Educational Diagnostician shall sign all reports and evaluations involving the intern.

* * *

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., October 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 746** Louisiana Standards for State Certification of School Personnel Educational Diagnostician

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This policy allows the issuance of a one-year provisional endorsement as an Educational Diagnostician to an individual who has completed all requirements for certification in this area with the exception of the 100 clock-hour internship. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed one-year provisional endorsement would increase the flexibility of the numbers of educational diagnosticians available for employment in Louisiana school districts.

Marlyn J. Langley
Deputy Superintendent
0508#035

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State
Certification of School Personnel
NCLB Requirements for Title I Paraprofessionals
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. In 2003, the State Board of Elementary and Secondary Education adopted multiple pathways for a paraprofessional to achieve highly qualified

status. This revision in policy will align pathways so that paraprofessionals have similar skill levels and abilities since their employment capacity may change from year to year. This revision of policy will reduce the number of credit hours required in mathematics from nine credit hours to six credit hours for those individuals seeking to meet the NCLB highly qualified requirements for paraprofessionals following "Pathway 2", the 48 hour pathway.

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183 (April 1975), LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:435 (October 1975), LR 1:541 (December 1975), LR 28:2505 (December 2002); LR 29:117 (February 2003); LR 29:119 (February 2003); LR 29:121 (February 2003), LR 31:

* * *

NCLB Requirements for Title I Paraprofessionals

The U.S. Department of Education specifies that paraprofessionals should be able to demonstrate knowledge of and the ability to assist in instruction in the areas of reading, writing, and math, or in "school readiness." Paraprofessionals are expected to have a working knowledge of these academic areas. Louisiana will offer all paraprofessionals three pathways to meet federal requirements.

All Title I paraprofessionals hired on or before January 8, 2002, and working in a program supported with Title I funds must meet the following requirements by January 8, 2006. All Title I paraprofessionals hired after January 8, 2002, must meet the following requirements to be hired:

1. Possess a secondary school diploma or its recognized equivalent (e.g., Graduate Equivalency Examination—GED). (NOTE: This includes paraprofessionals who serve as translators or who conduct parental involvement activities.); and
2. Pass a State approved assessment for paraprofessionals; OR Obtain an associate (or higher) degree at a higher education institution; OR Complete two years of full time study at an institution of higher education.

Highly Qualified Paraprofessional in Louisiana

New to the Profession
Pathway 1: Has passed the Educational Testing Service Para-Pro Assessment; or
Pathway 2: Has two years of full-time study (48 semester credit hours) from the recommended list of state-approved institutions of higher education or from a regionally accredited institution(s) of higher education. A total of 15 hours of general education course requirements include English Composition (3), English/Reading (6), and Mathematics (6). For the remaining 33 hours of coursework, acceptance of credit for a course shown on a transcript from an approved higher education institution is left to school district discretion in addressing the needs of the specific job; or

Pathway 3: Has Associate of Arts or Associate of Applied Science degree from a state-approved or regionally accredited institution of higher education.
"Not New" Paraprofessionals (By January 2006)
Pathway 1: Has passed the Educational Testing Service Para-Pro Assessment; or
Pathway 2: Has two years of full-time study (48 semester credit hours) from the recommended list of state-approved institutions of higher education or from a regionally accredited institution(s) of higher education. A total of 15 hours of general education course requirements include English Composition (3), English/Reading (6), and Mathematics (6). For the remaining 33 hours of coursework, acceptance of credit for a course shown on a transcript from an approved higher education institution is left to school district discretion in addressing the needs of the specific job; or
Pathway 3: Has Associate of Arts or Associate of Applied Science degree from a state-approved or regionally accredited institution of higher education; or
Pathway 4: Has successfully completed the ACT, Inc., Work Keys skills assessments and on-the-job observation.

* * *

Family Impact Statement

In accordance with Sections 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., October 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 746 Louisiana Standards
for State Certification of School Personnel
NCLB Requirements for Title I Paraprofessionals**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This revision of policy would reduce the number of credit hours required in mathematics from nine credit hours to six credit hours for those individuals seeking to meet the NCLB highly qualified requirements for paraprofessionals following "Pathway 2", the 48 hour pathway. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0508#038

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for
State Certification of School Personnel
Out-of-State Principal Certification
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy allows the issuance of a standard, three-year, non-renewable Louisiana teaching certificate that authorizes certification as principal in Louisiana of an individual who has an out-of-state certification as principal. An out-of-state principal certificate is issued to individuals who have not met Louisiana's PRAXIS and/or NTE requirements. At present, for an out-of-state individual to become certified in Louisiana to serve as a principal they must first become certified in Louisiana as a regular classroom teacher. This policy would allow an individual who is certified in another state as a principal and has four years of successful experience of serving as a principal to be issued a three-year non-renewable Louisiana certificate to serve in this capacity. If the individual meets all other requirements for certification as stipulated by state statute or board policy and completes one-year of serving as a principal in a Louisiana public school system, the local superintendent or designee may recommend that person be granted full certification as an elementary or secondary principal. This policy will allow the individual to be exempt from the PRAXIS requirement.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations
A. Bulletin 746**

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183 (April 1975), LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:435 (October 1975), LR 1:541 (December 1975); LR 28:2505 (December 2002); LR 29:117 (February 2003); LR 29:119 (February 2003); LR 29:121 (February 2003), LR 31:

Out-of-State Principal standard, three-year, non-renewable Louisiana teaching certificate that authorizes certification as principal in Louisiana of an individual who has an out-of-state certification as principal. An out-of-state principal certificate is issued to individuals who have not met Louisiana's PRAXIS and/or NTE requirements.

Eligibility Requirements:

1. A valid out-of-state certificate as an elementary or secondary principal.

2. At least four years of successful experience as a secondary or elementary principal in another state as verified by the previous out-of-state school district(s) from satisfactory annual evaluation results.

3. With the completion of one year of employment as a principal in the Louisiana public school system once the three-year out-of-state Louisiana certificate was issued an individual shall not have to complete the required examinations or to submit examination scores from any examination previously taken in another state as prerequisite to the granting of certification as elementary or secondary principal in Louisiana provided that:

A. Administrator meets all other requirements for a Louisiana certificate as required by law or board policy; and

B. The local superintendent or his designee of the public school system employing the principal has recommended him/her for employment for the following school year and has requested that the teacher be granted a valid Louisiana certificate as elementary principal or secondary principal.

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed rule affect the behavior and personal responsibility of children? No

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., October 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 746 Louisiana Standards for
State Certification of School Personnel Out-of-State
Principal Certification**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This policy allows the issuance of a standard, three-year, non-renewable Louisiana teaching certificate that authorizes certification as principal in Louisiana of an individual who has an out-of-state certification as principal. An out-of-state principal certificate is issued to individuals who have not met Louisiana's PRAXIS and/or NTE requirements. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0508#036

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel Temporary Authority to Teach (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy will require the passage of PRAXIS Pre-Professional Skills Tests: Reading and Writing prior to the issuance of any Temporary Authority to Teach (TAT) certificate. It will also require that, at the end of the three-year period for which an individual was employed on this policy, they must fulfill guidelines for a Practitioner License or higher-level certificate. The following revision of this policy will also allow two additional conditions for employment on a TAT certificate: a) an individual may have a minimum of a 2.0 GPA but does not have the required 2.20 GPA for admission to an alternate program and b) an applicant who has a minimum of a 2.35 GPA on a 4.00 scale and has completed all other requirements for certification may be employed on a TAT certificate. The revisions to the TAT policy will streamline and clarify the policy for individuals and districts and will provide avenues for employment for individuals who do not

have the required grade point average but otherwise fulfill all other certification requirements.

Title 28

EDUCATION

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans**

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183 (April 1975), amended LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:435 (October 1975), LR 1:541 (December 1975), LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:121 (February 2003), LR 31:

* * *

Nonstandard Teaching Authorizations

An initial fee is paid with a first application for a nonstandard teaching authorization. There is no fee required for renewal.

I. Temporary Authority to Teach (TAT)—May be issued for one school year, renewed annually, and held a maximum of three years while the holder pursues alternate certification program admission requirements or certification requirements. Upon completion of the three years of employment on this certificate, for continued employment as a teacher in a Louisiana school system, the holder must fulfill guidelines for a Practitioner License or a higher-level certificate.

A. An applicant must have passing scores on the Praxis Pre-Professional Skills Tests (PPSTs) Reading and Writing exams. Applicants who meet this eligibility standard can apply for a TAT based on the following four conditions of eligibility:

1. Condition 1: Issued to an applicant who graduates from a teacher preparation program, does not pass all Praxis exams, and who has not previously qualified for a Louisiana standard teaching authorization.

Renewal Guidelines 1: Teacher must take the necessary Praxis examinations at least twice a year.

2. Condition 2: Issued to an applicant who holds a minimum of a baccalaureate degree from a regionally-accredited institution, who applies for admission to a Practitioner teacher or other alternate program, but (a) does not pass the Praxis examinations required for admission to the program, and/or (b) has a minimum of a 2.0 GPA but does not have the required 2.20 GPA for admission to an alternate program.

Renewal Guidelines 2(a): The teacher must successfully complete a minimum of six credit hours per year in the subject area(s) that he/she is attempting to pass on the Praxis and take the necessary exams at least once a year; and/or

Renewal Guidelines 2(b): The teacher must successfully complete a minimum of six credit hours per year to raise the GPA to a 2.20 as required for admission to an alternate program.

3. Condition 3: Issued to an applicant who holds a minimum of a baccalaureate degree from a regionally-

accredited college or university and is hired after the start of an available alternate certification program.

Renewal Guidelines 3: The teacher must apply for admission to an alternate certification program and take the appropriate Praxis examinations required for admission to that program.

4. Condition 4: Issued to an applicant who has a minimum of a 2.35 GPA on a 4.00 scale and has completed all other requirements for certification.

Renewal Guidelines 4: Teacher must successfully complete a minimum of six semester credit hours per year to obtain the 2.50 GPA on a 4.00 scale that is required for certification purposes.

B. TAT Stipulations:

1. Districts may recommend that teachers be given the one-year TAT according to the stipulated eligibility and renewal conditions.

2. Districts submit the application and provide an affidavit signed by the local superintendent verifying that good faith efforts for recruiting certified personnel have been made, including posting all positions for which TATs are issued on the Teach Louisiana Recruitment Center; that "there is no regularly certified, competent, and suitable person available for the position"; and that the applicant is the best-qualified person for the position.

C. If an applicant fails to complete required renewal guidelines, the TAT will not be renewed. Exception to this policy will be considered in the case of a serious medical condition.

Medical Excuse: When serious medical problems of the teacher or his/her immediate family exist, a doctor's statement is required with a letter of assurance from the teacher that the unmet requirements will be completed prior to the beginning of the next school year.

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

* * *

Interested persons may submit written comments until 4:30 p.m., October 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 746** Louisiana Standards for State Certification of School Personnel Temporary Authority to Teach

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This policy will require the passage of PRAXIS Pre-Professional Skills Tests: Reading and Writing prior to the issuance of any Temporary Authority to Teach (TAT) certificate. It will also require that, at the end of the three-year period for which an individual was employed on this policy, they must fulfill guidelines for a Practitioner License or higher-level certificate. The following revision of this policy will also allow two additional conditions for employment on a TAT certificate: a) an individual may have a minimum of a 2.0 GPA but does not have the required 2.20 GPA for admission to an alternate program and b) an applicant who has a minimum of a 2.35 GPA on a 4.00 scale and has completed all other requirements for certification may be employed on a TAT certificate. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy. This policy specifies designated areas that require extensive hours for completion for additional certification endorsements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The revisions to this policy will help ensure that districts and individual teachers are aware of the need for achieving standards required for full certification and will underscore the need for districts to hire certified personnel whenever possible.

Marlyn J. Langley
Deputy Superintendent
0508#037

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1530 Louisiana's IEP Handbook for Students with Disabilities (LAC 28:XCVII.901-907)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to Bulletin 1530, *Louisiana's IEP Handbook for Students with Disabilities*. The addition of Chapter 9, LEAP Alternate Assessments, to Bulletin 1530 is to meet federal requirements and establish guidelines for the participation of students with disabilities in alternate assessments that cannot participate in regular assessment.

The criteria for alternate assessment are used in accountability, assessment, and pupil progression.

Title 28

EDUCATION

Part XCVII. Bulletin 1530 Louisiana's IEP Handbook for Students with Disabilities

Chapter 9. LEAP Alternate Assessments

§901. Participation in Assessments

A. All special education students must participate in statewide assessments.

B. Students are to take the test that corresponds to the grade in which they are enrolled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:

§903. Types of Alternate Assessments

A. LEAP Alternate Assessment, Level 1 (LAA 1). The LAA 1 is a performance-based student assessment that evaluates each eligible special education student's knowledge and skills in targeted areas. It is an "on-demand" assessment, which means the test administrator directs the student to perform a specific task and then scores the student's performance after the task is completed.

B. LEAP Alternate Assessment, Level 2 (LAA 2). The LAA 2 is a criterion-referenced test designed for students with persistent academic disabilities who are served under the Individuals with Disabilities Education Improvement Act (IDEA) to participate in academic assessments that are sensitive to measuring progress in their learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:

§905. Participation Criteria

A. LEAP Alternate Assessment, Level 1 (LAA 1)

1. Only students with the most significant cognitive disabilities are eligible to participate in LEAP Alternate Assessment, Level 1 (LAA 1).

a. The student's impairments cause dependence on others for most, if not all, daily living needs, and the student is expected to require extensive ongoing support in adulthood.

b. The student's instructional program emphasizes life skills and functional applications of the general curriculum.

c. The student requires extensive instruction on functional skills in multiple settings (e.g., school, work, home, community) to acquire, maintain, and generalize skills necessary for application in school, work, home, and community environments.

d. Current longitudinal data (e.g., classroom observation, task analyses, progress on IEP objectives, evaluations, and parental information) indicate the student should participate in LAA 1.

2. Student Safeguards

a. The decision for LAA 1 is not solely based on the student's placement.

b. The decision for LAA 1 is not solely based on the student's disability according to Bulletin 1508.

c. The decision for LAA 1 is not solely based on excessive or extended absences.

d. The decision for LAA 1 is not solely based on social, cultural, and/or economic differences.

e. The decision for LAA 1 is not based on its anticipated impact on School Performance Scores.

f. The decision for LAA 1 is an IEP team decision based on the needs of the student; it is not an administrative decision.

3.a. A student with one of the three exceptionalities below is considered to have a significant cognitive disability:

- i. moderate mental disability;
- ii. severe mental disability;
- iii. profound mental disability; or

b. a student with one of the three exceptionalities below may function like a student with a significant cognitive disability:

- i. multiple disabilities;
- ii. traumatic brain injury;
- iii. autism; or

c. it is possible, though unlikely, that the LEAP Alternate Assessment may be the appropriate assessment for a student with some other exceptionality who functions like a student with a significant cognitive disability.

B. LEAP Alternate Assessment, Level 2 (LAA 2)

1. The student scored at the *Unsatisfactory* level in English language arts and/or mathematics on the previous year's LEAP/iLEAP/GEE or participated in the LAA 1 or for the 2005-06 school year only, the student's previous year's Total(s) on The Iowa Tests in language, reading, and/or mathematics was/were at or below the fifth percentile.

2. The student's IEP reflects a functioning grade level in English language arts (including reading) and/or mathematics at least three grade levels below the actual grade level in which he or she is enrolled.

3. The student's instructional program is predominately academic in nature, and may include application of academic content across environments to ensure generalization of skills.

4. The decision to test a student in LAA 2 is not based on a disability category.

5. The decision to test a student in LAA 2 is not based on placement setting.

6. The decision to test a student in LAA 2 is not determined administratively.

C. LAA 1 and LAA 2 Participation Criteria forms can be located in Bulletin 1530, Section 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:

§907. Test Accommodations

A. The assessment in which the student is to participate and any accommodations the student is to receive for instruction and assessment must be documented annually on the program/services page of the student's IEP.

B. Test accommodations cannot be different from or in addition to the accommodations indicated on the student's IEP and provided in regular classroom instruction and assessment.

C. Test accommodations are described in Bulletin 118, Statewide Assessment Standards and Practices in Chapter 33.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., October 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1530 Louisiana's IEP
Handbook for Students with Disabilities**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The Department of Education is adding to *Louisiana's IEP Handbook for Students with Disabilities, Bulletin 1530*, Section 1, Chapter 9, LEAP Alternate Assessments, §§901-907. The only cost associated with this change is the preparation and printing of the document and that is projected to be approximately \$200. Publication can be accomplished via the department's web site.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local government.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0508#026

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566 High Stakes Testing Policy
(LAC 28:XXXIX.503 and 1301)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 1566 Guidelines for Pupil Progression* (LAC 28:XXXIX). The revisions to the High Stakes Testing Policy and to Bulletin 1566 are to meet federal requirements and establish guidelines for the participation of students with disabilities in alternate assessments who cannot participate in regular assessment. The criteria for alternate assessment are used in accountability, assessment, and pupil progression.

Title 28

EDUCATION

**Part XXXIX. Bulletin 1566 Guidelines
for Pupil Progression**

Chapter 5. Placement Policies, State Requirements

§503. Regular Placement

A. - A.1.c.vi.(b). ...

vii. Students with disabilities eligible under the Individuals with Disabilities Education Act (IDEA) participating in LEAP 21 Alternate Assessment. Students with disabilities who participate in the LEAP 21 Alternate Assessment, Level 1 (LAA1), shall have promotion decisions determined by the SBLC.

(a). Students with disabilities who participate in the LEAP Alternate Assessment, Level 2 (LAA2), shall have promotion decisions determined by the SBLC.

viii. - xii. ...

(a). Students with disabilities who participate in LEAP 21 Alternate Assessment, Level 1 (LAA1), are not eligible to attend LEAP 21 summer remediation programs.

(b). Students with disabilities who participate in LEAP Alternate Assessment, Level 2 (LAA2), are eligible to attend LEAP summer remediation programs.

A.1.c.xiii. - D.1.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003), LR 30:407 (March 2004), LR 31:1974 (August 2004), LR 31:

§1301. LEAP for the 21st Century, High Stakes Testing Policy

A. - A.3.b. ...

c. students with disabilities who participate in LEAP Alternate Assessment, Level 1 (LAA1), are not eligible to attend the LEAP 21 summer remediation programs.

d. Students with disabilities who participate in LEAP Alternate Assessment, Level 2 (LAA2), are eligible to attend LEAP summer remediation programs.

4. - 6.a.ii.(c). ...

b. Students with Disabilities Eligible under the Individuals with Disabilities Education Act (IDEA) participating in LEAP Alternate Assessments

i. Students with disabilities who participate in the LEAP Alternate Assessment Level 1 (LAA1), shall have promotion decisions determined by the SBLC.

ii. Students with disabilities who participate in the LEAP Alternate Assessment, Level 2 (LAA2), shall have promotion decisions determined by the SBLC.

6.c. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:1008 (July 2001), amended LR 27:1683 (October 2001), LR 28:1189 (June 2002), LR 29:123 (February 2003), LR 31:1976 (August 2005), LR 31:

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No

3. Will the proposed Rule affect the functioning of the family? No

4. Will the proposed Rule affect family earnings and family budget? No

5. Will the proposed Rule affect the behavior and personal responsibility of children? No

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

Interested persons may submit written comments until 4:30 p.m., October 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 1566** **High Stakes Testing Policy**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department of Education is revising Bulletin 1566, Guidelines for Pupil Progression Plans, and Appendix B, High Stakes Testing Policy. The only cost associated with this change is the preparation and printing of the document and that is projected to be approximately \$200. Publication can be accomplished via the department's web site.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Marlyn J. Langley
Deputy Superintendent
0508#015

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1922 **Compliance Monitoring Procedures**
(LAC 28:XCI.101, 105-111, 301, 303-317, 507, and 509)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1922 Compliance Monitoring Procedures* (LAC Title 28, Part Number XCI). These changes clarify that all local education agencies must be monitored, eliminates the exemplary category, and adds a new category called targeted monitoring. It also clarifies that agencies must begin correcting non-compliance upon receipt of the monitoring report, requires agencies to develop an intensive corrective action plan (ICAP) when compliance is not reached in one year, requires additional actions in conjunction with the ICAP, and allows the state superintendent to impose special conditions on the agencies IDEA Part B grant award without the need for approval from the State Board of Elementary and Secondary Education. This new monitoring process began in 1999 and, after five years of implementation, changes were needed to make the process more effective.

Title 28

EDUCATION

Part XCI. **Bulletin 1922 Compliance** **Monitoring Procedures**

Chapter 1. **Overview**

§101. **Monitoring**

A. ...

B. The monitoring system for Louisiana, through the analysis of various quantitative and qualitative data, will focus state resources on improving educational program outcomes for students with exceptionalities through a comprehensive, data-based process. Annually, the Louisiana Department of Education (LDE) will select a list of specific variables and performance indicators for comparative purposes for all local educational agencies providing services to children with exceptionalities. This list is a combination of federally-required indicators and state performance indicators.

C. The quantitative data will be used to determine specific performance profiles for local educational agencies (LEAs) using data relative to a set of variables. Performance profiles will be issued annually. The quantitative data will be collected in relation to a set of variables selected by a statewide group of stakeholders from various agencies and entities called the Continuous Improvement Monitoring Process (CIMP) Steering Committee. This group will meet at least annually with the Louisiana Department of Education (LDE) to select only specific variables or "focus indicators" from all of the variables. The variables selected

as "focus indicators" will be used to determine a LEA's performance status.

D. LEAs will be placed in one of two performance categories within one of four population groups based on the total population of students attending public schools. Upon validation of quantitative data, LEAs will be notified of their performance status. The performance categories are focus and continuous improvement.

1. LEAs designated as focus will receive an on-site compliance monitoring visit in order to review qualitative data specific to selected qualitative indicators that focus on the LEA's lowest performing indicator areas. Additional data may be reviewed prior to and during the on-site visit.

2. The LEAs designated as continuous improvement will not be targeted to receive an on-site compliance visit. Some districts may be required to develop a corrective action plan because of triggers within the data that signify concerns such as when the performance of students with disabilities is disproportionately below the state average in any of the required performance indicators. These performance indicators include, but are not limited to suspension, diploma, dropout, and state-wide assessment rates. Through the LEA application process and self-review summaries, LEAs will, for that year, document and track improvement strategies. This documentation will include, not only the allocation of monies in the LEA grant application to target corrective action specific to noncompliance issues revealed in the LEA's self-review summaries, but also written documentation and tracking of other means of corrective action the LEA has taken.

3. When critical issues of noncompliance are identified by means other than the performance profiles (including, but not limited to complaint logs, evaluation extension requests, and financial risk assessments), a targeted on-site compliance monitoring visit of the LEA may be required by the LDE.

E. Annually, there will also be selected at random a group of LEAs which the LDE will visit for an on-site compliance review. The on-site review for the LEAs designated as random will include a review of a sampling of the qualitative indicators for all special education compliance areas. Eight will be chosen from the continuous improvement category.

F. Embodied in this process are proactive measures of self-evaluation, support, and technical assistance to ensure compliance with all regulatory requirements at the federal and state levels. Findings from data analysis, as well as findings from the on-site compliance visit, will be used to determine and allocate various resources for technical assistance and support to the LEA by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30.414 (March 2004), amended LR 31:

§105. Local Educational Agencies (LEAs)

A. Local Educational Agencies (LEAs) to be monitored are:

1. - 3. ...
4. Type 2 and 5 Charter Schools; and
5. University Laboratory Schools not under the administration of a school district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:415 (March 2004), amended LR 31:

§107. Corrective Action and Sanctions

A. The LDE has the responsibility to monitor all public educational agencies with programs for exceptional children within the state for compliance with applicable state and federal laws, regulations, and standards.

B. The LDE is authorized to take actions necessary to ensure compliance. Failure on the part of a participating agency to comply may result in the LDE withholding funds from the said agency. The affected agency will be afforded an opportunity for a hearing.

C. Each LEA monitored and found to have non-compliant findings will be required to develop a corrective action plan (CAP) after receipt of the LDE's monitoring report in collaboration with the LDE. The CAP shall be submitted to the LDE within 35 business days of receipt of the monitoring report for approval. However, upon receipt of the report, the LEA shall immediately begin correcting the non-compliant findings documented in the report. Based on a one-year timeframe, the plan will address the activities the LEA will implement to correct the areas of non-compliance identified during the on-site visit.

D. The progress toward completing the activities in the plan will be tracked by the LDE to determine if the timelines are being met. LEAs will submit evidence and data as requested by the LDE to show completion of activities and evidence of change in the LEA as a result of the corrective action plan. Based on a review of submitted evidence, the LDE will decide whether the LEA has met compliance requirements or a follow-up, on-site visit must be conducted to determine if the LEA has made systemic changes to correct non-compliant issues addressed in the corrective action plan.

E. A written report of the findings from a review of the submitted evidence or from a follow-up visit will be issued to the LEA by the LDE within 30 business days of the review of the evidence or the on-site visit. When the Corrective Action Follow-Up Report for a LEA indicates that the LEA has remaining non-compliant findings, and there is not sufficient documented evidence provided within the mandated timeframe, the LEA will receive a letter directing the LEA to submit additional information within thirty business days to prove the deficiencies have been corrected and informing the LEA of the possibility of sanctions if the issues are not immediately corrected.

F. At the end of the 30 business days in Subsection E above, if the LEA has not produced sufficient data to indicate that compliance has been met, the LDE shall impose further corrective action and sanctions on the LEA.

G. When an LEA has not produced sufficient data to indicate that compliance has been met through the approved Corrective Action Plan, the department will require that an Intensive Corrective Action Plan (ICAP) be developed by the LEA in collaboration with the department to address the continuing non-compliant findings. In conjunction with the implementation of the approved plan, the department will take one or more of the following sanctions described below.

NOTE: These sanctions are not on a continuum but can be taken at any time based on the severity of the continuing non-compliance.

1. Direct the LEA to present the ICAP to the local school board for approval.

2. Direct the LEA to use IDEA Part B flow-through funds on the area or areas that the LEA is non-compliant. The LEA will submit evidence to the department of the specific funds targeted for areas of non-compliance. The department will monitor the expenditure of such funds on a consistent basis.

3. The department will appoint a special consultant or management team to oversee the intensive CAP, which will be funded at the local level. The CAP appointment of the special consultant or management team must be submitted to the local school board.

4. Identify the LEA as a high-risk grantee and impose special conditions on the LEA's IDEA Part B grant. The department will impose one or more of the following special conditions.

a. For each year of continuing non-compliance, withhold not less than 20 percent and not more than 50 percent of the LEA's IDEA Part B grant until the department determines the LEA has sufficiently addressed the areas in which the LEA needs intervention.

b. Seek to recover funds under Section 452 of the General Education Provisions Act.

c. Withhold, in whole or in part, any further payments to the LEA under this part pursuant to Subparagraph a.

d. Refer the matter for other appropriate enforcement action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:415 (March 2004), amended LR 31:

§109. Components of the Continuous Improvement Monitoring Process

A. ...

B. The monitoring system will incorporate and utilize strategies and components as listed below.

1. Analyze self-review summaries completed at the local level, which are integrated to review the appraisal process as it relates to the development and implementation of programming, as well as review programming issues.

2. Analyze current data elements and databases that are captured by the LDE and are directly related to student outcomes.

3. Analyze the LEA grant application to track and monitor the allocation and use of Part B funds targeted to address priorities revealed through previous data sources in the monitoring process, as well as policy and procedural assurances.

4. Review complaint management logs regarding specific complaints in individual LEA.

5. Analyze Extended School Year Program data.

6. Analyze Annual School Report data.

7. Analyze district and school accountability profiles.

8. Analyze FAPE tables and other mandated federal data reporting (i.e., personnel tables, child count data).

9. Review ongoing fiscal monitoring of the use of Parts B funds through on-site visits and project completion reports.

10. Analyze Pupil Progression Assurances/Reviews.

11. Review personnel files and training documentation.

12. Track corrective action on noncompliant issues and validate previous corrective action reviews, documentation, and on-site reviews.

12. - 15. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:416 (March 2004), amended LR 31:

§111. Purpose

A. The LDE has the responsibility to ensure that each participating agency in the state is in compliance with all applicable federal and state laws, regulations and standards required for the provision of a free and appropriate public education for all exceptional children for whom each is legally responsible. To fulfill this responsibility, the LDE has established a purpose for conducting monitoring, as well as procedures and strategies that provide ongoing monitoring activities. The procedures provide continuous and comprehensive monitoring of all aspects of special education including the following:

1. - 7. ...

B. In Louisiana, the purpose of compliance monitoring is three fold:

1. to enforce legal requirements;

2. to ensure program effectiveness; and

3. to ensure corrective action, when needed, has been taken.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:416 (March 2004), amended LR 31:

Chapter 3. Operational Procedures for Compliance Monitoring

§301. Categories of Monitoring

A. All LEAs are placed in performance profile categories on an annual basis. The performance profile is based upon an analysis of quantitative data collected by the LDE.

B. Monitoring will focus on the variables selected annually as focus indicators. LEAs will be profiled on the focus indicators in defined population groups. On-site visits will be determined based on performance profiles rather than on cyclical scheduled on-site visits. LEAs designated as focus will be subject to on-site compliance visits.

C. A group of school LEAs will be selected at random for on-site compliance visits. A sampling of the qualitative indicators from each area will be reviewed in these LEAs.

D. LEAs not identified as focus or random will be classified as continuous improvement. These will not be subject to on-site visits. The identification of non-compliant issues and corrective action necessary to remedy these issues in continuous improvement LEAs will be tracked by the LDE through the validation of the self-review process in these LEAs.

E. In the event that critical issues of noncompliance are identified by means other than the performance profiles (including but not limited to complaint logs, evaluation extension requests, and financial risk assessments), targeted on-site compliance visit of the LEA may be required by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:

§303. Timelines

A. Before the start of each monitoring cycle, each LEA will be issued a performance profile and a designation into which category the LEA fell. Within two weeks after the designations are made, a schedule of on-site visits will be issued to LEAs designated as focus and random.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:

§305. On-Site Visits

A. ...

B. Non-employees selected to serve as team members will be initially required to receive a minimum of 16 hours of professional development specific to conducting on-site monitoring, conducted by the LDE, with follow-up training on an annual basis. In addition, team leaders, serving in coordination with staff team leaders, will be required to receive 32 hours of professional development specific to leadership, investigative techniques for specific regulatory areas, and assimilating data for report writing conducted by the LDE, with follow-up training annually and throughout the year as determined by the state monitoring coordinator. Participants will receive a certificate that indicates their completion of the required annual professional development activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:

§307. Regulatory Issues Reviewed On-Site

A. For focus category LEAs, the regulatory issues and qualitative indicators reviewed will be specific to the variables targeted in the LEA's performance profile. These visits will focus on selected issues. In the event that other critical issues or triggers are identified by means other than the performance profiles, the LDE will direct the team to monitor those issues for non-compliance. These other means may include, but are not limited to, complaint logs, evaluation extension requests, and financial risk assessments.

B. For random category LEAs, the on-site team will review a sampling of qualitative indicators from each of the variables on the performance profile, and any other critical issues or triggers identified by other means including, but not limited to, complaint logs, evaluation extension requests, and financial risk assessments.

C. The LDE will reserve the right to direct the team to review any and all regulatory issues that indicate non-compliance status in a LEA.

D. Data for the following major regulatory issues will be analyzed, reviewed, and utilized in the self-review and on-site monitoring process:

D.1. - 14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:

§309. Activities Conducted Prior to the On-Site Visit

A. Prior to the on-site visit, quantitative data collected by the LDE specific to the LEA will be reviewed and analyzed, and will include the following:

1. self-review data submitted by the LEA;

2. - 3. ...

4. complaint logs and due process hearings relative to the LEA;

5. files/logs indicative of technical assistance provided to the LEA by the LDE;

6. - 11. ...

12. any other data the LDE determines is necessary to review as part of a comprehensive data review of the LEA.

B. The LEA supervisor/director of special education will be contacted, if necessary, for clarification of any concerns regarding the data. The data analysis will determine the locations within the LEA to be visited, the number and types of records to be reviewed, the methods that will be used for validation of qualitative issues during on-site visits, and the composition of the monitoring team.

C. A meeting with the selected team members will be conducted to:

1. summarize, analyze, and review the LEA's data;

2. ...

3. discuss any unique circumstances or issues regarding the on-site visit to the LEA;

4. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:

§311. Activities Conducted During the On-Site Visit

A. The monitoring team will meet briefly with the representatives of the LEA to discuss how the visit will be conducted and to discuss any logistical or travel issues of concern.

B. The parent team member will conduct a parent focus group meeting and interview parents to collect data/information on their satisfaction of the services provided to their children and their involvement in their children's program.

C. Team members will visit sites, make observations, review records, and interview personnel. Student input will be collected through a student focus group meeting or interviews.

D. A member of the team will meet with the LEA special education director to review administrative issues. Additional data/information may be requested if further analysis is required for determining compliance status for specific regulatory issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30.418 (March 2004), amended LR 31:

§313. Activities/Procedures at the Completion of the On-Site Visit

A. At the completion of the on-site visit, the team will meet to discuss, review, and analyze the team findings and to summarize their findings on LDE-issued forms. A department staff team member will meet with representatives of the LEA at the conclusion of the on-site visit.

B. A preliminary draft of a Summary of Findings will be compiled no later than 10 business days after the completion of the on-site visit.

C. The LDE will mail the Summary of Findings to the LEA no later than 60 business days after the completion of the on-site monitoring visit.

D. Upon receipt of the report, the LEA will have 20 business days from the date of receipt of the report to respond to any findings, and 15 additional business days to develop a plan of corrective action to address non-compliant findings described in the summary.

E. The LEA, in collaboration with the LDE, will be required to design a corrective action plan that defines specific supports and resources that the LEA must have in order to implement the corrective action plan.

F. Timelines must be developed that are specific to the corrective action required and to the issues found to be in non-compliant status. The LEA must return the report to the LDE in hard copy and electronically.

G. The LDE will allocate resources from the state level, both human and monetary, when determined necessary by the LDE and the LEA in question, on an annual basis to address the issues specific to implementing the corrective action required in LEA.

H. If the LEA does not accept the findings, there will be a period of 10 business days allowed for discussion and clarification of the findings and discussion of needed corrective action to become compliant.

I. If acceptance of the report by the LEA is not reached within the established timelines, the State Director of Special Education will, within five business days, notify the State Superintendent of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:

§315. Validation of Corrective Action

A. Upon receipt of the approved compliance document, the LEA must begin to submit documentation of completed activities from the corrective action plan agreed upon by the LEA and the LDE.

B. Corrective action timelines established in the report will be tracked to determine corrective action has been taken and to verify compliance by the LDE.

C. All corrective action must be completed in accordance with the timelines that relate to each specific non-compliant issue. Documentation must be submitted to the LDE within the required timelines.

D. The LDE will conduct, when necessary, an on-site visit in the year following the initial on-site visit, or sooner if deemed necessary by the LDE, to validate the

documentation of the implementation of the corrective action and to validate systemic change of non-compliant issues.

E. The LDE will notify the LEA in writing when all corrective action has been accepted as completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:419 (March 2004), amended LR 31:

§317. Self-Review Conducted at the Local Level

A. A locally conducted annual self-review will be an integral component of the entire monitoring process. The data collected in the self-review will be analyzed to help the LEA and the LDE identify areas of non-compliance, as well as levels of support and technical assistance needed at the local level. Corrective action timelines established in the self-review report will be evaluated by the LDE in order to determine the LEA's effort and commitment to making valid systematic findings and developing corrective action that will result in the required evidence of change.

B. LEAs will use set procedures for conducting self-reviews of compliance standards.

1. LEAs will identify the sites to be included in the self-review. LEAs should use the procedures identified in their LEA application to identify the numbers of sites.

2. The identified sites must represent a cross section of all exceptionalities served and include a sample of each service delivery model used in the LEA.

3. ...

4. The local monitoring team will be designated at the local level.

5. The team should include personnel from the service setting such as general educators, parents, and administrators.

6. The team will be trained on procedures and strategies for conducting a self-review relative to special education regulatory compliance standards.

7. All self-review activities will be coordinated by the local LEA.

8. The LEA will be required to monitor the same regulatory issues for State and Federal regulations as monitored by the LDE.

9. ...

10. The LEA providing services will summarize the findings and compile a report to include:

a. summary of non-compliant issues; and

b. a corrective action plan for correcting deficiencies and a timeline for completing a corrective action.

c. Repealed.

11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:419 (March 2004), amended LR 31:

Chapter 5. Fiscal Monitoring

§507. Verification of the Accuracy of the Child Count

A. SBESE establishes the policy to seek to recover any funds made available under IDEA-Part B or the Minimum Foundation Program for services to any child who is

determined to be classified erroneously as eligible to be counted.

B. Determination of eligible children will be accomplished through the verification procedures of the LDE regarding the accuracy of the Child Count. In order to verify the accuracy of each count submitted, the LDE will conduct the following activities.

1. The current Child Count from each LEA will be compared with the previous count. In addition, the current Child Count incidence figures from each LEA will be compared with incidence figures from the previous State Child Count.

2. An on-site monitoring visit to verify the accuracy of the Child Count will be conducted in selected LEAs each year. If necessary, each LEA can be monitored for the previous years to verify the accuracy of the Child Count. During the monitoring of each LEA, the monitors will select at least ten names from the Child Count Report. The LEA must provide the student's name, date of birth, evaluation report, IEP, class rosters, and any other information that may be necessary to verify the accuracy of the count.

3. ...

4. If a child's IEP is monitored during the on-site review process and it is determined that the child is not receiving the special education and related services specified on the IEP, the child will be excluded from the Child Count.

5. The LEA will be afforded an opportunity to present supportive or explanatory documentation to refute the LDE findings. If the evidence cannot justify the count, the count will be disallowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:420 (March 2004), amended LR 31:

§509. Recovery of Funds for a Misclassified Child

A. If the LEA has received funds based on an erroneous count and the LDE has documented the extent of the error, the LDE will either reduce the grant award if the error occurred in the current budget and all of the funds have not been expended or request that the LEA return such funds. In the event the LEA refuses to comply, within 10 business days these procedures will be followed.

1. The LDE will submit written documentation of the error in the count to the State Superintendent of Education.

2. - 3. ...

4. Funds recovered by the LDE and the SBESSE will be handled within the guidelines set forth by OSEP, U.S. Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:421 (March 2004), amended LR 31:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No

3. Will the proposed Rule affect the functioning of the family? No

4. Will the proposed Rule affect family earnings and family budget? No

5. Will the proposed Rule affect the behavior and personal responsibility of children? No

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No

Interested persons may submit written comments until 4:30 p.m., October 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 1922 Compliance Monitoring Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs to state or local governmental units resulting from this proposed rule change other than for printing costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated impact on revenue collections of state or local governmental units as a result of this measure.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Adoption of this rule change would provide benefits to public school students with disabilities by ensuring, through monitoring, that services are provided in an appropriate fashion. The proposed rule changes clarify how school systems will be monitored for the provision of special education services and the sanctions that will be implemented for systems found not to be in compliance with federal and state guidelines.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment resulting from this proposed rule change.

Marlyn Langley
Deputy Superintendent
Management and Finance
0508#033

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Technical Changes to Regulatory Policies and Procedures
(LAC 28:I.927, 929, 953, 955, and 1710)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement revisions to LAC

28:I.927, 929, 953, 955, and 1710. The *Louisiana Administrative Code* should contain regulatory policies and procedures germane to the conduct of BESE Board business. We are in the process of removing Sections that either contain no regulatory language, the programs they refer to no longer exist, or the language will be transferred to or is already contained in the appropriate regulatory bulletin. These Sections are now represented in Bulletin 741. The transferred Sections will not have an effect on the way BESE conducts board business or the regulatory procedures or language used to oversee any programs.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter B. State Plans**

§927. Communicable Disease Control Policy

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10)(15); R.S. 17:170; R.S. 17:1941; 20 USC 1232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 14:703 (October 1988), amended LR 16:297 (April 1990), repealed LR 31:

§929. Administration of Medication Policy

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 21:260 (March 1995), LR 22:278 (April 1996), repealed LR 31:

**Subchapter C. Nonpublic Regulations
(Other than in Bulletin 741)**

§953. Home Study Regulations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 (8); R.S. 17:236-236.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 7:407 (August 1981), LR 8:277 (June 1982), LR 9:60 (February 1983), LR 10:997 (December 1984), amended LR 16:297 (April 1990), LR 23:404 (April, 1997), repealed LR 31:

§955. Montessori Schools

A. - B.4.b. repealed.

C. - C.4. ...

D. - J.1 repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3401-3403.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 3:241 (May 1977), LR 9:60, 411 (February, June 1983), LR 10:400 (May 1984), LR 14:789 (November 1988), amended LR 16:297 (April 1990), LR 31:

Chapter 17. Finance and Property

§1710. Acceptable Work Experience for Teacher Pay

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:424.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 21:549 (June 1995), repealed LR 31:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a

Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., October 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Technical Changes to Regulatory
Policies and Procedures**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The *Louisiana Administrative Code* should contain regulatory policies and procedures germane to the conduct of BESE Board business. We are in the process of removing sections that either contain no regulatory language, the programs they refer to no longer exist, or the language will be transferred to or is already contained in the appropriate regulatory bulletin. These sections are now represented in Bulletin 741. The transferred sections will not have an effect on the way BESE conducts Board business or the regulatory procedures or language used to oversee any programs.

This action will have no fiscal effect other than \$136.00 for advertising in the Louisiana Register

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This action will have no effect on revenue collections of state or local government units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This action will have no effect on cost and/or economic benefits to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This action will have no effect on competition and employment.

Weegie Peabody
Executive Director
0508#031

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Scholarship/Grant Programs
(LAC 28:IV.Chapter 10, 1901 and 1903)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant Rule (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, and R.S. 17:3048) (SG0663NI).

The text of this proposed Rule may be viewed in the Emergency Rule section of this *Louisiana Register*.

Interested persons may submit written comments on the proposed changes of SG0663NI until 4:30 p.m., September 12, 2005, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The program is limited to a maximum state general fund expenditure of \$1,000,000 for the state fiscal year 2006. These costs could increase in the out years if more students choose to participate in the program. It pays the tuition costs of eligible high school students enrolled in vocational or occupational training courses in a Louisianan Top Demand Occupation for a maximum of 6 credit hours per semester or 12 credit hours per year (excluding summer sessions). The proposed program pays a maximum of \$300 per semester or \$600 per year per student for tuition out of the TOPS allocation from the state general fund. There are minimal implementation costs to start this program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary) Some Louisiana students will directly benefit from the proposed changes because they will get a head start on their post-secondary education while still in high school at state expense. These proposed changes also benefit parents since the change may lower their cost in providing educational opportunities for their children. There are no estimated effects on economic benefits to non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Students successfully completing the program will be more employable because they have gained additional skills in high

demand occupational fields. Competition will improve as a more highly qualified workforce becomes available in an area.

George Badge Eldredge
General Counsel
0508#002

H. Gordon Monk
Acting Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Scholarship/Grant Programs 2005 Legislation
(LAC 28:IV.301, 703, 803, 1901, and 1903)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant Rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1)(SG0662NI).

The text of this proposed Rule may be viewed in the Emergency Rule section of this *Louisiana Register*.

Interested persons may submit written comments on the proposed changes of SG0662NI until 4:30 p.m. September 12, 2005, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs
2005 Legislation**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be an estimated increase of \$28,379 in FY 2005/06, \$52,703 in FY 2006/07, and \$78,703 in FY 2007/08 in the cost of the TOPS Scholarship program due to the slight increase in the number of students who will be eligible for an initial or higher TOPS award due to the proposed changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Some students will receive initial or additional post-secondary educational benefits under these proposed changes, thus easing a financial burden on their parents. There are no estimated effects on economic benefits to non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0508#004

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment

Mercury-Containing Devices and Electronics as Universal Wastes

(LAC 33:V.109, 305, 1501, 2201, 3801, 3806, 3810, 3813, 3821, 3823, 3841, 3843, 3845, 3855, 3877, 4301, and 4911)
(HW088)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.109, 305, 1501, 2201, 3801, 3806, 3810, 3813, 3821, 3823, 3841, 3843, 3845, 3855, 3877, 4301, and 4911 (Log #HW088).

This proposed rule adds mercury-containing devices and electronics, including cathode ray tubes (CRTs), destined for recycling as universal wastes. Under the proposed rule, metallic mercury must be recovered, recycled, reused, or sequestered, and not incinerated, landfilled, or released in any way; electronics, including CRTs, must be sent for dismantling and recovery of components, in a way that prevents releases to the environment. Electronics are the fastest growing portion of the municipal waste stream. In 1988, 20 million computers were discarded as obsolete, and only 11 percent of those were recycled. In 2004, 315 million computers were rendered obsolete in the United States. That equates to 4 billion pounds of plastic, 1 billion pounds of lead, 2 million pounds of cadmium, and 400,000 pounds of mercury. Electronic products are hazardous. They contain lead, mercury, cadmium, zinc, and brominated flame retardants. Televisions and computer monitors contain up to 4 pounds of lead each. Lead is fused with CRT glass as a radiation shield, making it difficult to separate. Currently there is no market for leaded glass. Eight states have already promulgated rules similar to this rule change and have added both electronics/CRTs and mercury-containing devices to their universal waste rules. Two states have taken action to include electronics and/or CRTs as state wastes. Two states have modified their universal waste rules to include mercury-containing devices. The basis and rationale for this proposed rule are to reduce costs and promote recycling by having mercury-containing devices and electronics, including CRTs, included as part of Louisiana's universal waste rule.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality Hazardous Waste

Chapter 1. General Provisions and Definitions

§109. Definitions

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

* * *

Cathode Ray Tube or CRT—a vacuum tube, composed primarily of glass, that is the video display component of a television or computer monitor. An *intact CRT* means a *CRT* remaining within the monitor, whose vacuum has not been released. A *broken CRT* means *CRT* glass removed from the monitor after the vacuum has been released.

* * *

CRT Glass Manufacturing Facility—a facility or part of a facility that uses a furnace to manufacture *CRT* glass.

CRT Processing—conducting all of the following activities:

1. receiving broken or intact *CRTs*;
2. intentionally breaking intact *CRTs* or further breaking or separating broken *CRTs*;
3. sorting or otherwise managing glass removed from *CRTs*; and
4. cleaning the coatings off the glass removed from *CRTs*.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003), amended by the Office of Environmental Assessment, LR 31:

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§305. Scope of the Permit

A. - C.11.b. ...

c. mercury-containing equipment as described in LAC 33:V.3806;

d. thermostats as described in LAC 33:V.3807;

e. lamps as described in LAC 33:V.3809;

f. electronics as described in LAC 33:V.3810; and

g. antifreeze as described in LAC 33:V.3811;

C.12. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 23:567 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1105 (June 1998), LR 24:1690, 1759 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:708 (May 2001), amended by the Office of Environmental Assessment, LR 31:

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

A. - C.11.b. ...

c. mercury-containing equipment as described in LAC 33:V.3806;

d. thermostats as described in LAC 33:V.3807;

e. lamps as described in LAC 33:V.3809;

f. electronics as described in LAC 33:V.3810; and

g. antifreeze as described in LAC 33:V.3811; or

C.12. - H.13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:565, 568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998), LR 24:1694, 1759 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:277 (February 2000), LR 27:711 (May 2001), amended by the Office of Environmental Assessment, LR 31:

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

A. - I.5.b. ...

c. mercury-containing equipment as described in LAC 33:V.3806;

d. thermostats as described in LAC 33:V.3807;

e. lamps as described in LAC 33:V.3809;

f. electronics as described in LAC 33:V.3810; and

g. antifreeze as described in LAC 33:V.3811.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR

22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 24:666 (April 1998), LR 24:1107 (June 1998), LR 24:1724 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 27:711 (May 2001), amended by the Office of Environmental Assessment, LR 31:

Chapter 38. Universal Wastes

Subchapter A. General

§3801. Scope and Applicability

A. This Chapter establishes requirements for managing batteries as described in LAC 33:V.3803, pesticides as described in LAC 33:V.3805, mercury-containing equipment as described in LAC 33:V.3806, thermostats as described in LAC 33:V.3807, lamps as described in LAC 33:V.3809, electronics as described in LAC 33:V.3810, and antifreeze as described in LAC 33:V.3811. This Chapter provides an alternative set of management standards in lieu of regulations under LAC 33:V.Subpart 1.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 24:1496 (August 1998), LR 24:1759 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:712 (May 2001), repromulgated LR 27:1518 (September 2001), amended by the Office of Environmental Assessment, LR 31:

§3806. Applicability—Mercury-Containing Equipment

A. Mercury-Containing Equipment Covered under This Chapter. The requirements of this Chapter apply to persons managing mercury-containing equipment as described in LAC 33:V.3813, except equipment listed in Subsection B of this Section. Discarded mercury-containing equipment that is not managed under LAC 33:V.Chapter 41 is subject to management under this Chapter.

B. Mercury-Containing Equipment Not Covered under This Chapter. The requirements of this Chapter do not apply to persons managing the following categories of mercury-containing equipment:

1. discarded mercury-containing equipment that is managed under LAC 33:V.Chapter 41;

2. mercury-containing equipment, as described in LAC 33:V.3813, that is not yet waste under LAC 33:V.4901, including equipment that does not meet the criteria for waste generation in Subsection C of this Section; and

3. mercury-containing equipment, as described in this Chapter, that is not hazardous waste. Mercury-containing equipment is hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

C. Generation of Waste Mercury-Containing Equipment

1. Used mercury-containing equipment becomes a waste on the date it is discarded (e.g., when sent for reclamation).

2. Unused mercury-containing equipment becomes a waste on the date the handler decides to discard it.

3. Mercury-containing equipment is a universal waste if destined for recycling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

§3810. Applicability—Electronics

A. Electronics Covered under This Chapter. The requirements of this Chapter apply to persons managing electronics as described in LAC 33:V.3813, except material listed in Subsection B of this Section. Discarded electronics not managed under LAC 33:V.Chapter 41 are subject to management under this Chapter.

B. Electronics Not Covered under This Chapter. The requirements of this Chapter do not apply to persons managing the following categories of electronics:

1. discarded electronics that are managed under LAC 33:V.Chapter 41;
2. electronics, as described in LAC 33:V.3813, that are not yet wastes under LAC 33:V.4901, including those that do not meet the criteria for waste generation in Subsection C of this Section; and
3. electronics, as described in this Chapter, that are not hazardous waste. Electronics are hazardous waste if they exhibit one or more of the characteristics identified in LAC 33:V.4903.

C. Generation of Waste Electronics

1. An electronic device becomes a waste on the date it is discarded (e.g., when sent for reclamation).
2. An unused electronic device becomes a waste on the date the handler decides to discard it.
3. An electronic device is a universal waste if destined for recycling or dismantling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

§3813. Definitions

Destination Facility—a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in LAC 33:V.3821.A and C and 3843.A and C. A facility at which a particular category of universal waste is only accumulated is not a destination facility for purposes of managing that category of universal waste. A facility that shreds, crushes, heats, or otherwise treats electronic devices or any component thereof, shall be considered a destination facility. A facility shall not be considered a destination facility if it engages in the disassembly or demanufacturing of electronics:

1. for the purpose of marketing, reselling, reusing, or recycling the components of the electronic devices; and
2. without treating the electronic devices or any component thereof.

Electronics or Electronic Device—a device or a component thereof that contains one or more circuit boards and is used primarily for data transfer or storage, communication, or entertainment purposes, including but not limited to, desktop and laptop computers, computer peripherals, monitors, copying machines, scanners, printers, radios, televisions, camcorders, video cassette recorders (VCRs), compact disc players, digital video disc players, MP3 players, telephones, including cellular and portable telephones, and stereos.

Large Quantity Handler of Universal Waste—a universal waste handler (as defined in this Section) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, or antifreeze, calculated collectively) at any time. This designation as a *large quantity handler of universal waste* is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated.

Mercury-Containing Equipment—a device or part of a device (excluding batteries, thermostats, and lamps) that contains elemental mercury necessary for its operation.

Small Quantity Handler of Universal Waste—a universal waste handler (as defined in this Section) who does not accumulate 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, or antifreeze, calculated collectively) at any time.

Universal Waste—any of the following hazardous wastes that are subject to the universal waste requirements of this Chapter:

1. - 2. ...
3. mercury-containing equipment as described in LAC 33:V.3806;
4. thermostats as described in LAC 33:V.3807;
5. lamps as described in LAC 33:V.3809;
6. electronics as described in LAC 33:V.3810; and
7. antifreeze as described in LAC 33:V.3811.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:570 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1760 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:287 (February 2000), LR 27:302 (March 2001), amended by the Office of Environmental Assessment, LR 31:

Subchapter B. Standards for Small Quantity Handlers of Universal Waste

§3821. Waste Management

A. - B.4. ...

C. Universal Waste Thermostats and Mercury-Containing Equipment. A small quantity handler of universal waste shall manage universal waste thermostats or mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a small quantity handler of universal waste shall contain any universal waste thermostat or mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the thermostat or mercury-containing equipment, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats or mercury-containing equipment, provided the handler:

a. - h. ...

3. a small quantity handler of universal waste who removes mercury-containing ampules from thermostats or mercury-containing equipment shall determine whether the mercury or clean-up residues resulting from spills or leaks, and/or other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units or mercury-containing equipment) exhibit a characteristic of hazardous waste identified in LAC 33:V.4903:

C.3.a. - D.2. ...

E. Universal Waste Electronics. A small quantity handler of universal waste shall manage universal waste electronics in a way that prevents the release of any universal waste, component of a universal waste, or constituent of a universal waste to the environment, as follows:

1. store all universal waste electronics inside a building with a roof and four walls or in the cargo-carrying portion of a truck, such as in a trailer, in a manner that prevents universal waste electronics from being exposed to the environment and ensures that all universal waste electronics are handled, stored, and transported in a manner that maintains the reuse or recyclability of any such device or component thereof;

2. immediately clean up and place in a container any broken cathode ray tube from a universal waste electronic device. Any such container shall be closed, structurally sound, and compatible with the cathode ray tube and shall be capable of preventing leakage, spillage, or releases of broken cathode ray tubes, glass particles, or other hazardous constituents from such broken tubes, to the environment;

3. shall not shred, crush, heat, or otherwise treat electronics or any component thereof, and shall not break the cathode ray tube in any electronic device. Provided no treatment is occurring, a small quantity handler of universal waste electronics may disassemble electronics for the sole purpose of marketing, reselling, reusing, or recycling components thereof.

F. Universal Waste Antifreeze. A small quantity handler of universal waste shall manage universal waste antifreeze in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste antifreeze shall be contained in one or more of the following:

1. a container that remains closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a container that does not meet the requirements of Paragraph F.1 of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of Paragraph F.1 of this Section;

3. a tank that meets the requirements of LAC 33:V.1915.C; or

4. a transport vehicle or vessel that is closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that

could cause leakage under reasonably foreseeable conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:571 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1760 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:302 (March 2001), amended by the Office of Environmental Assessment LR 31:

§3823. Labeling/Marking

A. - A.3.b. ...

4. Universal waste thermostats or mercury-containing equipment (e.g., each thermostat or mercury-containing device), or a container in which the mercury-containing equipment or thermostats are contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste—Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)"; or "Universal Waste—Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

5. ...

6. Universal waste electronics, or a container in which the electronics are contained, or each electronic device, package, or pallet containing universal waste electronics, shall be labeled or marked clearly with one of the following phrases: "Universal Waste—Electronics," or "Waste Electronics," or "Used Electronics."

7. Universal waste antifreeze, or a container in which the antifreeze is contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste—Antifreeze," or "Waste Antifreeze," or "Used Antifreeze."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:572 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:303 (March 2001), amended by the Office of Environmental Assessment, LR 31:

Subchapter C. Standards for Large Quantity Handlers of Universal Waste

§3841. Notification

A. - B.3. ...

4. a list of all of the types of universal waste managed by the handler (e.g., batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, antifreeze); and

5. a statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (e.g., batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, antifreeze) the handler is accumulating above this quantity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous

Waste, Hazardous Waste Division, LR 23:574 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000), amended by the Office of Environmental Assessment, LR 31:

§3843. Waste Management

A. - B.4. ...

C. Universal Waste Thermostats and Mercury-Containing Equipment. A large quantity handler of universal waste shall manage universal waste thermostats or mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a large quantity handler of universal waste shall contain any universal waste thermostat or mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the thermostat or mercury-containing equipment, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats or mercury-containing equipment provided the handler:

a. - h. ...

3. a large quantity handler of universal waste who removes mercury-containing ampules from thermostats or mercury-containing equipment shall determine whether the mercury or clean-up residues resulting from spills or leaks and/or other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units or mercury-containing equipment) exhibit a characteristic of hazardous waste identified in LAC 33:V.4903:

C.3.a. - D.2. ...

E. Universal Waste Electronics. A large quantity handler of universal waste shall manage universal waste electronics in a way that prevents the release of any universal waste, component of a universal waste, or constituent of a universal waste to the environment, as follows:

1. store all universal waste electronics inside a building with a roof and four walls or in the cargo-carrying portion of a truck, such as in a trailer, in a manner that prevents universal waste electronics from being exposed to the environment and ensures that all universal waste electronics are handled, stored, and transported in a manner that maintains the reuse or recyclability of any such device or component thereof;

2. immediately clean up and place in a container any broken cathode ray tube from a universal waste electronic device. Any such container shall be closed, structurally sound, and compatible with the cathode ray tube and shall be capable of preventing leakage, spillage, or releases of broken cathode ray tubes, glass particles, or other hazardous constituents from such broken tubes, to the environment;

3. shall not shred, crush, heat, or otherwise treat electronics or any component thereof, and shall not break the cathode ray tube in any electronic device. Provided no

treatment is occurring, a large quantity handler of universal waste electronics may disassemble electronics for the sole purpose of marketing, reselling, reusing, or recycling components thereof.

F. Universal Waste Antifreeze. A large quantity handler of universal waste shall manage universal waste antifreeze in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste antifreeze shall be contained in one or more of the following:

1. a container that remains closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a container that does not meet the requirements of Paragraph F.1 of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of Paragraph F.1 of this Section;

3. a tank that meets the requirements of LAC 33:V.Chapter 19, except for LAC 33:V.1915.C;

4. a transport vehicle or vessel that is closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:574 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:303 (March 2001), amended by the Office of Environmental Assessment, LR 31:

§3845. Labeling/Marking

A. - A.3.b. ...

4. Universal waste thermostats or mercury-containing equipment (e.g., each thermostat or mercury-containing device), or a container or tank in which the mercury-containing equipment or thermostats are contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste—Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)"; or "Universal Waste—Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

5. Each lamp or a container or package in which such lamps are contained shall be labeled or marked clearly with any one of the following phrases: "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

6. Universal waste electronics, or a container in which the electronics are contained, or each electronic device, package, or pallet containing universal waste electronics, shall be labeled or marked clearly with one of the following phrases: "Universal Waste—Electronics," or "Waste Electronics," or "Used Electronics."

7. Universal waste antifreeze, or a container in which the antifreeze is contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste—Antifreeze," or "Waste Antifreeze," or "Used Antifreeze."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:575 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:303 (March 2001), amended by the Office of Environmental Assessment, LR 31:

§3855. Tracking Universal Waste Shipments

A. - A.1. ...

2. the quantity of each type of universal waste received (e.g., batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, antifreeze); and

A.3. - B.1. ...

2. the quantity of each type of universal waste sent (e.g., batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, antifreeze); and

B.3. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:576 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1762 (September 1998), amended by the Office of Environmental Assessment, LR 31:

Subchapter E. Standards for Destination Facilities

§3877. Tracking Universal Waste Shipments

A. - A.1. ...

2. the quantity of each type of universal waste received (e.g., batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, antifreeze); and

A.3. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:578 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1762 (September 1998), amended by the Office of Environmental Assessment, LR 31:

Chapter 43. Interim Status

§4301. Purpose and Applicability

A. - C.13.b. ...

c. mercury-containing equipment as described in LAC 33:V.3806;

d. thermostats as described in LAC 33:V.3807;

e. lamps as described in LAC 33:V.3809;

f. electronics as described in LAC 33:V.3810; and

g. antifreeze as described in LAC 33:V.3811;

C.14. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998), LR 25:482 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:2498 (November

2000), LR 27:713 (May 2001), amended by the Office of Environmental Assessment, LR 31:

Chapter 49. Lists of Hazardous Wastes

[Comment: Chapter 49 is divided into two sections: Category I Hazardous Wastes, which consist of Hazardous Wastes from nonspecific and specific sources (F and K wastes), Acute Hazardous Wastes (P wastes), and Toxic Wastes (U wastes) (LAC 33:V.4901); and Category II Hazardous Wastes, which consist of wastes that are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903).]

§4911. Conditional Exclusion for Broken Cathode Ray Tubes (CRTs) Undergoing Recycling

A. Prior to processing, broken CRTs are not solid wastes if they are destined for recycling and if they meet the following requirements.

1. Storage. The broken CRTs shall be either:

a. stored in a building with a roof, floor, and walls;

or

b. placed in a container (i.e., a package or a vehicle) that is constructed, filled, and closed to minimize identifiable releases to the environment of CRT glass (including fine solid materials).

2. Labeling. Each container in which broken CRT material is contained shall be labeled or marked clearly with one of the following phrases: "Waste Cathode Ray Tube(s) —Contains Leaded Glass," or "Used Cathode Ray Tube(s) —Contains Leaded Glass." It shall also be labeled: "Do Not Mix with Other Glass Materials."

3. Transportation. These CRTs shall be transported in a container meeting the requirements of Subparagraph A.1.b and Paragraph A.2 of this Section.

4. Speculative Accumulation. These CRTs are subject to the limitations on speculative accumulation as defined in LAC 33:V.109.

B. Requirements for Processing of Broken CRTs. Broken CRTs undergoing *CRT processing* as defined in LAC 33:V.109 are not solid wastes if they meet the following requirements.

1. Storage. Broken CRTs undergoing processing are subject to the requirements of Paragraphs A.1, 2, and 4 of this Section.

2. Processing. All CRTs shall be processed within a building with a roof, floor, and walls. No activities may be performed that use temperatures high enough to volatilize lead from CRTs.

C. Processed CRT Glass Sent to CRT Glass Making or Lead Smelting. Glass removed from used CRTs that is destined for recycling at a CRT glass manufacturing facility or a lead smelter after processing is not a solid waste unless it is speculatively accumulated as defined in LAC 33:V.109. Imported, processed glass from CRTs is subject to these requirements as soon as it enters this state.

D. Processed CRT Glass Sent to Other Types of Recycling, except for Use Constituting Disposal. Glass removed from CRTs that is destined for other types of recycling after processing (except use constituting disposal) is not a solid waste if it meets the requirements of Paragraphs A.1-4 of this Section. Imported, processed glass removed from CRTs is subject to these requirements as soon as it enters this state.

E. Use Constituting Disposal. Processed glass removed from CRTs that is used in a manner constituting disposal shall comply with the requirements of Paragraphs A.1-4 of this Section and the applicable requirements of LAC

33:V.4139. Imported, processed glass from CRTs is subject to these requirements as soon as it enters this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

A public hearing will be held on September 27, 2005, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW088. Such comments must be received no later than October 4, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs and Regulation Development Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW088. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Mercury-Containing Devices and Electronics as Universal Wastes

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No significant costs to state or local governments are anticipated as a result of the proposed Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no significant effect on current revenue collections of state and local governments as a result of the proposed Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A cost savings is anticipated. Generators of waste electronics, cathode ray tubes and mercury-containing devices

will benefit to the extent that they avoid the higher costs of hazardous waste regulation, including hazardous waste transportation, fees, and the hazardous waste disposal tax.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of this addition will ease the regulatory burden on industry. Competition will not be significantly affected since all business must follow the same Rules. Employment in the recycling industry will be stimulated as the proposed additions are tied to recycling the materials.

Wilbert F. Jordan, Jr.
Assistant Secretary
0508#069

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment

RCRA XIV Package (LAC 33:V.108, 1717, 4003, and 4561)(HW087ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.108, 1717, 4003, and 4561 (Log #HW087ft).

This proposed Rule is identical to federal regulations found in 40 CFR 261.5(j), 262.34(j)-(k)(1), 264.1050(g)-(h), 279.10(i), and 279.74(b)-(b)(4), July 1, 2004, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule will promulgate the RCRA XIV cluster for equivalency with EPA standards. The rule clarifies certain aspects of used oil management standards. It clarifies when used oil contaminated with PCBs is regulated under RCRA used oil management standards. It explains that used oil mixed with conditionally exempt small quantity generators (CESQG) waste is subject to RCRA used oil management standards irrespective of how this mixture is to be recycled. It explains that the initial marketer of on-specification used oil must keep a record of the shipment of used oil to the facility to which the initial marketer delivers the used oil. In addition, this rule covers national emission standards for hazardous air pollutants (NESHAP) for automobile and light-duty truck surface coating operations at major sources of hazardous air pollutants (HAP). These operations are required to meet HAP emission standards reflecting the application of the maximum achievable control technology. The rule also amends RCRA air emission standards for owners and operators of treatment, storage, and disposal facilities (TSDFs) to exempt air emissions from certain activities that are covered by the final NESHAP. The basis and rationale for this Rule are to mirror the federal regulations.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic

costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality Hazardous Waste

Chapter 1. General Provisions and Definitions

§108. Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators

A. - I. ...

J. If a conditionally exempt small quantity generator's wastes are mixed with used oil, the mixture is subject to LAC 33:V.Chapter 40. Any material produced from such a mixture by processing, blending, or other treatment is also subject to LAC 33:V.Chapter 40.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:706, 716 (May 2001), amended by the Office of Environmental Assessment, LR 31:

Chapter 17. Air Emission Standards

Subchapter B. Equipment Leaks

§1717. Applicability

A. - F. ...

G. Purged coatings and solvents from surface coating operations subject to the national emission standards for hazardous air pollutants (NESHAP) for the surface coating of automobiles and light-duty trucks at LAC 33:III.5122 (40 CFR Part 63, Subpart III), are not subject to the requirements of this Subchapter.

[NOTE: The requirements of this Subchapter apply to equipment associated with hazardous waste recycling units previously exempt under LAC 33:V.4115.A. Other exemptions under LAC 33:V.105.D and 1501.C are not affected by these requirements.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1700 (September 1998), LR 25:438 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:294 (March 2001), amended by the Office of Environmental Assessment, LR 31:

Chapter 40. Used Oil

Subchapter A. Materials Regulated as Used Oil

§4003. Applicability

This Section identifies those materials that are subject to regulation as used oil under this Chapter. This Section also identifies some materials that are not subject to regulation as used oil under this Chapter and indicates whether these materials may be subject to regulation as hazardous waste under this Subpart.

A. - H. ...

I. Used Oil Containing PCBs. Used oil containing PCBs (as defined at 40 CFR 761.3) at any concentration less than 50 ppm is subject to the requirements of this Subchapter unless, because of dilution, it is regulated under 40 CFR Part 761 as a used oil containing PCBs at 50 ppm or greater.

PCB-containing used oil subject to the requirements of this Subchapter may also be subject to the prohibitions and requirements found at 40 CFR Part 761, including Sections 761.20(d) and (e). Used oil containing PCBs at concentrations of 50 ppm or greater is not subject to the requirements of this Subchapter, but is subject to regulation under 40 CFR Part 761. No person may avoid these provisions by diluting used oil containing PCBs, unless otherwise specifically provided for in this Subchapter or 40 CFR Part 761.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:828, 836 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 25:481 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:713 (May 2001), amended by the Office of Environmental Assessment, LR 31:

Chapter 43. Interim Status

Subchapter R. Air Emission Standards for Equipment Leaks

§4561. Applicability

A. - E. ...

F. Purged coatings and solvents from surface coating operations subject to the national emission standards for hazardous air pollutants (NESHAP) for the surface coating of automobiles and light-duty trucks at LAC 33:III.5122 (40 CFR Part 63, Subpart III), are not subject to the requirements of this Subchapter.

[NOTE: The requirements of LAC 33:V.4565-4589 apply to equipment associated with hazardous waste recycling units previously exempt under LAC 33:V.4115.A. Other exemptions under LAC 33:V.105.D and 4307 are not affected by these requirements.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1745 (September 1998), LR 25:486 (March 1999), amended by the Office of Environmental Assessment, LR 31:

A public hearing will be held on September 27, 2005, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW087ft. Such comments must be received no later than September 27, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs and Regulation Development Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to

judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW087ft. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

0508#057

NOTICE OF INTENT

Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice

Peace Officer Training (LAC 22:III.4705 and 4709)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, The Peace Officer Standards and Training Council hereby give notice of its intent to amend rules and regulations relative to the training of peace officers

The text of this proposed Rule may be viewed in the Emergency Rule section of this *Louisiana Register*.

Interested persons may submit written comments on this proposed Rule no later than September 12, 2005, at 5 p.m. to Bob Wertz, Peace Officer Standards and Training Council, Louisiana Commission on Law Enforcement, 1885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806. A hearing will be held by the POST Council at its meeting on September 14, 2005, at the Fairmont Hotel, 123 Baronne St., New Orleans, LA at 1 p.m.

Michael A. Ranatza
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Peace Officer Training

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule will potentially result in a decrease in expenditures for state and local governmental units because the proposal will extend the break in service time in which a peace officer must requalify from three to five years and will result in a reduction in training costs. The exact amount of savings cannot be quantified at this time.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that implementation of the proposed rule will have little or no impact on directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be a positive effect on employment in the public sector as a result of this proposed amendment since there will be a decrease in expenditures for state and local governments which could result in additional officers being employed by these agencies.

Michael A. Ranatza
Executive Director
0508#049

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Board of Architectural Examiners

Use of the Term "Associate"
(LAC 46:I.1513)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners ("Board") gives notice that rule making procedures have been initiated for the amendment of LAC 46:I.1513 pertaining to an architectural firm using the word "associate" in its title. The existing Rule provides that an architectural firm using the plural form of the word "associate", but which loses an associate or associates so that it is no longer able to do so, is not required to change its name for a period of two years from the departure of the associate. The proposed Rule provides that such a firm is required to change its name as soon thereafter as is reasonably possible, which change shall occur not later than one year from the departure of the associate or associates.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part I. Architects

Chapter 15. Titles, Firm Names and Assumed Names §1513. Use of the Term "Associate"

A. An architect may only use the word "associate" in the firm title to describe a full time officer or employee of the firm. The plural form may be used only when justified by the number of associates who are full time firm employees. An architectural firm using the plural form, but which loses an associate or associates so that it is no longer able to do so, is required to change its name as soon thereafter as is reasonably possible, which change shall occur not later than one year from the departure of the associate or associates. Identification of the associates in the firm title, listing, publication, letterhead, or announcement is not required.

Allowed	Not Allowed
John Smith & Associates, Architecture & Planning John Smith, Architect	John Smith & Associates Architects (if the firm employs only one associate as defined herein)
John Smith & Associates, Architect John Smith, Architect	

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:569 (April 2003), amended by the Office of the Governor, Division of Administration, Board of Architectural Examiners LR 31:

Interested persons may submit written comments on this proposed Rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 9625 Fenway Ave., Suite B, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Use of the Term "Associate"**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units associated with this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated increased costs and no economic benefits to directly affected persons or non-governmental groups associated with this proposed rule. However, an architectural firm affected by this rule will be required to incur the costs of changing its name sooner than before, that is, within one year (rather than two years) from the departure of the associate or associates.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with this proposed rule.

Mary "Teeny" Simmons
Executive Director
0508#022

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Financial Institutions**

**Expired License Reinstatement Procedure
(LAC 10:XII.301)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and with R.S. 6:121, R.S. 6:1081 et seq., of the Residential Mortgage Lending Act (hereinafter referred to as "RMLA"), the Office of Financial Institutions hereby

gives Notice of Intent to adopt LAC 10:XII:301, a Rule to establish the procedure for the reinstatement of a RMLA license after automatic expiration, provide for the information an applicant must submit in connection with a reinstatement request, provide for the time period in which a reinstatement request may be filed with the Office of Financial Institutions, provide for items that may be considered in connection with the assessment of a reinstatement penalty, up to the statutory maximum amount, and require the disclosure of residential mortgage loan activity occurring after automatic expiration and prior to a reinstatement request or a new license application following automatic expiration. This Rule has been promulgated to effectuate the purpose, administration, and enforcement of the RMLA, R.S. 6:1081, et seq.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC**

Part XII. Residential Mortgage Lending Act

Chapter 3. Residential Mortgage Lending Licenses

§301. Expired License Reinstatement Procedure

A. Any license deemed to have expired automatically on January 1, pursuant to R.S. 6:1088(F)(4), shall not be eligible for reinstatement of said license, unless the request is received by the Office of Financial Institutions postmarked on or before January 15, of that year, and contains:

1. a written reinstatement request filed by the person named in the expired license, which contains such information as may be required by rule, or as the Commissioner of the Office of Financial Institutions (hereinafter referred to as "commissioner"), may direct;
2. evidence showing good cause for approval of a reinstatement request; and
3. payment of a reinstatement penalty in an amount not to exceed \$1,000, as determined by the commissioner, in his discretion, and in accordance with this rule.

B. Any license deemed to have expired automatically on January 1, pursuant to R.S. 6:1088(F)(4), and as to which the requirements of Subsection A of this Section have not been met on or before January 15, of that year, shall remain expired, and shall not thereafter be eligible for reinstatement, however, an application for a new license may be filed, provided all the requirements for the filing of an application for a new license and of this rule are met, and all required fees and penalties have been paid in full at the time of filing the application for a new license.

C. In addition to the information required to be included in a reinstatement request pursuant to Subsection A, or with a new license application pursuant to Subsection B of this Section, any such application shall indicate whether the applicant engaged in any residential mortgage loan activity during the time period from the date of expiration of the license for which reinstatement or a new license is sought, until the date the reinstatement request or the new license application is filed with the Office of Financial Institutions, including, but not limited to, a listing of each residential mortgage loan application received, and/or each residential mortgage transaction completed.

D. In determining the amount of the reinstatement penalty required by Subsection A of this Section, the commissioner shall consider, among other things:

1. the cause or causes of the failure to timely file a renewal application, and

2. whether the applicant continued to engage in residential mortgage lending activities subsequent to the automatic expiration pursuant to R.S. 6:1088(F)(4).

E. Knowingly providing false, incomplete, misleading or incorrect information in connection with a request for reinstatement, or in connection with an application for a new license following automatic expiration, shall be a cause for denial of such request or application, and may be grounds for suspension or revocation of any reinstated license or new license granted as provided for herein, if the commissioner would have denied the license had such defect in the information been known at the time said reinstatement request or application for a new license was granted.

F. Terms used herein and defined in the RMLA, R.S. 6:1081, et seq., shall have the same meaning as the terms defined in the RMLA, unless otherwise specifically provided to the contrary herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121 and R.S. 6:1085.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 31:

Pursuant to R.S. 49:972, and prior to the adoption of the proposed Rule LAC 10:XII:301, Expired License Reinstatement Procedure, the Office of Financial Institutions considered the impact of the proposed Rule, and found the proposed Rule, if adopted, would have no effect on the stability or the functioning of the family, the authority and rights of parents regarding the education and supervision of their children, family earnings and family budget, the behavior and personal responsibility of children, or the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons are invited to submit written comments on this proposed Rule no later than 4:30 p.m., September 20, 2005, to Susan H. Rouprich, General Counsel, Office of Financial Institutions, P.O. Box 94095, Baton Rouge, LA, 70804-9095, or by hand delivery to the Office of Financial Institutions, 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809-7024.

John Ducrest
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Residential Mortgage Lending Act, Expired License Reinstatement Procedure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated as a result of the proposed rule. The rule defines circumstances under which the Commissioner of Financial Institutions will consider reinstatement of licenses issued under the Residential Mortgage Lending Act which have expired.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections of State or local governmental units is anticipated as a result of the proposed rule. The rule will not change the amount of reinstatement penalties assessed to persons which let their licenses expire.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs or economic benefits are anticipated for affected persons or non-governmental groups as a result of the proposed rule. The rule will only detail the circumstances under which the Commissioner will consider reinstatement of an expired license back to January 1. Reinstatement penalties and civil money penalties are provided for in the residential mortgage lending act. The proposed rule will not change the manner in which these fees are assessed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule.

John Ducrest
Commissioner
0508#066

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Office of Financial Institutions

Financial Institutions Applications
(LAC 10:I.501 and 507)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Commissioner of the Office of Financial Institutions gives notice to intent to amend Section 501, Definitions, of the Rule originally promulgated in LR 19:1414 (November 1993) and approved for advertisement the repeal of Section 507, Application for Electronic Financial Terminal (EFT), from the Louisiana Administrative Code. These actions are being effectuated in order to: 1) make the Rule consistent with R.S. 6:2 as amended by Acts 1995, No. 354, §1, eff. June 16, 1995, that defines a branch or branch office as a manned office and excludes EFTs; and 2) eliminate the requirements for the establishment of an off-site EFT for state-chartered banks, savings and loan associations, and savings banks in order to create parity with federally-chartered financial institutions.

There is no family impact associated with this proposed Rule, as provided for in R.S. 49:972.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part I. Financial Institutions

Chapter 5. Applications

Subchapter A. Certificate of Authority for New Financial Institutions; Branches; or Relocation of Main Office or Branch Office

§501. Definitions

Applicant One or more natural persons or a state-chartered financial institution seeking a certificate of authority from the commissioner to transact business as a financial institution, or a branch thereof, as defined below.

Application Shall consist of forms provided by the commissioner, submitted in a form acceptable to the commissioner, along with all supporting documents, requesting that a certificate of authority be granted.

Branch or Branch Office For the purpose of making application to this Office means any manned office of a bank. This excludes off-site electronic financial terminals

and loan production offices which are owned or leased by the financial institution.

Commissioner The Commissioner of Financial Institutions.

Electronic Financial Terminal (EFT)

1. an electronic information processing device, other than a telephone, which is established to do either or both of the following:

- a. capture the data necessary to initiate financial transactions; or
- b. through its attendant support system, store or initiate the transmission of the information necessary to consummate a financial transaction.

2. The term includes, without limitation, point of sale terminals, merchant-operated terminals, script or cash dispensing machines, and automated teller machines.

Financial Institution Any bank, savings bank, homestead association, building and loan association, or savings and loan association chartered by the commissioner.

Investigation The commissioner or any examiner or examiners designated by the commissioner shall make such investigations as deemed necessary to assist in the determination of matters pending before the commissioner. The investigation shall include an examination of each of the six factors detailed in §503.C.

Loan Production Office A location, other than the financial institution's main office, branch office or subsidiary corporation, with the authority to lend money, where the employees of a financial institution or its subsidiary conduct the solicitation and origination of applications for loans, provided that the loans are approved and made at the main office, branch office or subsidiary corporation.

"Phantom" Financial Institution A corporation organized as a state, nondeposit taking financial institution, for the purpose of facilitating the organization of a holding company.

Relocation of a Branch Office A movement within the same neighborhood that does not substantially affect the nature of business or customers served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:1414 (November 1993), amended by the Office of the Governor, Office of Financial Institutions, LR 31:

§507. Application for Electronic Financial Terminal (EFT)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:1415 (November 1993), repealed by the Office of the Governor, Office of Financial Institutions, LR 31:

All interested persons are invited to submit written comments on this proposed Rule no later than 4:30 p.m., September 20, 2005, to John D. Fields, Deputy Chief Examiner, Office of Financial Institutions, Post Office Box 94095, Baton Rouge, LA 70804-9095, or by hand-delivery

to 8660 United Plaza Boulevard, 2nd Floor, Baton Rouge, LA 70809.

John Ducrest
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Financial Institutions Applications

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to state or local governmental units associated with this proposal. The proposal amends definitions contained in the rule and repeals the requirements for the establishment of an off-site electronic financial terminal (EFT) for state-chartered depository institutions in order to create parity with federally-chartered financial institutions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on the revenue collections of state or local governmental units. Any loss of fee income will be offset by a proportional increase in the variable semi-annual assessment charged to banks, savings and loan associations, and savings banks.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendments will have no net impact on the financial institutions covered by this rule with respect to any estimated costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposal will have no impact on competition and employment.

John Ducrest, CPA
Commissioner
0508#064

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Financial Institutions**

Financial Institutions Fees and Assessments
(LAC 10:I.303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and as provided under R.S. 6:126(A), the Commissioner of the Office of Financial Institutions gives notice of intent to amend the Rule originally promulgated in LR 19:1546 (December 1993), subsequently amended in LR 21:1069 (October 1995) and LR 23:706 (June 1997). The commissioner proposes to eliminate the following in the proposed Rule: 1) the fee charged for the reservation of a corporate name of a state bank, savings and loan association, or savings bank; and 2) the fee charged state banks, savings and loan associations, and savings banks for notification for an off-site electronic financial terminal machine. Also proposed is a reduction of the fee charged for an application

by a state-chartered bank, savings and loan association, or savings bank to establish or acquire a subsidiary or service corporation.

There is no family impact associated with this proposed Rule, as provided for in R.S. 49:972.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC**

Part I. Financial Institutions

Chapter 3. Fees and Assessments

§303. Establishment of Fees and Assessments

Description	Fee
A. Application for a de novo state bank, savings and loan association or savings bank charter, or the merger or consolidation of two banks, savings and loan associations, or savings banks. The fee for a merger or consolidation may be reduced based on certain factors including, but not limited to: the date of each institution's most recent examination, the financial condition of the applicant, the structure of the institutions, the complexity of the transaction, the number of similar transactions contemplated, and any other factor(s) as determined by the commissioner of Financial Institutions.	\$10,000; \$5,000 for each additional institution affected
B. The conversion from a national or federally-chartered depository institution to a state-chartered depository institution.	\$1,500
C. Application for a state bank, savings and loan association or savings bank for a branch office.	Standard Form: \$1,000 Short Form: \$250
D. Processing fee for an application to acquire a failing or failed institution. If the applicant is the successful bidder, the processing fee will be applied to the application fee(s) as set forth in A. and C. above:	
1. Existing state-chartered financial institution.	\$500 per branch
2. De Novo state-chartered financial institution.	\$5,000
E. Application for a conversion or merger of a state-chartered bank, savings and loan association, or savings bank into a national bank, a federal savings and loan association, or a federal savings bank.	\$1,500
F. Application for the organization and/or merger of a stock or mutual holding company for an already existing bank, savings and loan association, or savings bank (phantom).	\$2,000
G. Special examination fee for a state bank, savings and loan association, or savings bank. Fee per examiner.	\$50/hour
H. Semi-annual assessment of each state-chartered bank, savings and loan association, and savings bank at a floating rate to be assessed no later than June 30 and December 31, to be based on the total consolidated average assets, for the preceding quarter. Not applicable to Trust Banks. Any amounts collected in excess of actual expenditures of the OFI shall be credited or refunded on a pro-rata basis. Any shortages in assessments to cover actual operating expenses of OFI shall be added to the next variable assessment or billed on a pro-rata basis.	Variable
I. Annual assessment of each holding company domiciled in and/or operating in Louisiana, to be assessed no later than September 30 of each year to be based upon the holding company's total consolidated assets as of the previous June 30, in accordance with the following schedule.	
1. Assets less than \$100,000,000	\$350
2. Assets of \$100,000,000 to \$149,999,999	\$500
3. Assets of \$150,000,000 or greater	\$650

Description	Fee
J. Examination fee for holding companies of each bank, savings and loan association, or savings bank domiciled in and/or operating in Louisiana. Fee per examiner.	\$50/hour
K. Semi-annual assessment for each bank limited to the exercise of trust powers only and domiciled and operating in Louisiana to be assessed no later than June 30 and December 31.	\$500
L. Examination fee for each trust bank domiciled and operating in Louisiana. Fee per examiner.	\$50/hour
M. Examination fee for a trust department of a state-chartered bank, savings and loan association, or savings bank. Fee per examiner.	\$50/hour
N. Examination of the registered transfer agent activities of a state-chartered bank, savings and loan association, or savings bank. Fee per examiner.	\$50/hour
O. Review of a restatement and/or amendment to the Articles of Incorporation of a state-chartered bank, savings and loan association or savings bank.	\$250
P. Application by a state-chartered bank, savings and loan association, or savings bank to exercise trust powers and/or re-institute trust powers formerly surrendered.	\$1,000
Q. Application by a state-chartered bank, savings and loan association, or savings bank to establish or acquire a subsidiary or service corporation.	\$500
R. Application by an in-state or out-of-state holding company to acquire a Louisiana bank, savings and loan association, or savings bank, or a holding company thereof, or an out-of-state holding company with a Louisiana bank, savings and loan or savings bank subsidiary(-ies).	\$1,000; \$11,000 if de novo charter also required
S. Corporate Credit Union Examination Fee	\$5,000 plus \$400 per day per examiner.
T. Application by a state-chartered bank, savings and loan association, or savings bank to merge with its parent holding company.	\$1,000
U. Processing fee for a certificate of authority filed by a state-chartered savings and loan association or savings bank not domiciled in Louisiana to operate a branch in Louisiana.	\$1,000
V. Application for conversion by any state-chartered depository institution to another state charter.	\$1,500
W. Application for the voluntary conversion of a depository institution from a mutual to a stock form (equity ownership).	\$1,500

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:126(A), 6:212 and 6:646(B)(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:1546 (December 1993), amended LR 21:1069 (October 1995), LR 23:706 (June 1997), amended by the Office of the Governor, Office of Financial Institutions, LR 31:

All interested persons are invited to submit written comments on this proposed Rule no later than 4:30 p.m., September 20, 2005, to John D. Fields, Deputy Chief Examiner, Office of Financial Institutions, Post Office Box 94095, Baton Rouge, LA 70804-9095, or by hand-delivery to 8660 United Plaza Boulevard, 2nd Floor, Baton Rouge, Louisiana 70809.

John Ducrest
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Financial Institutions
Fees and Assessments**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs or savings to state or local governmental units associated with this proposal. The proposed amendments simply repeal and/or reduce certain fees paid by the financial institutions under the jurisdiction of this Office.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on the revenue collections of state or local governmental units. In addition to fee income, this Office charges a variable assessment on financial institutions in order to cover our costs of operation. The amount of the assessment is calculated by first estimating expenditures for the next six month period. From this estimate, expected fee income is subtracted to yield the amount which will be assessed. Therefore, all fee income lost will be offset, when needed, by a proportional increase in the variable assessment charged to banks, savings and loan associations, and savings banks.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendments will have no net impact on the financial institutions covered by this rule with respect to any estimated costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments will have no impact on competition and employment.

John Ducrest, CPA
Commissioner
0508#065

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Veterinary Practice & Wellness Clinic
(LAC 46:LXXXV.700 and 711)

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.700 and 711 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1569. This text is being amended to clarify and implement the regulatory requirements of a licensed veterinarian conducting a wellness or preventative care clinic in keeping with its function as defined by the State Legislature in the Veterinary Practice Act. The proposed Rule will clarify and implement requirements for a veterinarian licensed by the board to administer vaccines, perform examinations, and/or diagnostic procedures to promote good health, excluding treatment for a diagnosed disease, illness or medical condition, at a location other than a veterinary hospital, clinic, or mobile clinic. The proposed

Rule amendment has no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The proposed amendment to the Rules is set forth below. This Rule is currently in effect as an Emergency Rule adopted on August 4, 2005 for the next 120 days from this date or until adoption of the final Rule, whichever occurs first.

The text of this proposed Rule may be viewed in the Emergency Rule section of this *Louisiana Register*.

Interested parties may submit written comments to Wendy D. Parrish, Administrative Director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801, or by facsimile to (225) 342-2142. Comments will be accepted through the close of business on September 15, 2005. 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 Thursday, September 29, 2005, at 10 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA.

Wendy D. Parrish
Administrative Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Veterinary Practice & Wellness Clinic**

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 amendment (estimated at \$200 in FY 2005). Licensees will be informed of this rule change via the board's regular newsletter or other direct mailings, which result in minimal costs to the Board.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as no increase in fees will result from the amendment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule amendment clarifies and implements the regulatory requirements of a licensed veterinarian conducting a wellness or preventative care clinic in keeping with its function as defined by the State Legislature in the Veterinary Practice Act. The Rule will allow a veterinarian licensed by the Board to administer vaccines, perform examinations, and/or diagnostic procedures to promote good health, excluding treatment for a diagnosed disease, illness or medical condition, at a location other than a veterinary hospital, clinic, or mobile clinic.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed rule.

Wendy D. Parrish
Administrative Director
0508#024

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Wholesale Drug Distributors

Wholesale Drug Distributors
(LAC 46:XCI.Chapters 1-8)

The Louisiana Board of Wholesale Drug Distributors proposes to amend LAC 46:XCI.Chapters 1-8 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 37:3467 et seq. of the Louisiana Board of Wholesale Drug Distributors Practice Act. These proposed rule amendments will further assist and support the board in its ability to regulate wholesale drug distribution within the state. The proposed Rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The proposed amendments to the rule are set forth below.

Title 46

PROFESSIONAL AND OCCUPATION STANDARDS

Part XCI. Wholesale Drug Distributors

Chapter 1. General Provisions

§103. Definition

A. As used in this regulation, unless the context otherwise requires:

Adulterated Drug or Device A drug or device shall be deemed adulterated if:

a. it consists, in whole or in part, of any filthy, putrid, or decomposed substance; or

b.i. it has been produced, prepared, packed, or held under unsanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or

ii. the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that the drug or device meets with the requirements of this part as to safety and has the identity and strength, and meets with the quality and purity characteristics which it purports or is represented to possess; or

c. its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

d.i. it bears or contains, for purposes of coloring only, a color additive which is unsafe within the meaning of federal or Louisiana law or rule; or

ii. it is a color additive, the intended use of which is for the purpose of coloring only, and is unsafe within the meaning of federal or Louisiana law or rule; or

e. it purports to be or is represented as a drug or device the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in the compendium. Such a determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in the compendium, or in the absence of or inadequacy of these tests or methods of assay, those prescribed under the authority of federal or state law or rule. No drug or device defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefore set forth in

the compendium, if its difference in strength, quality, or purity from the standard is plainly stated on its label;

f. it is not subject to Subparagraph e above and its strength differs from, or its quality or purity falls below that which it purports or is represented to possess; or

g. it is a drug or any substance has been:

i. mixed or packed therewith so as to reduce its quality or strength; or

ii. substituted wholly or in part thereof; or

h. it is a device, all consideration as noted in the federal Food, Drug, and Cosmetic Act.

Agent or Representative A person authorized by another person called the principal to act for him or on his behalf in wholesale drug distribution and who may or may not take physical possession such that the drug or device is sold to the agent or representative and may be shipped to a third party.

Blood Whole blood collected from a single donor and processed either for transfusion or further manufacturing.

Blood Components That part of blood separated by physical or mechanical means.

Board The Louisiana Board of Wholesale Drug Distributors.

Broker A person participating in the wholesale distribution of a drug or device that buys or sells the drug or device, but does not take physical possession such that it is sold to the broker and shipped to a third party.

Consumer or Patient A person who is the end user of a drug or device.

Contraband Drug or Device A drug or device which is counterfeit, stolen, misbranded, obtained by fraud, purchased and placed in commerce in violation of its own use agreement for that drug or device, or for which the documentation in existence has been forged, counterfeited, falsely created, or contains any altered, false, or misrepresented information.

Controlled Substance Those substances, drugs, or immediate precursors listed in Schedules I through VI of the Uniform Controlled Substances Act.

Counterfeit Drug or Device A drug or device which, or the container, shipping container, seal, or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or any likeness thereof, of a manufacturer, processor, packer, or distributor, other than the person who in fact manufactured, processed, packed, or distributed such drug or device and which thereby falsely purports or is represented to be the product of, or to have been packed or distributed by, such other manufacturer, processor, packer, or distributor.

Deliver or Delivery Actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for consideration.

Distribute or Distribution To sell, offer to sell, broker, give away, or transfer, drugs or devices whether by passage of title, physical movement, or both.

Distributor Any person who is lawfully engaged in wholesale drug or device distribution.

Drug or Device Any legend drug or legend device intended for use by humans which can be dispensed by prescription or order of a licensed practitioner and whose labeling contains the legend "Caution: Federal law prohibits dispensing without a prescription, or except the sale by or on

order of a physician or appropriate licensed practitioner" or "Rx only".

Drug Sample or Complimentary Drug A unit of a prescription drug that is labeled "sample", "not to be sold", or "complimentary", or other words to that effect, which is provided as a courtesy and not intended to be sold but is intended to promote the sale of the drug.

Facility or Physical Location Structure, warehouse, or building used by a person for the reception, storage, handling, repackaging, and/or offering for sale of a drug or device.

Freight Forwarder A person participating in the wholesale distribution of a drug or device that acts as the agent for the distribution of a drug or device, and does or does not take physical possession such that it is sold to the broker and shipped to a third party.

Jobber A person who purchases drugs or devices, usually in bulk, to sell to another person in the wholesale drug distribution industry.

Label or Labeling A display of written, printed, or graphic matter located immediately upon, or accompanying, a drug or device.

Legend Drug

a. a drug limited by Section 503(b)(1) of the federal Food, Drug, and Cosmetic Act to being dispensed by or upon a licensed practitioner's prescription because the drug is:

- i. habit-forming;
- ii. toxic or having potential for harm;
- iii. limited in its use to use under a practitioner's supervision by the new drug application for the drug;

b. the product label of a legend drug is required to contain the statement "Rx Only" or "CAUTION: FEDERAL LAW PROHIBITS DISPENSING WITHOUT A PRESCRIPTION", or "EXCEPT THE SALE BY OR ON ORDER OF A PHYSICIAN OR APPROPRIATE LICENSED PRACTITIONER";

c. a legend drug includes prescription drugs subject to the requirement of Section 503(b)(1) of the federal Food, Drug, and Cosmetic Act, which shall be exempt from Section 502(F)(1) if certain specified conditions are met.

Licensed Practitioner or Appropriate Licensed Practitioner A person who is duly licensed, registered, or otherwise authorized by law to administer, prescribe, or dispense, as appropriate, a drug or device for medical purposes in the course of professional practice.

Medical Gas Any compressed liquefied or compressed vaporized gas that is a drug whether it is alone or in combination with another gas or gases.

Manufacture or Manufacturing The act of preparing a drug or device in dosage form, by mixing, propagating, compounding, processing, encapsulating, entableting, or other process, including packaging, repackaging, or labeling.

Manufacturer A person engaged in manufacturing a drug or device and includes a labeler, primary distributor, or person who is engaged in preparing drugs or devices in dosage form, by mixing, propagating, compounding, conversion, processing, encapsulating, entableting, or other process, including packaging, repackaging, or labeling.

Misbranded A drug or device shall be deemed misbranded if the label is false or misleading in any particular, or the label does not bear the name and address of

the manufacturer, packer, or distributor and does not have an accurate statement of the quantities of the active ingredients in case of a drug, or does not show an accurate monograph for legend drug, or other considerations as required in the federal Food, Drug, and Cosmetic Act.

Own Label Distributor A person that packages and/or manufactures and packages a drug or device that bears the name of the distributor along with the distributor's national drug code number and lot number.

Person Individual, partnership, corporation, limited liability company, trust, business firm, association, franchise arrangement, combination of any of these entities, or any other legal entity, including government.

Pharmacy Any pharmacy licensed by the appropriate regulatory board or agency of the state in which the pharmacy facility is located.

Private Label Distributor A person that packages and/or manufactures and packages a drug or device that bears the name of the distributor along with the distributor's national drug code number and lot number.

Prescription Drug Any drug required by federal or state law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to Section 503(b) of the Federal Food, Drug, and Cosmetic Act.

Repackage or Repackaging Changing or altering the container, wrapper, or label of a drug or device to further its distribution.

Repackager A person who repackages or engages in repackaging.

Rx Only Means any human drug or device required by federal or state law or regulation to be dispensed by prescription only.

Sale, Selling, or To Sell Any transfer of ownership, or percentage thereof, of a drug or device whereby a risk of loss is assumed by the person acquiring the ownership including distribution, barter, exchange, or gift.

Warehouse or Warehouseman A person engaged in the business of receiving, storing, and/or distributing a drug or device whether it is owned by this person or another person.

Wholesale Drug or Device Distribution and Wholesale Distributions The distribution of drugs or devices to persons other than consumers or patients including distribution by manufacturers, repackagers, own label distributors, jobbers, and wholesale drug or device distributors, but does not include:

a. sale or transfer between any division, subsidiary, parent and/or affiliated or related company under common ownership and control, or a sale to a customer to cover a particular unforeseen need or from such a common ownership facility as certified by a licensed facility;

b. the purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization from the group purchasing organization or from other hospitals or health care entities that are members of such organization;

c. the sale, purchase or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in Section 501(c)(3) of the federal Internal Revenue Code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

d. the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control; for the purposes of this regulation *common control* means the power to direct or cause the direction of the management and policies of a person or an organization whether by ownership of stock, voting rights, by contract or otherwise;

e. the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons; for purposes of this regulation, *emergency medical reasons* include transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage that arises from delays in or interruptions of regular distribution schedules;

f. the sale, purchase, or trade of a drug; an offer to sell, purchase, or trade a drug; or the dispensing of a drug pursuant to a prescription;

g. the distribution of drug samples by manufacturers' representatives or distributors' representatives; or

h. the sale, purchase or trade of blood and blood components intended for transfusion.

Wholesale Drug or Device Distributor Any person engaged in wholesale distribution of drugs or devices, including but not limited to:

a. manufacturers;

b. repackers' own-label distributors;

c. private label distributors;

d. jobbers;

e. brokers;

f. warehouses;

g. including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses;

h. independent wholesale drug traders;

i. retail pharmacies that conduct wholesale distributions; and

j. freight forwarders.

Wholesale Drug Trader A person in the wholesale drug distribution industry who sells or distributes a drug or device which is substantially in the same form it is purchased by a person other than a consumer or patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:381 (April 1992), amended LR 29:1479 (August 2003), LR 31:

Chapter 3. Wholesale Drug or Device Distributors

§301. Licensing, Renewal and Reinstatement Requirements

A. Every wholesale drug or device distributor who engages in the wholesale distribution of drugs or devices, to include without limitation, manufacturing in this state, shipping in or into this state or selling or offering to sell in or into this state, shall register annually with the board by application for a license on a form furnished by the board and accompanied by a fee of \$200. The board shall require a separate license for each facility or physical location directly or indirectly owned or operated by the same business entity within this state, or for a parent entity with divisions, subdivisions, subsidiaries, and/or affiliate companies within this state when operations are conducted at more than one

location and there exists joint ownership and control among all the entities.

B. A license shall be renewed annually by timely and properly submitting application and other pertinent information which may be requested as well as the payment of a renewal fee of \$200, to the board prior to December 31 each calendar year.

C. All licenses issued by the board and not otherwise timely and properly renewed, shall expire on December 31 for the calendar year issued.

D. Each application for the renewal of the license must be made on or before December 31 of each year. If a license is not timely and properly renewed on or before December 31, a person may apply for reinstatement of the expired license within one year, or by the next December 31 after expiration of the license, upon timely and properly submitting an application to the board, and other pertinent information which may be requested, as well as payment of the renewal fee of \$200 and a reinstatement fee of \$200. However, during the period the license is expired until reinstatement of the expired license, the person may not lawfully operate as a wholesale drug or device distributor in Louisiana.

E. Each license issued hereunder shall be displayed by the licensee in a conspicuous place at the licensed facility or physical location.

F. Out-of-state wholesale drug or device distributors licensed by the board must have on file at all times with the board a current copy of a valid certificate of registration or license for wholesale drug or device distribution as issued by the appropriate regulatory board or agency of the state in which the facility or physical location licensed with the board is located.

1. If the state in which the facility licensed with the board is located does not require the facility to be registered or licensed as a wholesale drug or device distributor and the facility or physical location is registered or licensed in the state in which it is located as a manufacturer of drugs or devices, a current copy of the valid manufacturer registration or license must be submitted to and maintained with the board.

2. If the state in which the facility or physical location licensed with the board is located does not require the facility or physical location to be registered or licensed as a wholesale drug or device distributor and/or the facility or physical location is not a registered/licensed manufacturing facility and the state in which the facility or physical location is located does not require any registration or licensure of the facility or physical location, a letter from the appropriate regulatory board or agency must be submitted to the board confirming such fact.

3. If the facility or physical location licensed with the board does not physically distribute and/or manufacture the drugs or devices that it owns or holds title to and/or the facility or physical location licensed with the board contracts with another facility for the warehousing and/or distribution of the drugs or devices and the state in which the facility or physical location licensed by the board is located does not require any registration or licensure of the facility or physical location, a letter from the appropriate regulatory board or agency confirming this fact and a current copy of

the valid registration or license from the state in which the contracted facility is located must be submitted to the board.

G. Wholesale drug or device distributor applicants and licensees physically located and conducting operations in Louisiana shall provide a list of their wholesale drug or device distributors from whom they purchased and/or received a legend drug or device within the 12 months prior to application or renewal application; the list shall include, but not be limited to:

1. name of each wholesale drug or device distributor;
2. each wholesale drug or device distributor's business address and telephone number; and
3. each wholesale drug or device distributor's distribution address(es) from which the legend drug or device was shipped.

H. An initial application for a new license is valid for 180 days after receipt by the board and must be completed within this time frame.

1. If the application is not completed, the application becomes void and any application fee(s) paid is forfeited by the applicant and is non-refundable.

2. After the 180 days have expired, a new application for a license will be required to be submitted by the applicant to include payment of another license application fee.

I. Requests for voluntary cancellation of a license made by a licensee must be made in writing and must include information such as, but not limited to, the date the request is effective and the reason for the voluntary cancellation of the license.

a. If the request for voluntary cancellation is made before the license has expired, the original unexpired license certificate must be returned to the board and no refund of any portion of the license fee(s) paid will be made by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003), LR 31:

§303. Required Information

A. The board requires the following from each person applying for a license to be a wholesale drug or device distributor as part of the initial licensing procedure and as part of any renewal or reinstatement of such license:

1. the name, full business address, and telephone number of the person applying for a license, renewal or reinstatement;
2. all trade or business names used by the person applying for a license, renewal or reinstatement;
3. addresses, telephone numbers, and the names of contact persons for the facility or physical location used by the person applying for a license, renewal or reinstatement in wholesale drug or device distribution;
4. the type of ownership or form of business operation used by the person applying for a license, renewal or reinstatement (i.e., partnership, corporation, or sole proprietorship);
5. the name(s) addresses, and telephone numbers of the owners, partners, directors, officers, and/or managers, as applicable, of the person applying for a license, renewal, or reinstatement, including the name of the state where incorporated or otherwise authorized to conduct business;

6. a list of every state, territory, or district, other than Louisiana, where the facility applying for a license, renewal, or reinstatement holds a current license as a wholesale drug or device distributor;

7. any other information which the board may require to determine qualification for obtaining, renewing, or reinstating a license.

B. Where operations are conducted at more than one facility or physical location by a single wholesale drug or device distributor, each such facility or physical location shall be licensed by the board.

C. Changes in any information required in this regulation shall be submitted in writing to the board within 60 days after such changes become effective. Failure to do so may result in disciplinary action being taken against the licensee.

D. A license shall be valid only for the person or the facility or physical location for which it is issued. Licenses are not transferable for change of location or change of ownership of the facility or physical location licensed by the board. Any such change shall require the submission of an application and fee for, and the issuance of, a new license by the board and the termination of the existing license.

E. Wholesale drug or device distributors with a place of business physically located in Louisiana must notify the board, in writing, within three business days of discovering, or being in a position to have acquired such knowledge of, any theft or diversion of drugs or devices.

F. Wholesale drug or device distributors with a place of business physically located in Louisiana must notify the Board, in writing, within 24 hours of discovery of, or being in a position to have acquired such knowledge of, any contraband, counterfeit, or misbranded drugs or devices in their possession whether actual or constructive.

G. A wholesale drug or device distributor physically located in Louisiana shall report to the appropriate governing authority within 72 hours of discovering, or being in the position to have acquired such knowledge of, any suspected violation of applicable federal, state, or local laws in Louisiana and regulations with regards to wholesale drug or device distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003), LR 30:1481 (July 2004), LR 31:

§305. Qualifications

A. The board shall consider the following factors in issuing an initial license, the renewal of an existing license, or reinstatement of a license to a person to engage in the wholesale distribution of drugs and devices:

1. any convictions of the applicant under any federal, state, or local laws relating to drug samples, wholesale or retail drug distribution, or distribution of controlled substances;
2. any felony convictions of the applicant under federal, state, or local laws;
3. the applicant's past experience in the manufacture or distribution of prescription drugs or devices, including controlled substances;
4. the furnishing by the applicant of false or fraudulent information to the board;

5. suspension or revocation by federal, state, or local government of any license currently or previously held by the applicant, including a license to distribute or manufacture any drug or device, including controlled substances;

6. compliance with the licensing requirements under any previously granted licenses;

7. compliance with the requirements to maintain and/or make available to the state licensing authorities or to federal, state, or local law enforcement officials those records required to be maintained by wholesale drug or device distributors;

8. any other factors that the board considers relevant to and consistent with its function to protect public health and safety;

9. failure to timely comply with a request made by the board shall result in the termination of an application for license or renewal. The applicant may apply for reinstatement if timely done and in accordance with the requirements for reinstatement, as well as timely complying with the request made by the board.

B. An applicant must be at least 21 years of age and of good moral character and temperate habits.

C. The board shall deny a license to an applicant if it determines that the issuing of such a license would not be in the interest of public health, safety or welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 31:

§307. Personnel

A. Personnel employed in wholesale drug distribution shall have appropriate education and/or experience to assume responsibility for positions related to compliance with state licensing requirements.

B. A wholesale drug or device distributor licensed by the board shall be responsible for the acts and/or omissions of such personnel which are deemed in violation of the Louisiana statutes for wholesale drug distributors and board promulgated regulations. The board shall have the authority to proceed with disciplinary action and sanction its licensee for such acts and/or omissions of his personnel in violation of the statutes and/or regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 31:

§309. Storage and Handling Requirements

A. The following are required for the storage and handling of drugs or devices, and for the establishment and maintenance of drug or device distribution records by wholesale drug or device distributors and their officers, agents, representatives, and employees.

1. Facility. A facility at which drugs or devices are stored, warehoused, handled, held, offered, marketed or displayed shall:

a. be of suitable size and construction to facilitate cleaning, maintenance, and proper operations;

b. have storage areas designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions;

c. have a designed and clearly identified quarantine area for storage of drugs or devices that are outdated, damaged, deteriorated, misbranded, or adulterated, or that are in immediate or sealed, secondary containers that have been opened;

d. be maintained in a clean and orderly condition; and

e. be free from infestation by insects, rodents, birds, or vermin of any kind.

2. Security

a. A facility used for wholesale drug or device distribution shall be secure from unauthorized entry.

i. Access from outside the premises shall be kept to a minimum and be well-controlled.

ii. The outside perimeter of the premises shall be well-lighted.

iii. Entry into areas where drugs or devices are held shall be limited to authorized personnel.

b. A facility, with the exception of a facility distributing medical gases only, shall be equipped with a monitored alarm system to detect entry after hours.

c. A wholesale drug or device distributor that distributes medical gases only shall store a medical gas under lock and key if the medical gas is stored inside a board-approved storage facility that is not equipped with a monitored alarm system to detect entry after hours.

d. A wholesale drug or device distributors that distributes medical gases only who stores the medical gas on an open dock shall be equipped with a monitored alarm system to detect entry after hours.

e. A facility shall be equipped with a security system that will provide suitable protection against theft or diversion and provide protection against theft or diversion that is facilitated or hidden by tampering with computers or electronic records.

3. Storage. Drugs or devices shall be stored at appropriate temperatures and under appropriate conditions in accordance with requirements, if any, in the labeling of such drugs or devices or in compliance with applicable requirements in the current edition of an official compendium.

a. If no storage requirements are established for a drug or device, the drug or device may be held at room temperature, as defined in an official compendium, to help ensure that its identity, strength, quality, and purity are not adversely affected.

b. Appropriate manual, electromechanical, or electronic temperature recording equipment, devices, and logs approved by the board shall be utilized to document proper storage of drugs or devices.

c. The recordkeeping requirement in §311 shall be followed for all stored drugs or devices.

4. Examination of Materials

a. Upon receipt, each outside shipping container shall be visually examined for identity and to prevent the acceptance of contaminated or adulterated drugs or devices, or drugs or devices that are otherwise unfit for distribution or considered contraband or counterfeit. This examination shall be adequate to reveal exterior container damage that would suggest possible contamination or other damage to the contents.

b. Each outgoing shipment shall be carefully inspected for identity of the drug or device and to ensure that there is no delivery of drugs or devices that have been damaged in storage or held under improper conditions.

c. The recordkeeping requirements in §311 shall be followed for all incoming and/or outgoing drugs or devices.

d. Brokers, freight forwarders, agents, or representatives of a principal that receives at their place of business licensed by the board shipments of drugs or devices that are to be forwarded to their clients may not open the shipment packages. These packages are to be unopened and free of tampering when forwarded by carrier to the client.

5. Returned, Damaged, and Outdated Drugs or Devices

a. Drugs or devices that are outdated, damaged, deteriorated, misbranded, contaminated, adulterated, misbranded, counterfeit, or contraband shall be quarantined and physically separated in a clearly identified area from other drugs or devices until they are destroyed or returned to their supplier.

b. Any drugs or devices whose immediate or sealed outer or sealed secondary containers have been opened or used shall be identified as such, and shall be quarantined and physically separated in a clearly identified area from other drugs or devices until they are either destroyed or returned to the supplier.

c. If the conditions under which a drug or device has been returned cast doubt on the drug or device's safety, identity, strength, quality, or purity, then the drug or device shall be destroyed or returned to the supplier, unless examination, testing or other investigation proves that the drug or device meets appropriate standards for safety, identity, strength, quality, and purity. In determining whether the conditions under which a drug or device has been returned cast doubt on the drug or device's safety, identity, strength, quality, or purity, the wholesale drug or device distributor shall consider, among other things, the conditions under which the drug or device has been held, stored, or shipped before or during its return and the condition of the drug or device and its container, carton, or labeling, as a result of storage or shipping.

d. The recordkeeping requirements in §311 shall be followed for all outdated, damaged, deteriorate, misbranded, contaminated, adulterated, counterfeit, or contraband drugs or devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003), LR 31:

§311. Drug or Device Distribution Recordkeeping

A. Wholesale drug or device distributors shall establish and maintain perpetual inventories and records of all transactions regarding the receipt and distribution or other disposition of drugs or devices. These records shall include the following information:

1. source of the drugs or devices, the name and principal address of the seller or transferor, and the address of the facility or physical location from which the drugs or devices were shipped;

2. the identity and quantity of the drugs or devices received and distributed or disposed of; and

3. the dates of receipt and distribution of the drugs or devices.

B. Inventories and records shall be made available for inspection and photocopying by any official authorized by the board for a period of three years following disposition of the drugs or devices at issue.

C. Records described in this regulation that are kept at the inspection site facility or licensed physical location or that can be immediately retrieved by computer or other electronic means shall be readily available for authorized inspection during the retention period. Records kept at a central location apart from the inspection site facility or licensed physical location and not electronically retrievable shall be made available for inspection within two working days of a request by any official authorized by the board.

D. Copies of current licenses for customers who are authorized by law or regulation to procure or possess drugs or devices shall be maintained for all customers that are shipped or sold drugs or devices. If customer licenses are maintained off site, a list of customer names, addresses, license numbers, and license expiration dates shall be maintained for all customers that are shipped or sold drugs or devices.

E. Wholesale drug or device distributors that distribute medical gas are not required to maintain a perpetual inventory on oxygen, but are required to maintain perpetual inventories on all other medical gases.

F. Wholesale drug or device distributors physically located and conducting operations in Louisiana shall verify prior to purchasing or receiving product that their suppliers of drugs or devices are licensed by the board to ship or sell in or into Louisiana; and are responsible for notifying the board of any unlicensed wholesalers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:383 (April 1992), amended LR 29:1480 (August 2003), LR 31:

§313. Policy and Procedures

A. Wholesale drug or device distributors shall establish, maintain, and adhere to written policies and procedures, which shall be followed for the receipt, security, storage, inventory, and distribution of drugs or devices, including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories including contraband or counterfeit drug or device information. Wholesale drug or device distributors shall include in their written policies and procedures the following:

1. a procedure whereby the oldest approved stock of a drug or device is distributed first. The procedure may permit deviation from this requirement if such deviation is temporary and appropriate;

2. a procedure to be followed for handling recalls and withdrawals of drugs or devices. Such procedure shall be adequate to deal with recalls and withdrawals due to:

a. an action initiated at the request of the Food and Drug Administration or other federal, state, or local law enforcement or other government agency, including the board;

b. any voluntary action by the manufacturer to remove defective or potentially defective drugs or devices from the market; or

c. any action undertaken to promote public health and safety by replacing of existing merchandise with an improved product or new package design;

3. a procedure to ensure that wholesale drug or device distributors prepare for, protect against, and handle any crisis that affects security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, state, or national emergency;

4. a procedure to ensure that any outdated drugs or devices shall be segregated from other drugs or devices and either returned to the manufacturer or destroyed. This procedure shall provide for written documentation of the disposition of outdated drugs or devices. This documentation shall be maintained for three years after disposition of the outdated drugs;

5. a procedure to validate customer licenses, to review excessive or suspicious purchases, to inspect all incoming and outgoing shipments, and to monitor and record the temperature of product storage;

6. a procedure to notify the board, in writing, within three business days of discovering, or being in a position to have required such knowledge, of any theft or diversion of a drug or device;

7. a procedure to notify the board, in writing, within 24 hours of discovery, or being in a position to have required such knowledge, or any contraband, counterfeit, or misbranded drug or device in his possession, whether actual or constructive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:384 (April 1992), amended LR 29:1480 (August 2003), LR 31:

§315. Responsible Persons

A. Wholesale drug or device distributors shall establish and maintain lists of officers, directors, managers, and other persons in charge of wholesale drug or device distribution, storage, and handling, including a description of their duties and a summary of their qualifications. The list shall be provided to the board at the time of annual renewal of license, and any change in the list during the interim shall be provided to the board, in writing, within 60 calendar days of such change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:384 (April 1992), amended LR 31:

§317. Federal, State and Local Law Compliance

A. Wholesale drug distributors shall operate in compliance with applicable federal, state, and local laws and regulations.

1. Wholesale drug or device distributors shall permit the state licensing authority and authorized federal, state and local law enforcement officials upon having shown appropriate identification to enter and inspect their facility or physical location and delivery vehicles, and to audit their records and written operating procedures, at reasonable times and in a reasonable manner, to the extent authorized by law.

2. Wholesale drug or device distributors that deal in controlled substances shall register with the appropriate state controlled substance authority and with the Drug

Enforcement Administration (DEA), and shall comply with all applicable state, local, and DEA regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:384 (April 1992), amended LR 31:

§319. Salvaging and Reprocessing

A. Wholesale drug or device distributors shall be subject to the provisions of any applicable federal, state, or local laws or regulations that relate to drug or device product salvaging or reprocessing, including Chapter 21, Parts 207, 210d, 211 or the Code of Federal Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:384 (April 1992); amended LR 31:

§321. Facility or Physical Location Inspections and Records Inspections

A. The board may conduct inspections, and reinspections, upon all facilities and physical locations, including delivery vehicles, purporting or appearing to be used by a person licensed by the board, or applying for a renewal or a new license to the board. The board, in its discretion, may accept a satisfactory inspection by the United States Food and Drug Administration (USFDA) or a state agency which the board determines to be comparable to that made by USFDA or the board.

B. The board may waive the initial inspection if an applicant whose applying facility is not located within Louisiana presents to the board a satisfactory license or certificate of registration for wholesale drug or device distribution as issued by the appropriate regulatory board or agency of the state in which the applying facility is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 31:

§323. Penalties

Repealed.

[Editor's Note: This Section has been moved to §711.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:384 (April 1992), repealed LR 31:

§325. Premises and Records Inspection

Repealed.

[Editor's Note: This Section has been moved to §321.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), repealed LR 31:

Chapter 5. Powers and Functions of the Board

§501. Injunctive Powers

A. The board may, in its discretion, and in addition to various remedies provided by law and its regulations, petition a court having competent jurisdiction over the parties and subject matter for injunctive relief to enjoin violations of the Louisiana statutes for wholesale drug distributors and/or the board's regulations, or of any conduct

which constitutes a clear and present danger to the public health and safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 31:

§503. Board Domicile; Meetings

A. The board shall be domiciled in Baton Rouge, Louisiana. The regular meetings of the board shall be held at least two times a year in accordance with applicable law and at any other time the board deems necessary, at a time and place designed by the chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 29:1481 (August 2003), LR 31:

§505. Rules of Order

A. All meetings of the board shall be conducted in accordance with Robert's Rules of Order (Latest official edition).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 31:

§507. Rule Promulgation

A. The board shall have the authority to adopt, amend or repeal any rule necessary to implement and enforce the Louisiana statutes for wholesale drug distributors, in keeping with its function, in strict accordance with the Louisiana Administrative Procedures Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 31:

§509. Inspection Contracts

A. The board may contract with any person or agency it deems qualified to conduct any inspections or reinspections required by state or federal law.

B. The board shall retain exclusive jurisdiction to adjudicate all complaints, allegations of misconduct, or noncompliance by any licensee or applicant for license, renewal, or reinstatement of a license and to impose appropriate sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 30:1481 (July 2004), LR 31:

Chapter 7. Disciplinary Procedures

§701. Complaint Initiations

A. Complaints may be initiated by any person, including the state of Louisiana acting through any of its departments, or by the board on its own initiative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 31:

§703. Complaint Investigations

A. Upon receipt of complaints or inquiries, the board shall take the following action.

1. The complaint or inquiry shall be received by the board office and assigned for investigation.

2. If the information in the complaint is insufficient, the board may request further information by either written correspondence or the board may cause an investigation to be made.

B. All complaints received shall be assigned a docket code number which shall be utilized in all official references.

C. The board, through its appointed representative(s), shall act upon all complaints and inquiries received.

D. The identity of all parties to a complaint, and other sensitive information, shall not be revealed during an investigation if to do so would potentially jeopardize the ongoing investigation. If formal charges are filed, then the process of discovery will apply to parties involved in the action.

E. The board shall inform the complainant of the action taken and any final results.

F. If the person against whom a complaint is filed with the board refuses or fails to cooperate with the board in the investigation, he shall be sent a notice, by certified mail to the address on file with the board, that if he continues to refuse to cooperate, such action or inaction on his part shall be considered a separate violation for which he may be denied a license, or his license may be suspended or revoked, or otherwise sanctioned, and/or he may be assessed a monetary penalty as provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 31:

§705. Complaint Withdrawals

A. If the complainant wishes to withdraw the complaint, the investigation and/or proceedings are not automatically terminated. The board may complete the investigation and/or proceedings in its own right and in the interest of public health, safety and welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 31:

§707. Hearings

A. Notice of Hearings. The board shall formally charge the party against whom a complaint has been made when said complaint appears to be sufficient cause for suspension or revocation of a license, or other disciplinary sanction. At least 30 days prior to the date set for a public hearing, the formal charges and notice shall be sent by certified mail to the party against whom the complaint is made at his last known address on file with the board. The formal charges and notice shall conform to the requirements of the Administrative Procedures Act.

B. Disposition of Complaint. The board shall conduct such investigations, order such hearings, and take such other action as it finds necessary to make an intelligent decision on the complaint submitted for review.

C. Appearance. The party against whom the complaint has been made and upon notice being served, must appear at the date, time and place fixed for the hearing.

D. Default in Appearing. In the event the party against whom the complaint has been made fails to appear at the

hearing provided for and also that notice has been given as to the hearing date, time and place, the party so failing to appear or otherwise obtain approval of the board for its absence shall be deemed to be in default and the evidence as received by the board at that time may be entered into the record and may be taken as true and the order of the board entered accordingly.

E. The procedure for notice, hearing and appeals, therefrom, shall be that of the Louisiana Administrative Procedure Act.

F. Hearing Procedure. The hearings called according to these rules and regulations shall be conducted by the board in accordance with the Administrative Procedure Act.

1. The chairman of the board or the vice-chairman in the absence of the chairman shall announce the title and docket number of the proceeding before the board. Attorneys and/or other representative of the accused party shall be recognized along with the representatives of the board and other proper parties.

2. The board's attorney and/or representative shall then present its evidence.

3. The accused or his attorney shall then be entitled to present its evidence subject to cross examination by the board's attorney and/or representative.

4. The board, after deliberation in executive session, may render a decision in the case by order, consent order, or default order.

G. Board's Decision. The decision of the board shall be submitted, in writing, to the accused and/or his attorney, if any, by certified mail within a reasonable period after it is rendered by the board.

H. Rehearings. A decision or order of the board shall be subject to rehearing or reconsideration by the board within 10 days from the date of receipt of the decision by the accused and/or his attorney, if any. Rehearings or reconsiderations shall be conducted in accordance with the Administrative Procedure Act.

I. Recording of Hearings. The board shall make a full recording of all proceedings before it and shall at the request of any party have prepared and furnished to him a copy of the transcript or any part thereof upon payment of the actual cost thereof.

J. Judicial Review of Decision. A person who is aggrieved by a final decision or order of the board is entitled to Judicial Review in accordance with the Louisiana Administrative Procedure Act. Proceedings for Judicial Review may be instituted in the district court of the parish in which the board is located within 30 days after receipt of the notice of the final decision by the board or if a rehearing or reconsideration occurs within 30 days after the decision thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 31:

§711. Sanctions

A. After notice and hearing, the board may deny, revoke or suspend a license or otherwise sanction a licensee, for any of the following:

1. violation of any federal, state, or local law or regulation relating to drugs;
2. violation of any provision of this regulation;

3. commission of any act or engaging in a course of conduct which constitutes a clear and present danger to the public health and safety.

B. In addition to the above sanctions, the board may impose a monetary penalty not to exceed \$1,000 per violation. The maximum aggregate monetary penalty shall not exceed 50 times the maximum penalty per individual violation.

C. Each instance where a federal, state, or local law or regulation is violated shall constitute a separate violation.

D. The authority of the board to impose a monetary penalty in a case is not to be affected by any other civil or criminal proceeding concerning the same violation, nor shall the imposition of a monetary penalty preclude the board from imposing other sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:384 (April 1992), amended LR 31:

§713. Declaratory Statements

A. The board may issue a declaratory statement in response to any written request for clarification of the effect of the provisions of the state statutes for wholesale drug distribution, the regulations of the board, and/or other applicable legal authority regarding wholesale drug distribution industry, on a stated set of circumstances.

B. The declaratory statement shall be in writing and be issued by the board within a reasonable period of time taking into consideration the nature of the matter and circumstances involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 31:

Chapter 8. Fees

§801. Fees

A. The board may collect the following fees.

1. Application **☞**\$200
2. Renewal **☞**\$200
3. Reinstatement **☞**\$200

B. An annual renewal fee and renewal application shall be received at the board office with a postmarked date on or before December 31 each calendar year.

C. All licenses, not properly and timely renewed, shall be expired becoming void on midnight December 31.

D. Any license not properly and timely renewed shall be allowed to be reinstated within one year of expiration provided the former licensee submits a renewal application and payment of all applicable fees including the renewal fee and reinstatement fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 31:

Interested parties may submit written comments to John Liggio, Executive Director, Louisiana Board of Wholesale Drug Distributors, 12046 Justice Avenue, Suite C, Baton Rouge, Louisiana 70816. Comments will be accepted through the close of business on September 20, 2005. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedures

Act, the hearing will be held on September 27, 2005 at 11 a.m. at the Office of the Louisiana Board of Wholesale Drug Distributors, 12046 Justice Avenue, Suite C, Baton Rouge, LA.

John Liggio
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Wholesale Drug Distributors**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no costs or savings to state or local government units, except for those associated with publishing the rule amendment (estimated at \$2,400 in FY 2006). Licensees will be informed of this rule change via the Board's regular newsletter or other direct mailings, which result in minimal costs to the Board.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as there will not be an increase in fees resulting from the amendment.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups. The proposed rule amendments will define and clarify terms used within the rules for practice and procedure; and will further detail and explain current procedures and practices, licensee requirements and responsibilities, compliance, Board functions, and disciplinary procedures for wholesale drug distributors (approximately 1,100) licensed by the Board.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition and employment is anticipated as a result of the proposed rule change.

Kimberly B. Barbier
Executive Assistant
0508#001

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Molluscan Shellfish Program
(LAC 51:IX.101, 327, 329 and 331)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:4(A)(6) and R.S. 40:5, intends to amend Title 51, Part IX (Marine and Fresh Water Animal Food Products), by effecting substantive changes as outlined below. The proposed changes will result in code provisions which are consistent with the most recent (2003) requirements of both the United States Food and Drug Administration, Center for Food Safety and Applied Nutrition; and the Interstate Shellfish Shippers Conference. Specifically, they will incorporate the time-temperature controls for shellstock required in states such as Louisiana,

which have been confirmed as sources of product associated with two or more cases of *Vibrio vulnificus* illnesses. Additionally, a minor modification is proposed for the term *National Shellfish Sanitation Program (NSSP)*.

Title 51

**PUBLIC HEALTH & SANITARY CODE
Part IX. Marine and Fresh Water Animal Food
Products**

Chapter 1. Shellfish Growing Areas

§101. Definitions

[formerly paragraph 9:001]

National Shellfish Sanitation Program (NSSP) is the cooperative State-FDA-Industry program for the certification of interstate shellfish shippers as described in the National Shellfish Sanitation Program Model Ordinance. The National Shellfish Sanitation Program Model Ordinance may be obtained from the Interstate Shellfish Sanitation Conference.

AUTHORITY NOTE: The first source of authority for promulgation of the sanitary code is in R.S. 36:258.B, with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the specific provisions of R.S. 40:4.A.(1), R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1289 (June, 2002), amended LR 28:1591 (July 2002), LR 31:

Chapter 3. Preparation and Handling of Seafood for Market

§327. Refrigeration of Shell-Stock Oysters, Clams and Mussels

[formerly paragraph 9:052]

A. Shell-stock shall be placed under mechanical refrigeration at an air temperature (measured 12 inches from the blower) not to exceed 45°F within the time period prescribed herein; and shall be maintained at or below that temperature through out all levels of commerce. Shell-stock harvested for raw consumption during the months January through December shall be subject to the time to refrigeration requirements outlined in §329.

B. Shellstock harvested for raw consumption shall be placed under temperature control in accordance with the Time-Temperature Matrix announced by the Office of Public Health. All shellstock exceeding the Time-Temperature Matrix shall be for shucking only.

C. Once shellstock is off-loaded from the harvest vessel onto the dock it must be placed under mechanical refrigeration within two hours; but the total harvest to refrigeration time shall not exceed the Time-Temperature Matrix.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5.3., and the FDA/CFSSAN & ISSC Model Ordinance IX, 2003.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1308 (June, 2002), amended LR 31:

§329. Refrigeration Requirements for Shell-Stock Harvested for Raw Consumption during the Months January through December
[formerly paragraph 9:052-1]

A. Time to refrigeration requirements for shell-stock harvested for raw consumption during the months January

through December shall be based on the average monthly growing water temperatures as calculated and announced by the Office of Public Health Molluscan Shellfish Program according to the following schedule.

1. Water Temperature: <65°F Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45°F within 36 hours from the time of harvesting begins.

2. Water Temperature: 65°F to 74°F Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45°F within 14 hours from the time of harvesting begins.

3. Water Temperature: >74°F to 84°F Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45°F within 12 hours from the time harvesting begins.

4. Water Temperature: >84°F Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45°F within 10 hours from the time harvesting begins.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5.3, and the FDA/CFSAN & ISSC Model Ordinance VIII, 2003.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1308 (June 2002), amended LR 31:

§331. Refrigeration Requirements for Shell-Stock Harvested for Shucking by a Certified Dealer during the Months January through December [formerly paragraph 9:052-2]

A. Time to refrigeration requirements for shell-stock harvested for shucking by a certified dealer during the months January through December shall be as follows.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5.3, and the FDA/CFSAN & ISSC Model Ordinance VIII, 2003.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1309 (June 2002), amended LR 31:

Family Impact Statement

1. The Effect on the Stability of the Family. There will be no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. There will be no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. There will be no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. There will be no effect on family earnings or budget.

5. The Effect on the Behavior and Personal Responsibility of Children. There will be no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. There will be no effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit comments on this proposed Rule to David Guilbeau at 6867 Bluebonnet Boulevard, Box 16, Baton Rouge, LA 70810, by September 19, 2005.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Molluscan Shellfish Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs anticipated other than the \$200 cost of printing the Notice of Intent and Rule in the *Louisiana Register*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections or state or local governmental units anticipated as a result of promulgation of this regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs or economic benefits to directly affected persons or nongovernmental groups as a result of promulgation of this regulation. This rule change does not affect oyster harvesters/dealers whose catch is shucked and sold in containers for the intended purposes of being cooked. There is no temperature requirement for shucked oysters under the rule change. The oyster harvesters/dealers that are currently marketing to the half-shell raw market are equipped with refrigeration. The most restrictive time by current rule is 10 hours for July and August. This rule change does not make any other months more restrictive than 10 hours; therefore, no new or additional refrigeration is required by harvesters/dealers. The time-temperature matrix of the current rule is based on preset times for certain months and water temperature for other months. The new rule simplifies the time-temperature matrix since it is calculated upon water temperature for each month of the year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment anticipated as a result of promulgation of this regulation.

Sharon Howard
Assistant Secretary
0508#071

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Home and Community Based Services Waivers
New Opportunities Waiver
Emergency Opportunities
(LAC 50:XXI.13707-13709)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities proposes to adopt LAC 50:XXI.13707-13709 as

authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on June 20, 1997 to establish the provisions governing the programmatic allocation of waiver slots for the Mental Retardation/Developmental Disabilities (MR/DD) Waiver (*Louisiana Register*, Volume 23, Number 6). The June 20, 1997 Rule was subsequently amended on May 20, 2002 to update the methodology for slot allocation in order to better meet the needs of citizens with disabilities in the state of Louisiana (*Louisiana Register*, Volume 28, Number 5). The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services promulgated a rule implementing a new home and community based services waiver designed to enhance the support services available to individuals with developmental disabilities titled the New Opportunities Waiver (NOW) (*Louisiana Register*, Volume 30, Number 6). The New Opportunities Waiver replaced the MR/DD Waiver upon completion of the transition of all MR/DD participants to NOW.

The Appropriations Bill of the 2004 Regular Session of the Legislature allocated funds for the establishment of 66 emergency slots for NOW and mandated the development and enforcement of rules established under the Administrative Procedure Act to create an equitable and precise methodology for defining an emergency and the issuance of such slots. Therefore, the bureau promulgated an emergency rule that established the provisions governing emergency waiver opportunities. In addition, the Bureau repealed the rules governing programmatic allocation of MR/DD Waiver slots and adopted those provisions to govern the programmatic allocation of waiver opportunities for NOW (*Louisiana Register*, Volume 30, Number 8). Subsequently, the bureau amended the August 20, 2004 Rule to clarify the provisions governing allocation of waiver opportunities for persons transitioning from publicly operated to private ICF-MR facilities (*Louisiana Register*, Volume 31, Number 7). The department now proposes to continue the provisions of the July 20, 2005 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. The proposed Rule will promote the health and welfare of individuals with developmental disabilities by facilitating access to waiver services when the individual meets the criteria for an emergency waiver opportunity.

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities repeals the May 20, 2002 Rule and adopts the following provisions governing the programmatic allocation of waiver opportunities in the New Opportunities Waiver.

Title 50
PUBLIC HEALTH & MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services
Waivers

Subpart 11. New Opportunities Waiver
Chapter 137. General Provisions
§13707. Programmatic Allocation of Waiver Opportunities

A. The Request for Services Registry, hereafter referred to as "the registry", shall be used to evaluate individuals for waiver eligibility and to fill all waiver opportunities for persons with mental retardation or developmental disabilities. The next individual on the registry shall be notified in writing that a waiver opportunity is available and that he is next in line to be evaluated for a possible waiver assignment. The individual shall then choose a case management agency that will assist in the gathering of the documents needed for both the financial eligibility and medical certification process for level of care determination. If the individual is determined to be ineligible, either financially or medically, that individual shall be notified in writing. The next person on the registry shall be notified as stated above and the process continues until an eligible person is assigned the waiver opportunity. A waiver opportunity shall be assigned to an individual when eligibility is established and the individual is certified. By accepting a waiver opportunity, the person's name shall be removed from the registry.

B. Right of Refusal. A person may be designated inactive on the registry upon written request to OCDD. When the individual determines that he is ready to begin the waiver evaluation process, he shall request, in writing, that his name be removed from inactive status. His original protected request date will be reinstated. In addition, persons who left a publicly operated facility after July 1, 1996 and who would have received a waiver opportunity, but chose another option at the time of discharge, may request access to a waiver opportunity through OCDD regional administrative units. OCDD will verify that the individual meets the criteria for this option and provide access to the next available waiver opportunity based on her/his date of discharge from the publicly operated facility. That will become his/her protected date.

C. Utilizing these procedures, waiver opportunities shall be allocated to the targeted groups cited as follows.

1. A minimum of 90 waiver opportunities shall be available for allocation to foster children in the custody of the Office of Community Services (OCS), who successfully complete the financial and medical certification eligibility processes and are certified for the waiver. OCS is the guardian for children who have been placed in their custody by court order. OCS shall be responsible for assisting the individual in gathering the documents needed in the eligibility determination process, preparing the comprehensive plan of care, and submitting the plan of care document to OCDD.

2. A minimum of 160 waiver opportunities shall be available for people living at Pinecrest and Hammond Developmental Centers, or their alternates at private ICFs-

MR, who have chosen to receive community-based waiver services, have successfully completed the financial eligibility and medical certification processes, and are certified for the waiver. For the purposes of assigning these waiver opportunities, an alternate is defined as a person who lives in a private ICF-MR, chooses to apply for waiver participation, is eligible for the waiver, and vacates a bed in the private ICF-MR for an individual being discharged from a publicly operated facility. A person living at either Pinecrest or Hammond Developmental Center shall have the option to select a private ICF-MR placement in the area of his choice in order to designate the individual being discharged from the private ICF-MR as his alternate. The bed being vacated in the private ICF-MR must be reserved for 14 days for the placement of a person being discharged from a publicly operated facility. The person's discharge from a publicly operated facility and his subsequent placement in a private ICF-MR is to occur as close as possible to the actual discharge of the alternate from the private ICF-MR and is not to exceed 14 days from the date of the alternate's discharge and certification for the waiver. The bed may be held vacant beyond the 14 days with the concurrence of the private ICF-MR provider.

3. Except for those waiver opportunities addressed in Paragraphs C.1, 2, 6 and 7, waiver opportunities vacated during the waiver year shall be made available to persons leaving any publicly operated ICF-MR or their alternates.

4. A waiver opportunity will be reserved for persons who choose to transition from a publicly operated facility to community-based waiver services. The reservation of a waiver opportunity shall not exceed 120 days. However, justification to exceed this 120-day reservation period may be granted as needed.

5. Waiver opportunities not utilized by persons living in public ICFs-MR or their alternates shall be divided between:

- a. the next individual on the registry who is living in either a nursing facility or private ICF-MR; and
- b. the next individual on the registry who is residing in the community.

6. Ten waiver opportunities shall be used for qualifying persons with developmental disabilities who receive services from the Developmental Neuropsychiatric Program (DNP) administered by Southeast Louisiana State Hospital. This is a pilot project between OCDD and the Office of Mental Health in the development of coordinated wrap-around services for individuals who choose to participate in the waiver and meet the financial and medical eligibility requirements for the waiver.

7. Sixty-six waiver opportunities shall be used for qualifying individuals with developmental disabilities who require emergency waiver services. In the event that a waiver opportunity is vacated, the opportunity will be returned to the emergency pool for support planning based on the process for prioritization. Once the 66 waiver opportunities are filled, then supports and services based on the priority determination system will be identified and addressed through other resources currently available for individuals with developmental disabilities.

8. Funded waiver opportunities not addressed above shall be available for allocation to the next individual on the registry who successfully completes the financial eligibility

and medical certification process and is certified for the waiver.

D. The Office for Citizens with Developmental Disabilities has the responsibility to monitor the utilization of NOW waiver opportunities. At the discretion of the OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of citizens with developmental disabilities in the State of Louisiana.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 31:

§13709. Emergency Opportunities

A. Requests for emergency waiver services shall be made through the regional administrative units (RAU), which are local and regional governmental entities responsible for coordination of services for persons with developmental disabilities. When a request for emergency services is received, the RAU (which may be OCDD regional offices, human services districts, or human services authorities) shall complete a priority assessment that incorporates standardized operational procedures with standardized assessment tools to determine the priority of the individual's need in a fair and consistent manner.

B. To be considered for emergency waiver supports, the individual must need long term supports, not temporary or short term supports. All of the following criteria shall be used in the determination of priority for an emergency waiver opportunity.

1. Urgency of Need. The individual will require further assessment for emergency services if one of the following situations exists:

- a. the caregiver is unable or unwilling to continue providing care;
- b. death of the caregiver and there are no other available supports;
- c. the caregiver is incapacitated and there are no other available supports due to physical or psychological reasons;
- d. intolerable temporary placement, immediate need for new placement; or
- e. other family crisis exists with no caregiver support available.

2. Level of Risk. The individual will be assessed to determine the risk to his/her health and safety in areas of daily living, health care and behavioral supports if an emergency waiver opportunity is not made available. Level of risk will be categorized as follows.

- a. High Risk. The person's health or safety is at imminent risk without the requested developmental disability supports.
- b. Moderate Risk. The person has a potential risk of losing his/her current level of health or safety without the requested developmental disability supports.
- c. Low Risk. The person is at little or no risk of losing his/her current level of health or safety without the requested developmental disability supports.

3. Level of Unmet Needs. The person's needs shall be identified and assessed to determine the level to which the needs are being met.

4. Adaptive Service Level Determination. The person's service needs will be determined utilizing a standardized rating based on adaptive behavior levels.

5. Financial Resources Determination. Individual or family income shall be considered to determine whether it is adequate to meet unmet needs.

C. For individuals who appear to meet the criteria for an emergency waiver opportunity, the RAU will forward the Priority Ranked Score and all supporting documentation to the DHH emergency review team coordinator at OCDD in Baton Rouge to complete the programmatic determination process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 31:

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, September 27, 2005, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community Based Services Waivers/New Opportunities Waiver Emergency Opportunities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase costs for the NOW Program by approximately \$361,218 for FY 05-06, \$1,387,298 for FY 06-07, and \$1,415,044 for FY 07-08. It is anticipated that \$748 (\$374 SGF and \$374 FED) will be expended in FY 05-06 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$3,190,848 for FY 05-06, \$3,252,494 for FY 06-07, and \$3,317,544 for FY 07-08. \$374 is included in FY 05-06 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the August 20, 2004 and July 1, 2005 emergency rules, establishes the provisions governing emergency waiver opportunities for NOW Program and repeals the rules governing programmatic allocation of MR/DD Waiver slots. The rule further adopts

provisions to govern the programmatic allocation of waiver opportunities for NOW (approximately 66 emergency slots). It is anticipated that implementation of this proposed rule will increase expenditures by approximately \$4,551,318 for FY 05-06, \$4, 639,792 for FY 06-07, and \$4,732,588 for FY 07-08.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Ben A. Bearden
Director
0508#086

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Pharmacy Benefits Management Program Erectile Dysfunction Drugs Coverage Termination

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides coverage for prescription drugs for treatment of erectile dysfunction under the Pharmacy Benefits Management Program. The bureau promulgated a rule that limited the number of units of these drugs that are reimbursable under the Medicaid Program to six units per month (*Louisiana Register*, Volume 25, Number 5). The Bureau amended the May 20, 1999 Rule and reduced the number of units of erectile dysfunction drugs that are reimbursable to one per month (*Louisiana Register*, Volume 31, Number 3). The bureau repealed the May 20, 1999 and March 20, 2005 Rules by Emergency Rule and terminated coverage of erectile dysfunction drugs under the Medicaid Program (*Louisiana Register*, Volume 31, Number 7). The bureau now proposes to continue the provisions of the July 1, 2005 Emergency Rule.

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

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing discontinues coverage and reimbursement of prescription drugs for the treatment of erectile dysfunction under the Medicaid Program.

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, September 27, 2005, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Benefits Management
Program—Erectile Dysfunction Drugs
Coverage Termination**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will result in an estimated net cost avoidance to the state of \$490,075 for FY 05-06, \$351,407 for FY 06-07 and \$361,949 for FY 07-08. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in FY 05-06 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by \$1,149,108 for FY 05-06, \$823,868 for FY 06-07 and \$848,584 for FY 07-08. \$102 is included in FY 05-06 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule continues the provisions of the July 1, 2005 emergency rule that eliminates coverage of prescription drugs for the treatment of erectile dysfunction that are reimbursable by the Medicaid Program (approximately 6,300 recipients would be affected). It is anticipated that implementation of this proposed rule will decrease payments for prescription drugs for the treatment of erectile dysfunction by \$1,639,387 for FY 05-06, \$1,175,275 for FY 06-07 and \$1,210,533 for FY 07-08.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is anticipated that there will be no effect on competition and employment as a result of this proposed rule.

Ben A. Bearden
Director
0508#085

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Pharmacy Benefits Management Program
Parenteral Therapy**

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a rule to adopt the provisions governing the Parenteral Nutrition Therapy (*Louisiana Register*, Volume 31, Number 1). In compliance with guidelines established by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, the Bureau promulgated an emergency rule to repeal the provisions governing parenteral therapy in the Durable Medical Equipment Program and repromulgated these provisions under the Pharmacy Benefits Management Program (*Louisiana Register*, Volume 31, Number 6). The bureau now proposes to continue the provisions of the July 1, 2005 emergency rule.

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

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing parenteral nutrition therapy under the Pharmacy Benefits Management Program.

Parenteral Nutrition Therapy

A. Parenteral nutrition (PN) therapy is the introduction of nutrients by some means other than through the gastrointestinal tract, in particular intravenous, subcutaneous, intramuscular, or intramedullary injection. Intravenous nutrition is also referred to as TPN (Total Parenteral Nutrition) or Hyperalimentation Therapy.

Medical Necessity Criteria

A. Parenteral nutrition is covered for a recipient with permanent, severe pathology of the alimentary tract which does not allow absorption of sufficient nutrients to maintain weight and strength commensurate with the recipient's general condition.

B. Parenteral nutrition is considered to be medically necessary when any of the following conditions exists. The conditions must be deemed to be severe enough that the

recipient would not be able to maintain his/her weight and strength on only oral intake or tube enteral nutrition. The recipient:

1. has undergone recent (within the past three months) massive small bowel resection leaving less than or equal to 5 feet of small bowel beyond the ligament of Treitz; or

2. has a short bowel syndrome that is severe enough that the recipient has net gastrointestinal fluid and electrolyte malabsorption such that on an oral intake of 2.5-3 liters/day the enteral losses exceed 50 percent of the oral/enteral intake and the urine output is less than 1 liter/day; or

3. requires bowel rest for at least three months and is receiving intravenously 20-35 cal/kg/day for treatment of symptomatic pancreatitis with/without pancreatic pseudocyst, severe exacerbation of regional enteritis, or a proximal enterocutaneous fistula where tube feeding distal to the fistula is not possible; or

4. has complete mechanical small bowel obstruction where surgery is not an option; or

5. is significantly malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl) and has very severe fat malabsorption (fecal fat exceeds 50 percent of oral/enteral intake on a diet of at least 50 gm of fat/day as measured by a standard 72 hour fecal fat test); or

6. is significantly malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl) and has a severe motility disturbance of the small intestine and/or stomach which is unresponsive to prokinetic medication. Prokinetic medication is defined as the presence of daily symptoms of nausea and vomiting while taking maximal doses and is demonstrated either:

a. scintigraphically (solid meal gastric emptying study demonstrates that the isotope fails to reach the right colon by six hours following ingestion); or

b. radiographically (barium or radiopaque pellets fail to reach the right colon by six hours following administration).

Note: These studies must be performed when the recipient is not acutely ill and is not on any medication which would decrease bowel motility.

C. Maintenance of weight and strength commensurate with the recipient's overall health status must require intravenous nutrition and must not be possible utilizing all of the following approaches:

1. modifying the nutrient composition of the enteral diet (e.g., lactose free, gluten free, low in long chain triglycerides, substitution with medium chain triglycerides, provision of protein as peptides or amino acids, etc.); and

2. utilizing pharmacologic means to treat the etiology of the malabsorption (e.g., pancreatic enzymes or bile salts, broad spectrum antibiotics for bacterial overgrowth, prokinetic medication for reduced motility, etc.).

D. Recipients who do not meet the criteria in B.1-6 must meet criteria in C.1-2 (modification of diet and pharmacologic intervention) in addition to the following criteria:

1. the recipient is malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl); and

2. a disease and clinical condition has been documented as being present and it has not responded to altering the manner of delivery of appropriate nutrients (e.g.,

slow infusion of nutrients through a tube with the tip located in the stomach or jejunum).

E. The following are some examples of moderate abnormalities which would require a failed trial of tube enteral nutrition before PN would be covered:

1. moderate fat malabsorption - fecal fat exceeds 25 percent of oral/enteral intake on a diet of at least 50 gm fat/day as measured by a standard 72 hour fecal fat test;

2. diagnosis of malabsorption with objective confirmation by methods other than 72 hour fecal fat test (e.g., Sudan stain of stool, dxylose test, etc.);

3. gastroparesis which has been demonstrated:

a. radiographically or scintigraphically as described in Subsection B above with the isotope or pellets failing to reach the jejunum in three to six hours; or

b. by manometric motility studies with results consistent with an abnormal gastric emptying, and which is unresponsive to prokinetic medication.

4. a small bowel motility disturbance which is unresponsive to prokinetic medication, demonstrated with a gastric to right colon transit time between three to six hours;

5. small bowel resection leaving greater than 5 feet of small bowel beyond the ligament of Treitz;

6. short bowel syndrome which is not severe (as defined in B.2);

7. mild to moderate exacerbation of regional enteritis, or an enterocutaneous fistula;

8. partial mechanical small bowel obstruction where surgery is not an option.

F. Documentation must support that a concerted effort has been made to place a tube. For gastroparesis, tube placement must be post-pylorus, preferably in the jejunum. Use of a double lumen tube should be considered. Placement of the tube in the jejunum must be objectively verified by radiographic studies or fluoroscopy. Placement via endoscopy or open surgical procedure would also verify location of the tube.

G. A trial with enteral nutrition must be documented, with appropriate attention to dilution, rate, and alternative formulas to address side effects of diarrhea.

H. PN can be covered in a recipient with the ability to obtain partial nutrition from oral intake or a combination of oral/enteral or oral/enteral/parenteral intake as long as the following criteria are met:

1. a permanent condition of the alimentary tract is present which has been deemed to require parenteral therapy because of its severity;

2. a permanent condition of the alimentary tract is present which is unresponsive to standard medical management; and

3. the person is unable to maintain weight and strength.

I. If the medical necessity criteria for parenteral nutrition are met, medically necessary nutrients, administration supplies and equipment are covered. PN solutions containing little or no amino acids and/or carbohydrates would be covered only in situations stated in B.1, 2, or 4 above.

J. Documentation Requirements

1. Recipients covered under Paragraph B.4 must have documentation of the persistence of their condition. Recipients covered under B.5-D.2 must have documentation

that sufficient improvement of their underlying condition has not occurred which would permit discontinuation of parenteral nutrition. Coverage for these recipients would be continued if the treatment has been effective as evidenced by an improvement of weight and/or serum albumin. If there has been no improvement, subsequent claims will be denied unless the physician clearly documents the medical necessity for continued parenteral nutrition and any changes to the therapeutic regimen that are planned, e.g., an increase in the quantity of parenteral nutrients provided.

2. A total caloric daily intake (parenteral, enteral and oral) of 20-35 cal/kg/day is considered sufficient to achieve or maintain appropriate body weight. The ordering physician must document in the medical record the medical necessity for a caloric intake outside this range in an individual recipient.

3. Parenteral nutrition would usually be noncovered for recipients who do not meet criteria in H.1-3, but will be considered on an individual case basis if detailed documentation is submitted.

4. Recipients covered under criteria in B.1 or 2 must have documentation that adequate small bowel adaptation had not occurred which would permit tube enteral or oral feedings.

5. Recipients covered under B.3 must have documentation of worsening of their underlying condition during attempts to resume oral feedings.

6. The ordering physician must document the medical necessity for protein orders outside of the range of 0.8-1.5 gm/kg/day, dextrose concentration less than 10 percent, or lipid use greater than 15 units of a 20 percent solution or 30 units of a 10 percent solution per month.

7. If the medical necessity for special parenteral formulas is not substantiated, authorization of payment will be denied.

Exclusionary Criteria

A. Parenteral nutrition will be denied as non-covered in situations involving temporary impairments. The recipient must have:

1. a condition involving the small intestine and/or its exocrine glands which significantly impairs the absorption of nutrients; or

2. a disease of the stomach and/or intestine which is a motility disorder and impairs the ability of nutrients to be transported through the GI system. There must be objective evidence supporting the clinical diagnosis.

B. Parenteral nutrition is non-covered for the recipient with a functioning gastrointestinal tract whose need for parenteral nutrition is only due to:

1. a swallowing disorder;

2. a temporary defect in gastric emptying such as a metabolic or electrolyte disorder;

3. a psychological disorder impairing food intake such as depression;

4. a metabolic disorder inducing anorexia such as cancer;

5. a physical disorder impairing food intake such as the dyspnea of severe pulmonary or cardiac disease;

6. a side effect of a medication; or

7. renal failure and/or dialysis.

Prior Authorization

A. Parenteral nutrition therapy may be approved by the Prior Authorization Unit (PAU) at periodic intervals not to exceed six months. However, Medicaid will pay for no more than one month's supply of nutrients at any one time. All requests to the PAU shall include:

1. the prognosis as well as the diagnosis;

2. the date the recipient was first infused;

3. whether the recipient has been trained to use parenteral equipment;

4. a statement that the recipient is capable of operating the parenteral equipment;

5. either the Medicaid certificate of medical necessity form for TPN, or the Medicare certificate of medical necessity form, Form DMERC 10.02A, completed and signed by the treating physician;

6. documentation showing that the recipient has a permanent impairment. Permanence does not require a determination that there is no possibility that the recipient's condition may improve sometime in the future. Medical documentation must substantiate that the condition is expected to last a long and indefinite duration (at least three months).

B. Additional documentation must be included with the initial request for parenteral nutrition.

1. In the situations addressed in B.1-4 under Medical Necessity Criteria, the documentation must include copies of the operative report and/or hospital discharge summary and/or x-ray reports and/or a physician letter which document the condition and the necessity for PN therapy.

2. For the situations addressed in B.5 and D.2 under Medical Necessity Criteria (when appropriate), include the results of the fecal fat test and dates of the test.

3. For the situations addressed in B.6 and D.2 under Medical Necessity Criteria, include a copy of the report of the small bowel motility study and a list of medications that the recipient was on at the time of the test.

4. For the situations addressed in B.5 – D.2 under Medical Necessity Criteria, include the results of serum albumin and the date of the test (within one week prior to initiation of PN) and a copy of a nutritional assessment by a physician, dietitian or other qualified professional within one week prior to initiation of PN, to include the following information:

a. current weight with date and weight one – three months prior to initiation of PN;

b. estimated daily calorie intake during the prior month and by what route (e.g., oral, tube);

c. statement of whether there were caloric losses from vomiting or diarrhea and whether these estimated losses are reflected in the calorie count;

d. description of any dietary modifications made or supplements tried during the prior month (e.g., low fat, extra medium chain triglycerides, etc.).

5. For situations described in D.2 under Medical Necessity Criteria, include:

a. a statement from the physician;

b. copies of objective studies; and

c. excerpts of the medical record giving the following information:

- i. specific etiology for the gastroparesis, small bowel dysmotility, or malabsorption;
 - ii. a detailed description of the trial of tube enteral nutrition including the beginning and ending dates of the trial, duration of time that the tube was in place, the type and size of tube, the location of tip of the tube, the name of the enteral nutrient, the quantity, concentration, and rate of administration, and the results;
 - iii. a copy of the x-ray report or procedure report documenting placement of the tube in the jejunum;
 - iv. prokinetic medications used, dosage, and dates of use;
 - v. nondietary treatment given during prior month directed at etiology of malabsorption (e.g., antibiotic for bacterial overgrowth); and
 - vi. any medications used that might impair GI tolerance to enteral feedings (e.g., anticholinergics, opiates, tricyclics, phenothiazines, etc.) or that might interfere with test results (e.g., mineral oil, etc.) and a statement explaining the need for these medications.
6. Any other information which supports the medical necessity for parenteral nutrition may also be included.

Intradialytic Parenteral Nutrition

A. Intradialytic Parenteral Nutrition Therapy (IDPN) is parenteral nutrition therapy provided to a recipient with end stage renal disease (ESRD) while the recipient is being dialyzed.

B. In order to cover IDPN, documentation must be clear and precise to verify that the recipient suffers from a permanently impaired gastrointestinal tract and that there is insufficient absorption of nutrients to maintain adequate strength and weight. The supporting documentation must substantiate that the recipient cannot be maintained on oral or enteral feedings and that due to severe pathology of the alimentary tract, the recipient must be intravenously infused with nutrients.

C. Infusions must be vital to the nutritional stability of the recipient and not supplemental to a deficient diet or deficiencies caused by dialysis. Physical signs, symptoms and test results indicating severe pathology of the alimentary tract must be clearly evident in any documentation submitted. Recipients receiving IDPN must also meet the criteria for parenteral nutrition.

D. If the medical necessity criteria for parenteral nutrition are met, one supply kit and one administration kit will be covered for each day that parenteral nutrition is administered, if such kits are medically necessary and used.

Additional Documentation

A. For the initial request and for revised requests or reconsiderations involving a change in the order, there must be additional documentation to support the medical necessity of the following orders, if applicable:

- 1. the need for special nutrients;
- 2. the need for dextrose concentration less than 10 percent;
- 3. the need for lipids more than 15 units of a 20 percent solution or 30 units of a 10 percent solution per month.

B. After the first six months, the PA request must include a physician's statement describing the continued need for

parenteral nutrition. For situations described in B.5-D.2 under Medical Necessity Criteria, the PA request must include the results of the most recent serum albumin (within two weeks of the request date) and the recipient's most recent weight with the date of each. If the results indicate malnutrition, there should be a physician's statement describing the continued need for parenteral nutrition and any changes to the therapeutic regimen that are planned.

Equipment and Supplies

A. An infusion pump is used to deliver nutritional requirements intravenously. Infusion pumps are covered for the delivery of parenteral nutrition for those recipients who cannot absorb nutrients by the gastrointestinal tract. Only one pump (ambulatory or stationary) will be covered at any one time. Additional pumps will be denied as not medically necessary.

1. An external ambulatory infusion pump is a small portable electrical device that is used to deliver parenteral nutrition. It is designed to be carried or worn by the recipient.

2. A stationary infusion pump is an electrical device, which serves the same purpose as an ambulatory pump, but is larger and typically mounted on a pole.

B. An IV pole is a device to suspend fluid to be administered by gravity or pump. An IV pole will be covered when a recipient is receiving parenteral fluids and the recipient is not using an ambulatory infusion pump.

C. Infusion pumps, ambulatory and stationary, are indicated for the administration of parenteral medication in the home when parenteral administration of the medication in the home is reasonable and medically necessary, and an infusion pump is necessary to safely administer the medication.

D. An external ambulatory infusion pump is a small portable electrical device that is used to deliver parenteral medication. It is designed to be carried or worn by the recipient.

Reimbursement Methodology

A. The reimbursement rate for parenteral nutrition formula is 80 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount.

B. The reimbursement rate for parenteral equipment and supplies is 70 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount. If an item is not available at 70 percent of the Medicare Fee Schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed Rule is scheduled for Tuesday, September 27, 2005, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written

comments is 4:30 p.m. on the next business day following the public hearing.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Pharmacy Benefits Management
Program Parenteral Therapy**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 05-06. It is anticipated that \$1,224 (\$612 SGF and \$612 FED) will be expended in FY 05-06 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 05-06. It is anticipated that \$612 will be expended in FY 05-06 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule, which continues the provisions of the July 1, 2005 emergency rules, repromulgates the provisions governing parenteral nutrition therapy under the Pharmacy Benefits Management Program that were formerly under the Durable Medical Equipment Program. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known impact on competition and employment.

Ben A. Bearden
Director
0508#084

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Primary Care and Rural Health**

Medicare Rural Hospital Flexibility Program
Critical Access Hospitals
(LAC 48:I.7601-7613)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health proposes to amend LAC 48:I.7601-7615 as authorized by the Balanced Budget Act of 1997 (Public Law 105-33) and pursuant to Title XVIII of the Social Security Act and reauthorized by the Medicare Prescription, Improvement and Modernization Act of 2003. This proposed Rule is promulgated in accordance with Medicare, Medicaid, the State Children's Health Insurance Programs (SCHIP)

Balanced Budget Refinement Act of 1999 the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health promulgated a rule implementing the Medicare Rural Hospital Flexibility Program (MRHF) to assist rural communities in improving access to essential health care services through the establishment of limited service hospitals and rural health networks. The program created the Critical Access Hospital (CAH) as a limited service hospital eligible for Medicare certification and reimbursement (*Louisiana Register*, Volume 25, Number 8). The bureau now proposes to amend the August 20, 1999 Rule to revise the definition of "necessary provider" and revise other criteria to limit participation in the MRHF Program to Louisiana's existing small rural hospitals.

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

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health hereby amends the Medicare Rural Hospital Flexibility Program. To qualify as a critical access hospital, the small rural hospital must complete the following designation, licensing and certification processes.

Title 48

PUBLIC HEALTH GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

**Chapter 76. Medicare Rural Hospital Flexibility
Program (MRHF)**

Subchapter A. Critical Access Hospitals

§7601. Definitions

A. The following word and terms, when used in this Chapter 76 shall have the following meanings, unless the context clearly indicates otherwise.

BPCRHC Department of Health and Hospital, Office of the Secretary, Bureau of Primary Care and Rural Health.

CAHC Critical Access Hospital.

CMS Centers for Medicare and Medicaid Services.

EACH/RPCH Essential Access Community Hospital/Rural Primary Care Hospital a limited service rural hospital program.

EMSC Emergency Medical Services.

Health Care Network an organization consisting of at least one CAH and one acute care hospital with agreements for patient referrals, emergency/non-emergency transportation and other services as feasible.

HPSA Health Professional Shortage Area.

HSS Department of Health and Hospitals, Bureau of Health Services Financing, Health Standards Section.

MRHF Medicare Rural Hospital Flexibility Program.

MSA Metropolitan Statistical Area.

MUA Medically Underserved Area designated by the federal Office of Shortage Designations.

Necessary Provider a facility located in a primary care HPSA or MUA; or located in a parish in which the percentage of Medicare beneficiaries is higher than the

percentage of Medicare beneficiaries residing in the state; or a facility located in a parish in which the percentage of the population under 100 percent of the federal poverty level is higher than the percentage of the state population under 100 percent of the federal poverty level or qualifies as a "rural hospital" under the Louisiana Rural Preservation Act.

Not-for Profit Incorporated as a non-profit corporate entity.

Primary Care Basic ambulatory health services that provide preventive, diagnostic and therapeutic care.

Primary Care Physicians Includes general, family and internal medicine, pediatrics and obstetrics/gynecology.

QIO Quality Improvement Organization

Public Hospital Hospital supported by public funds including city, service district and state hospitals.

Rural The CAH is located outside any area that is a Metropolitan Statistical Area, as defined by the Office of Management and Budget or qualifies as a rural hospital under the Louisiana Rural Preservation Act.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balance Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1478 (August 1999), amended LR 26:1480 (July 2000), amended by the Office of the Secretary, Bureau of Primary Care and Rural Health, LR 31:

§7603. Criteria for Designation as a CAH

A. A hospital must submit an application to the BPCRHR and must meet the following criteria, or affirm that it can meet these criteria at the time of certification, to be designated as a CAH:

1. be a licensed hospital;
2. be currently participating in the Medicare program and meet applicable conditions of participation;
3. be located in a rural area:
 - a. may be a rural census tract in a Metropolitan Statistical Area as determined under the Goldsmith Modification, originally published in the *Federal Register* on February 27, 1992 and updated October 1, 2004; or
 - b. qualifies as a "rural hospital" under the Rural Preservation Act, RS 40:100.143;
- 4.a. be located more than a 35-mile drive or a 15-mile drive in mountainous terrain or areas with secondary roads, from the nearest hospital or CAH; or
 - b. be certified as a necessary provider by qualifying as a "rural hospital" under the Louisiana Rural Hospital Preservation Act RS 40:1300.143; and meeting at least one of the following:
 - i. be located in a primary care health professional shortage area (HPSA) or a medically underserved area (MUA); or
 - ii. be located in a parish in which the percentage of Medicare beneficiaries is higher than the percentage of Medicare beneficiaries residing in the state; or
 - iii. be located in a parish in which the percentage of the population under 100 percent of the federal poverty level is higher than the percentage of the state population under 100 percent of the federal poverty level;
 - c. provide not more than 25 acute care inpatient beds or swing-beds, meeting such standards as the secretary may establish, for providing inpatient care that does not

exceed, as determined on an annual, average basis, 96 hours per patient.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balance Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1478 (August 1999), amended LR 26:1480 (July 2000), amended by the Office of the Secretary, Bureau of Primary Care and Rural Health, LR 31:

§7609. Application Submission and Review

A. A hospital that wishes to be designated as a CAH is required to submit an application to the BPCRHR. Application forms may be requested and submitted by interested hospitals at any time following HCFA approval of the state's Rural Health Care Plan and application.

B. On receipt of an application, the BPCRHR will conduct a review to determine the eligibility of the applicant hospital for conversion and consistency with the criteria for designation detailed in §7603.

C. The supporting information to be included with the application is:

1. documentation of ownership, including names of owners and percent of ownership;
2. board resolution to seek CAH certification;
3. documentation of Medicare participation;
4. notification from BPCRHR that location is in a HPSA or MUA;
5. affirmation that 24-hour emergency medical care services and medical control agreements are available including information on staffing arrangements;
6. documentation that facility meets rural hospital staffing requirements with the following exceptions:
 - a. the facility need not meet hospital standards regarding the number of hours per day or days of the week in which it must be open and fully staffed, except as required to make emergency medical care services available and to have nursing staff present if an inpatient is in the facility;
 - b. the facility may provide the services of a dietician, pharmacist, laboratory technician, medical technologist, and/or radiological technologist on a part-time, off site basis; and
 - c. inpatient care may be provided by a physician assistant, nurse practitioner, or clinical nurse specialist, subject to the oversight of a physician who need not be present in the facility but immediately available in accordance with state requirements for scope of practice;
7. copy of a needs assessment, if available;
8. copy of a strategic plan for conversion;
9. copy of financial feasibility assessment.

D. Decision. If an application is complete, and all supporting documentation provided, the BPCRHR will provide written notice to the applicant hospital.

1. If the application and required documentation supports conversion to a MRHF, after the effective date of the published rule, the BPCRHR will provide a written notice of the designation to the applicant hospital and HSS.

2. If the application is incomplete or otherwise insufficient to allow designation, the BPCRHR will provide written notice to the applicant outlining the actions necessary to correct the deficiencies. The hospital may then address the deficiencies and resubmit its application.

E. Once designated, a hospital may apply to the Bureau of Health Services Financing, Health Standards Section (HSS) of the Department of Health and Hospitals for an onsite survey.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balance Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1479 (August 1999), amended LR 26:1480 (July 2000), amended by the Office of the Secretary, Bureau of Primary Care and Rural Health, LR 31:

§7611. Technical Assistance

A. The BPCRHR is available to furnish basic technical assistance to hospitals and communities interested in CAH conversion such as providing program information helping with interpretation and completion of the application for designation, and identifying other sources of assistance and information.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balance Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1480 (August 1999), amended LR 26:1480 (July 2000), amended by the Office of the Secretary, Bureau of Primary Care and Rural Health, LR 31:

§7613. Program Monitoring and Evaluation

A. Ongoing monitoring and evaluation of the program will be conducted by the Quality Management Section of the BPCRHR.

1. Strengths and weaknesses of the program and state policy affecting CAHs will be assessed, with the goal of identifying problem areas and developing solutions.

2. Results will be reported to the BPCRHR Director who will assign program staff to work with other state agencies and interested parties to determine the necessity of changes and updates to the Plan and state policy.

3. All Plan changes will be forwarded to HCFA for review and approval.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balance Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1480 (August 1999), amended LR 26:1480 (July 2000), amended by the Office of the Secretary, Bureau of Primary Care and Rural Health LR 31:

Family Impact Statement

1. The Effect on the Stability of the Family. None.
2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. None.
3. The Effect on the Functioning of the Family. None.
4. The Effect on Family Earnings and Budget. None.
5. The Effect on the Behavior and Personal Responsibility of Children. None.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. None.

Interested persons may submit written comments to Kristy Nichols, Bureau of Primary Care and Rural Health, P.O. Box 2870, Baton Rouge, LA 70821-2870. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, March 29, 2005, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Medicare Rural Hospital Flexibility
Program Critical Access Hospitals**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only implementation cost is the cost of printing the proposed rule. It is anticipated that \$748 will be expended in SFY 2004-05 for the state's administrative cost of printing the Notice of Intent and final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rule amendments will have any material effect on the revenue collections of DHH or of any state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

CAH hospitals receive cost-based reimbursement from Medicare. Consequently, there is no direct impact on the state's Medicaid program when a hospital converts to CAH status. It is anticipated that the proposed rule will enable two small rural hospitals to convert to CAH status that previously did not qualify. It also is anticipated that four hospitals in rural areas that are currently closed would be prohibited from reopening and converting to CAH status as a result of this rule. Consequently, there is an undeterminable potential cost savings that could occur because the four closed hospitals will more than likely not be able to reopen without CAH status.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

If the two hospitals previously ineligible for CAH conversion find that it is in their best interest to convert, the conversion could positively affect their ability to compete in their market and retain and attract employees. However, limiting the reopening of the other four hospitals will limit new employment opportunities in their communities via a reopened local hospital.

Kristy H. Nichols
Program Manager III
0508#093

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Military Personnel Automobile Liability Insurance
Premium Discount and Insurer Premium Tax Credit Program
(LAC 37:XIII.Chapter 95)

Under the authority of the Louisiana Insurance Code, R.S. 22:1, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and specifically R.S. 49:953.(B), the Louisiana Department of Insurance (LDOI) gives notice that, pursuant to R.S. 22:1425, as amended, the LDOI will amend Regulation 81 to implement changes to the premium discount program for active military personnel based in Louisiana, and to establish an insurer premium tax credit program for those insurers who properly provide the automobile liability insurance premium discount to active military personnel based in Louisiana, and to establish eligibility criteria, and to publish an approved "Louisiana Application For Military Discount" form as the documentary proof required for a person to verify eligibility for the discount, and to provide for the procedure whereby participating insurers can apply for and obtain a tax credit against the payment of premium taxes levied pursuant to R.S. 22:1061 and 1065, and to provide for other related matters as per the mandates of R.S. 22:1425. This intended action complies with the statutory law administered by the LDOI. The amendment to Regulation 81 is authorized by Act 408 of the 2005 Regular Legislative Session.

This amendment to Regulation 81 took effect on pursuant to a Declaration of Emergency signed by Commissioner J. Robert Wooley on August 8, 2005 and will continue in effect for a period of 120 days or until the completion of the procedures required by the Administrative Procedure Act for this regular Notice of Intent, which is shorter. A copy of the amendment to Regulation 81 may be obtained from the LDOI by contacting Warren Byrd, Attorney, in writing c/o the Louisiana Department of Insurance, 1702 N. Third Street, Baton Rouge, LA 70802, or by telephone at (225) 219-7841, or by electronic e-mail at wbyrd@ldi.state.la.us.

The text of this proposed Rule may be viewed in the Emergency Rule section of this *Louisiana Register*.

Family Impact Statement

The proposed amendment to Regulation 81, LAC 37: XIII.9501 et seq., regarding the military discount program and the system of providing a tax credit against premium taxes levied pursuant to R.S. 22:1061 and 1065 should not have any known or foreseeable impact on the family as defined by R.S. 49:972.D or on family formation, stability or autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. the family earnings and family budget;

5. the behavior and personal responsibility of children; or

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

A copy of the proposed regulation may be obtained by writing to the LDOI at the address shown below or by telephone at (225) 342-4673. Copies may also be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802 or by calling (225) 342-5015.

Interested parties may submit oral or written comments on the proposed regulation to Warren E. Byrd, Staff Attorney, at either Box 94214, Baton Rouge, LA 70804-9214, or 1702 North Third Street, Baton Rouge, LA 70802; or by telephone at (225) 219-7841. The deadline to submit comments is 5 p.m., September 28, 2005.

On September 28, 2005, beginning at 10 a.m., the LDOI will hold a Public Hearing in the Poydras Hearing Room of the LDOI headquarters building located at 1702 North Third Street, Baton Rouge, LA 70802 to allow the public the opportunity to present its views concerning the proposed promulgation of this amendment to Regulation 81.

J. Robert Wooley
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Military Personnel Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Amended Regulation 81 provides for implementation of a premium tax credit program for insurers who provide the automobile liability insurance discount to active military personnel based in Louisiana. The original regulation dealt with a rebate program that required payments by the State Treasury to qualifying and participating insurers. Costs/savings remain as stated in the original FEIS for Regulation 81.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue to the State General Fund will be unchanged from as stated in the original FEIS for Regulation 81; instead of a rebate, qualifying and participating insurers will receive premium tax credit(s). The change is administrative in nature.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The adoption Amended Regulation 81 should have no costs or benefits to affected persons or non-governmental groups. Impact remains as stated in the FEIS for original Regulation 81.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The adoption of this regulation should have no impact on competition and employment.

Chad M. Brown
Deputy Commissioner
Management and Finance
0508#053

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Standardization of Health Benefits and Compliance Requirements for LaChoice (LAC 37:XIII.Chapter 113)

In accordance with the provisions of R.S. 49:950 et seq. of the Administrative Procedure Act and R.S. 22:3 and 22:245(C)(3), the Louisiana Department of Insurance is adopting the following regulation regarding the standardization of health benefits and compliance requirements for the implementation of LaChoice. More specifically, this regulation is necessary to implement and enforce the following provisions: R.S. 22:244, 22:245 and 22:246 of Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

This regulation shall be effective upon final publication in the Louisiana Register.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 113. Regulation 88C Standardization of Health Benefits and Compliance Requirements for LaChoice

§11301. Purpose

A. The purpose of this regulation is:

1. to implement the statutory requirements in establishing pilot health insurance programs to increase access to affordable health insurance for small employers and for individuals pursuant to R.S. 22:244 et seq. of the Louisiana Revised Statutes of 1950; and

2. to carry out the intent of the Legislature and assure full compliance with the applicable statutory provisions by establishing procedures for the standardization of health benefits and compliance requirements. This program and the applicable statutory authority relating thereto shall be referred to hereinafter as "LaChoice."

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:

§11303. Applicability and Scope

A. Except as otherwise specifically provided, the requirements of this regulation shall apply to health insurance issuers that choose to offer health insurance under the provisions of LaChoice as required pursuant to R.S. 22:244 et seq. of the Louisiana Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:

§11305. Eligibility, Benefits and Underwriting Criteria

A. In order to participate in LaChoice, employers must not have provided group health insurance coverage to their employees for at least six months from the date the last policy of insurance was terminated or nonrenewed.

B. The Commissioner of Insurance shall have the authority via regulation to alter the above time period in accordance with R.S. 22:246(1).

C. In order to participate in LaChoice, a health insurance issuer shall be required to file all proposed health insurance policy forms with the Department of Insurance for review and approval. Such policies shall be in compliance with Regulation 78. A statement of compliance is not required.

D. Policies issued pursuant to the provisions of LaChoice shall be exempted from all state benefit mandates, including but not limited to those mandates contained in R.S. 22:213.2.A, R.S.22:215.1.B, R.S.22:215.8, R.S. 22:215.10, R.S. 22:215.11.A, R.S. 22:215.11.B, R.S. 22:215.14, R.S. 22:215.15, R.S. 22:215.16, R.S. 22:215.20, R.S. 22:215.21, R.S. 22:215.22, R.S. 22:215.24, R.S. 22:228.7, R.S. 22:230.4, R.S. 22:669, R.S. 22:2004.1 and R.S. 22:2004.2.

E. All such health insurance coverage shall meet the requirements of Part VI-C of Title 22 except as specifically enumerated by statute or regulation. Any waiting period imposed shall be in compliance with Part VI-C of Title 22.

F. Policies issued pursuant to the provisions of LaChoice shall be exempted from R.S. 22:250.4(F)(1), (2) and (3), and R.S. 22:250.15(A)(2), (3), (4) and (5) unless dependent coverage is offered pursuant to LaChoice policies. If dependent coverage is offered, the provisions of R.S. 22:250.4(F)(1), (2) and (3), and R.S. 22:250.15(A)(2), (3), (4) and (5) shall apply to LaChoice policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:

§11307. Participation Requirement

A. The health insurance issuer shall provide to the Department of Health and Hospitals through electronic means via a current ANSI X12N 834 transaction format pursuant to the HIPAA transactions and code sets requirements, an initial enrollment roster for each employer group listing employees who are to be covered by the health insurance issuer.

B. The initial enrollment roster for each employer group will include all employees who are to be covered by the health insurance issuer regardless of whether or not the employee is eligible for the LaChoice premium subsidy pursuant to §11311.

C. The health insurance issuer shall provide monthly employee update transactions to the Department of Health and Hospitals using the 834 transaction format to indicate changes in insurance coverage for employees eligible for the LaChoice premium subsidy pursuant to §11311. Such changes shall include but not be limited to: changes in coverage, terminations from coverage and changes to employee demographics.

D. If an employee is to be covered in an employer group by the health insurance issuer and the employee was not included in the initial enrollment roster, the health insurance issuer shall include the employee in a monthly employee update transaction regardless of whether or not the employee is eligible for the LaChoice premium subsidy pursuant to §11311.

E. The health insurance issuer shall provide a monthly report to the Department of Insurance indicating the count of

all insured or members covered under LaChoice for each employer group. Such list shall include the following categories:

1. a list of current employers enrolled in the program;
2. the number of insured or members who are receiving the subsidy pursuant to §11311;
3. the number of insured or members who are not receiving the subsidy pursuant to §11311.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:

§11309. Underwriting Criteria for Health Insurance

Issuer

A. Underwriting criteria shall comply with the provisions in Title 22 and shall be subject to actuarial review and approval by the Department of Insurance, pursuant to R.S. 22:246(6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:

§11311. Criteria for Public Subsidy

A. To be eligible for the LaChoice premium subsidy, an employee of a qualified employer that opts to provide LaChoice must make application and have household income levels at or below 200 percent of the federal poverty level as established by the Department of Health and Hospitals Medicaid Health Insurance Flexibility and Accountability (HIFA) Demonstration Project. Eligibility for the subsidy shall be determined by the Medicaid agency. Implementation of this provision shall be contingent upon the approval of the HIFA demonstration project by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:

§11313. Enforcement Provisions

A. The Commissioner of Insurance shall have the authority to disapprove a policy submitted pursuant to LaChoice in accordance with R.S. 22:621 that fails to comply with the provisions of any statute or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:

§11315. Financial Statement requirements

A. The following requirement is applicable only to health insurance issuers that offer LaChoice policies. Such health insurance issuers shall be required to report LaChoice business in a supplemental worksheet to the annual statement in a format to be provided by the Louisiana Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following

provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:

§11317. Discontinuation of Product Type

A. When a health insurer issuer decides to discontinue offering policies pursuant to the LaChoice program, R.S. 22:250.7(C)(1)(a),(b),(c) and (d) shall be applicable in the discontinuation of such product.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:

§11319. Severability

A. If any Section or provision of this regulation or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of this regulation to any persons or circumstances that can be given effect without the invalid Section or provision or application, and for these purposes the Sections and provisions of this regulation and the application to any persons or circumstance are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:

Family Impact Statement

1. Describe the effect of the proposed amendment(s) on the stability of the family. The proposed regulation should have no measurable impact on the stability of the family.

2. Describe the effect of the proposed Rule on the authority and rights of parents regarding the education and supervision of their children. The proposed regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the effect the proposed Rule on the functioning of the family. The proposed regulation should have no direct impact upon the functioning of the family.

4. Describe the effect the proposed Rule on family earnings and budget. The proposed regulation should have no direct impact on family earnings and budget.

5. Describe the effect the proposed Rule on the behavior and personal responsibility of children. The proposed regulation should have no impact on the behavior and personal responsibility of children.

6. Describe the effect of the proposed Rule on the ability of the family or a local government to perform the function as contained in the proposed rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

On Monday, September 19, 2005, at 9:30 a.m., the Department of Insurance will hold a public hearing in the Poydras Hearing Room of the Louisiana Department of Insurance Building located at 1702 N. Third Street, Baton Rouge, LA 70802 to discuss the proposed regulation as set forth above. This intended action complies with the statutory law administered by the Department of Insurance. Interested parties will have to the end of business day to submit oral or

written comments to Claire Lemoine at 1702 N. Street, Baton Rouge, LA 70802-5143.

J. Robert Wooley
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Standardization of Health Benefits and
Compliance Requirements for LaChoice**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

DOI does not expect any implementation costs as a result of the adoption of this regulation. The Louisiana Health Care Commission will perform the majority of the work that is not work already performed by DOI. DOI routinely reviews and approves/disapproves policy forms, and any additional work in that area will be absorbed by existing staff and resources. DOI's responsibility is to set forth the regulatory framework for the pilot program. DHH will be responsible for the routine operation of the program and it is expected that the associated costs will be covered in that agency's appropriation.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that implementation of this regulation will have any impact upon the revenue collections of the state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The adoption of this regulation is expected to benefit small employers and individuals by providing a more affordable means of obtaining health insurance coverage. It is impossible to place a dollar amount upon the benefit that is expected to result from this pilot program.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The implementation of this regulation should have no direct impact upon employment and competition in the state; however, making health care coverage more affordable to individuals and small employers can only have a positive impact on employment and competition.

Chad M. Brown
Deputy Commissioner
5058#081

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Fees (LAC 43:XIX.701, 703, and 707)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby proposes to amend the established fees.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation General Operations

Subpart 2. Statewide Order No. 29-R

Chapter 7. Fees

§701. Definitions

BOE Annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 7.0.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000), LR 27:1919 (November 2001), LR 28:2366 (November 2002), LR 29:2499 (November 2003), LR 31:

§703. Fee Schedule for Fiscal Year 2005-2006

A. ...

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$6,544 per facility.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$3,272 per facility.

3. Operators of record of permitted non-commercial Class II injection/disposal wells are required to pay \$666 per well.

4. Operators of record of permitted Class III and Storage wells are required to pay \$666 per well.

C. ...

D. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers.

Tier	Annual Production (Barrel Oil Equivalent)	Fee (\$ per Well)
Tier 1	0	15
Tier 2	1-5,000	80
Tier 3	5,001-15,000	227
Tier 4	15,001-30,000	379
Tier 5	30,001-60,000	606
Tier 6	60,001-110,000	834
Tier 7	110,001-9,999,999	1,023

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq., R.S. 30:560 and 706.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:350 (March 2003), LR 29:2502 (November 2003), LR 30:2494 (November 2004), LR 31:

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-05/06 and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This Order (Statewide Order No. 29-R-05/06) supercedes Statewide Order No. 29-R-04/05 and any amendments thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2502 (November 2003), LR 30:2494 (November 2004), LR 31:

Family Impact Statement

In accordance with RS 49:972, the following statements are submitted after consideration of the impact of the proposed Rule on family as defined therein.

1. The proposed Rules will have no effect on the stability of the family.
2. The proposed Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The proposed Rules will have no effect on the functioning of the family.
4. The proposed Rules will have no effect on family earnings and family budget.
5. The proposed Rules will have no effect on the behavior and personal responsibility of children.
6. Family or local government is not required to perform any function contained in the proposed Rules.

Comments and views regarding the proposed fees will be accepted until 4:30 p.m., Tuesday, October 4, 2005. Comments should be directed, in writing, to: Office of Conservation, Engineering Division, 9th Floor, P.O. Box 94275, Baton Rouge, LA 70804-9275 (Re: Docket No. 05-895 Proposed Statewide Order No. 29-R-05/06).

A public hearing will be held at 9 a.m., Wednesday, September 28, 2005 in the LaBelle Hearing Room, located on the First Floor, LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no implementation costs (savings) to state or local governmental units resulting from this action
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Statewide Order No. 29-R-05/06 will replace the existing Statewide Order No. 29-R-04/05, which establishes the Office of Conservation Fee Schedule and will retain the maximum revenue caps authorized in R.S. 30:1 et seq. The Production Tier Fee in the FY 05/06 Fee Schedule has been reduced by approximately 4.4% overall due to the increased number of participating wells in the higher tiers. The Regulatory Fees for Class I Injection Wells will remain at the same level as those charged in FY 04/05; however, the Regulatory Fees for Class II, and III Injection Wells, and Type A and B Commercial Facilities have increased by approximately 1.8% due to the declining numbers of wells and facilities. The Office of Conservation will collect roughly the same revenue for these fees in FY 05/06 as in FY 04/05, or approximately \$6,464,691.

Additionally, the passage of Act Nos. 222 and 223 of the 2004 Regular Legislative Session, authorizes the Office of Conservation to determine by rule annually, in accordance with the Administrative Procedure Act, the pipeline safety inspection fees charged for the miles of state regulated jurisdictional gas pipelines (R.S. 30:560) and state jurisdictional hazardous liquids pipelines (R.S. 30:706). Although the Office of Conservation is authorized to collect a "fee not to exceed \$22.40 per mile, or a minimum of \$400, whichever is greater" for these state jurisdictional gas and hazardous liquids pipelines, the Agency is proposing a FY 05/06 fee of only \$15.00 per mile, or a minimum of \$265, whichever is greater, which is the same level of fees charged in FY 04/05. The Office of Conservation will collect roughly the same revenue in FY 05/06 for these fees as in FY 04/05, or approximately \$748,560.

No local governmental units will be impacted by this action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule will replace the existing Office of Conservation Fee Schedule. The proposed Statewide Order No. 29-R-05/06 will retain the existing revenue caps for fees assessed to industries under the jurisdiction of the Office of Conservation, as authorized by R.S. 30:21 et seq., R.S. 30:560, and R.S. 30:706, and is expected to reach approximately \$7,213,251 for FY 05/06.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The passage of Statewide Order No. 29-R-05/06 will have no effect on competition and employment.

Felix J. Boudreaux
Assistant Commissioner
0508#051

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Media Storage Devices (LAC 42:XI.2403, 2411 and 2413)

The Gaming Control Board hereby gives notice that it intends to amend LAC 42:XI.2403, 2411 and 2413 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42
LOUISIANA GAMING
Part XI. Video Poker
Chapter 24. Video Draw Poker
§2403. Definitions**

A. ...

RAM Clear Chip Can erasable programmable read only memory or other media memory storage device as approved by the division which contains a program specifically designed to clear volatile and nonvolatile memory sections of a logic board for a video gaming device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196

(February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 30:266 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 31:

§2411. Regulatory, Communication, and Reporting Responsibilities

A. - A.12. ...

13. All licensed manufacturers and distributors shall develop and provide to all licensed device owners and licensed service entities, a program to train and certify technicians. In addition, all licensed manufacturers and distributors shall award certification to authorized service personnel, and maintain all training records and certificate awards, which shall be provided to the division upon request.

A.14. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 30:269 (February 2004), repromulgated LR 30:444 (March 2004), amended LR 31:

§2413. Devices

A. - A.1.g.x. ...

h. main logic board and printed circuit board which shall contain a game EPROM or other secure media memory storage device as approved by the division, and which shall be separate in a locked area of the device. All logic boards shall have a nonremovable number affixed or inscribed;

A.1.i. - K.2.b. ...

L. Device Parts

1. Licensed distributors and device owners shall purchase parts for video draw poker devices according to the following provisions.

a. Logic boards, EPROM's, media memory storage devices, or any other proprietary parts of a video draw poker device shall be purchased from a licensed video draw poker manufacturer or distributor.

b. Video draw poker device monitors and bill/coin acceptors may be purchased directly from the original equipment manufacturer, if available. After market device monitors and bill/coin acceptors may be purchased from sources other than a licensed manufacturer or distributor and used only if the part has been tested and approved for use in a video draw poker device by a division approved testing facility.

c. Any other replacement parts of a video draw poker device may be purchased from sources other than a licensed manufacturer or distributor if:

i. the parts are of equal or better quality than the original device parts; and

ii. the parts have no effect on the security, integrity, or outcome of the game.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq. and R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:197 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 25:85 (January 1999), LR

30:269 (February 2004), repromulgated LR 30:446 (March 2004), amended LR 31:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:XI.2403, 2411, and 2413.

It is accordingly concluded that amending LAC 42:XI.2403, 2411, and 2413 would appear to have a positive yet inestimable impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to these proposed Rules, through September 9, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

H. Charles Gaudin
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Media Storage Devices (

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs to state or local government units estimated as a result of these changes. Amendments to LAC 42:XI.2403.A removes the specific reference to "EPROM" and adds "other media memory storage devices as approved by the [Video Gaming] Division" to the definition of "RAM Clear Chip." Amendments to subparagraph 2413.A.1 adds "other secure media memory storage device as approved by the Division" to the device requirements, and deletes the specific reference to "EPROM."

Subsection L is proposed to be added to Section 2413 entitled "Device Parts". This Subsection provides that certain parts of video draw poker devices, including proprietary items, shall be purchased from the licensed distributor or manufacturer; certain parts (monitors and bill/coin acceptors) may be purchased from the manufacturer or distributor; and all other replacement parts may be purchased from other sources provided they are of equal or better quality and do not affect security, integrity or the outcome of the game.

Amendments to Subsection 2411.A delete the requirement that manufacturer and distributor programs to train technicians be approved by the division.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no determinable effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefit to directly affected persons or nongovernmental groups is estimated, except that addition of LAC 42:XI.2413.L will enable device owners to purchase some video poker device parts from sources

other than the licensed manufacturer or distributor thereby resulting in considerable costs savings. The amount of cost savings to the industry cannot be estimated with any reasonable degree of certainty.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect on competition or employment is estimated, except that addition of LAC 42:XI.2413.L will enable device owners to purchase some video poker device parts from sources other than the licensed manufacturer or distributor thereby resulting in increased competition and lower prices.

H. Charles Gaudin
Chairman
0508#068

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Commercial Building Energy Conservation Code
(LAC 55:V Chapter 26)**

In accordance with the provisions of R.S.40:1730.41 et seq. and 40:1563 et seq. relative to the authority of the Office of State Fire Marshal to promulgate and enforce rules, the Office of State Fire Marshal hereby proposes to adopt the following Rule regarding the Commercial Building Energy Conservation Code.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

**Chapter 26. Commercial Building Energy
Conservation Code**

§2601. General Provisions

A. In accordance with R.S. 40:1730.45, et seq., no commercial building shall be constructed, altered, or repaired in Louisiana until energy code compliance documents have been submitted to and reviewed by the State Fire Marshal for compliance with the Commercial Building Energy Conservation Code. For state owned facilities, statewide enforcement of the Commercial Building Energy Conservation Code shall be the responsibility of the Facility Planning and Control section of the Division of Administration. As such, energy code compliance documents are not required as part of the submission for state owned buildings to the Office of State Fire Marshal.

B. It shall be the policy of the Office of State Fire Marshal that energy code document review will be required on any building covered by the Commercial Building Energy Conservation Code.

C. In order to expedite plan review and not delay construction or occupancy of affected buildings, the State Fire Marshal shall have the authority to issue a 21-day release for buildings for which the initial plan submission did not include a complete, valid submission of energy code documents. In the event that such a release is issued, parties submitting plans without a complete, valid submission of energy code documents will be notified in writing of the energy code requirements and have 21 days to submit the required energy code documentation. During this time, initial plan review may be completed, thereby allowing

construction to commence. Failure to submit required energy code compliance documents within said 21 days will result in a letter of apparent noncompliance. Said letter shall be either in the form of a statement in the plan review letter or as a separate letter.

D. A complete, valid submission of energy code documents shall consist of documents as detailed in LAC 55:V:2604.

E. Parties submitting code compliance documents that appear to the State Fire Marshal to conform with the Louisiana Commercial Building Energy Conservation Code shall be furnished a letter of apparent compliance. Said letter shall be either in the form of a statement in the plan review letter or as a separate letter.

F. Parties submitting code compliance documents that appear to the State Fire Marshal not to comply with the Louisiana Commercial Building Energy Conservation Code shall be furnished a letter of apparent noncompliance. Said letter shall be either in the form of a statement in the plan review letter or as a separate letter. This letter of apparent noncompliance shall not delay the state fire marshal's normal project review process or the ability of a local building code enforcement entity to issue a building permit or use and occupancy certificate.

G. Parties receiving a letter of apparent noncompliance shall be entitled to submit revised plans, documentation or other evidence to the state fire marshal for a reevaluation of the project's compliance with the Louisiana Commercial Building Energy Conservation Code. In accordance with R.S. 40:1730.47(A), a \$10 fee shall be charged by the State Fire Marshal for reevaluation of energy code compliance documents.

H. The letter of apparent compliance or apparent noncompliance from the State Fire Marshal shall be kept at the site of the project for as long as the structure is in the process of construction, alteration or repair.

I. The owners of all structures shall retain this letter of apparent compliance or apparent noncompliance from the State Fire Marshal in a safe place for as long as the structure is occupied, used or both.

J. The Office of the State Fire Marshal shall not be required to retain any copy of the reviewed plans, specifications, energy code compliance documents, or letter of apparent compliance or apparent noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1730.41 et. seq. and 40:1563 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Fire Marshal, LR 31:

§2602. Definitions

Alteration Alterations, renovations or repairs to existing buildings in accordance with R.S. 40:1574(C), (D), (E), (F), and (G).

ANSI/ASHRAE/IESNA 90.1 The latest edition adopted by the State Fire Marshal, pursuant to the provisions of the Louisiana Administrative Procedure Act, of the document developed by the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America entitled "Energy Standard for Buildings Except Low-Rise Residential Buildings".

COMcheck The commercial building energy code compliance package, including computer software available

from the United States Department of Energy, as a method of demonstrating compliance with ASHRAE/IES 90.1.

Commercial Buildings—All buildings designed for human occupancy except one and two family dwellings.

Commercial Processing—See industrial occupancy.

EPAct—The Energy Policy Act of 1992 enacted by the Congress of the United States, as amended.

Historic Buildings—Those buildings specifically designated as historically significant by the state historic preservation officer or by official action of a local government.

Industrial—Areas of buildings intended primarily for manufacturing, commercial, or industrial processing. For purposes of determining applicability with requirements of the Commercial Building Energy Conservation Code, buildings or portions thereof in which products are manufactured or in which processing, assembling, mixing, packaging, finishing, decorating, repairing, or similar operations are conducted.

International Energy Conservation Code—The latest edition adopted by the State Fire Marshal, pursuant to the provisions of the Louisiana Administrative Procedure Act, of the document developed by the International Code Council, Inc., entitled "International Energy Conservation Code", also referred to as "IECC".

Low-Rise Residential—Structures used primarily for residential purposes of three stories or fewer above grade, excluding one and two family dwellings.

Manufacturing—See industrial.

Repair or Renovation—Alterations, repairs or renovations to existing buildings in accordance with R.S. 40:1574(C), (D), (E), (F), and (G).

REScheck—The International Energy Conservation Code compliance package, including computer software available from the United States Department of Energy, as a method of demonstrating compliance with the International Energy Conservation Code.

Residential—Spaces in buildings used primarily for living and sleeping. Residential spaces include, but are not limited to, dwelling units, hotel/motel guest rooms, dormitories, nursing homes, patient rooms in hospitals, lodging houses, fraternity/sorority houses, hostels, prisons, and fire stations.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1730.41 et. seq. and 40:1563 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Fire Marshal, LR 31:

§2603. Energy Code Application and Scope

A. All commercial building plans submitted to the Office of State Fire Marshal that are included in the scope of the Commercial Building Energy Conservation Code shall contain energy code compliance documentation as required by LAC 55:V:2604.

B. Additions to existing buildings will be treated as new construction.

C. General Exemptions. Buildings or portions of buildings that meet the criteria outlined in RS 40:1730.44.C or by the scope of ANSI/ASHRAE/IESNA Standard 90.1 are exempt from the energy code.

D. Renovated Buildings: To determine applicability of the Commercial Building Energy Conservation Code to altered, repaired or renovated buildings, see R.S. 40:1574.C, D, E, F,

and G. Altered, repaired or renovated buildings covered by these Sections are included in the scope of the energy code.

E. Historic Buildings: As permitted by RS 40:1730.44.D, the State Fire Marshal may modify the specific requirements of the Commercial Building Energy Conservation Code for historic buildings and require alternate requirements which will result in a reasonable degree of energy efficiency. It is the policy of the State Fire Marshal to encourage historic preservation and the preservation of Louisiana's architectural heritage. When applying the requirements of the energy code, the State Fire Marshal shall take into consideration the impact of these requirements on the historic integrity of existing facilities. Parties submitting plans for renovating historic buildings must demonstrate a good faith attempt to comply with the energy code. However, if compliance with the energy code will compromise the historic integrity of the affected building, it should be so noted on the plan submission. In such cases, the State Fire Marshal will accept reasonable attempts to improve the energy efficiency of the building as meeting the requirements of the energy code.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1730.41 et. seq. and 40:1563 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Fire Marshal, LR 31:

§2604. Compliance Procedures for the Energy Code

A. For commercial buildings in all categories except low-rise residential buildings identified in ANSI/ASHRAE/IESNA 90.1, demonstration of compliance with COMcheck, materials as developed by Pacific Northwest National Laboratory for the U.S. Department of Energy's Office of Codes and Standards, available from the U.S. Department of Energy, shall be deemed to comply with the Commercial Building Energy Conservation Code. Compliance must be demonstrated individually for each of three components: envelope, lighting (including electrical), and mechanical (including hot water).

B. For low-rise residential buildings not covered by LAC 55:V:2604.A., except one and two family dwellings, demonstration of compliance with REScheck, materials as developed by Pacific Northwest National Laboratory for the Department of Housing and Urban Development and the Rural Economic and Community Development under direction of the U.S. Department of Energy's Office of Codes and Standards, available from the U.S. Department of Energy, for the requirements of the IECC shall be deemed to comply with the Commercial Building Energy Conservation Code.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1730.41 et. seq. and 40:1563 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Fire Marshal, LR 31:

§2605. Amendments to ANSI/ASHRAE/IESNA 90.1 for Louisiana

A. The following amendments to COMCheck are adopted for Louisiana.

1. Remove requirement that air handlers run continuously.

2. Remove all requirements for use of economizers anywhere in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1730.41 et. seq. and 40:1563 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Fire Marshal, LR 31:

Family Impact Statement

1. The Effect of These Rules on the Stability of the Family. These Rules will have no effect on the stability of the family.

2. The Effect of These Rules on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. These Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of These Rules on the Functioning of the Family. These Rules will have no effect on the functioning of the family.

4. The Effect of These Rules on Family Earnings and Family Budget. These Rules will have no effect on family earning and family budget.

5. The Effect of These Rules on the Behavior and Personal Responsibility of Children. These Rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of These Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These Rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments on these proposed amendments to Henry Fry at 8181 Independence Boulevard, Baton Rouge, LA 70806. Comments will be accepted through close of business September 15, 2005.

Stephen J. Hymel
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Commercial Building Energy Conservation Code

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These rules, which provide for the review of commercial buildings for compliance with the Commercial Building Energy Conservation Code, will not result in any increased costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will have no effect on revenue collections of state or local governmental units as the fee for review is set by La. R.S. 40:1730.47(A).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Under current law and Act 91 of the 2005 Legislative Session, no commercial building may be constructed, altered or repaired until plans have been reviewed for compliance with the Commercial Building Energy Conservation Code. These rules are being adopted to codify the present procedures used by the State Fire Marshal's Office to review plans for compliance with the Commercial Building Energy Conservation Code. There will be no additional cost or benefit to affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as the proposed rules apply to all commercial buildings to be constructed, altered or repaired.

Stephen J. Hymel
Undersecretary
0508#050

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police

Defensive Driving Class Certification (LAC 55:I.2901)

The Department of Public Safety and Corrections, Office of State Police, proposes to promulgate LAC 55:I.Chapter 29 pertaining to the requirements for approval and certification of defensive driving classes, as authorized by R.S. 22:1404.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 29. Defensive Driving Course Approval and Certification

§2901. Defensive Driving Course Approval Process

A. Authority

1. Act 169 of the 2001 Regular Legislative Session amended R.S. 22:1404, authorizing the Department of Public Safety and Corrections, Public Safety Services, Office of State Police to approve and certify defensive driving courses.

2. Act 1093 of the 2003 Regular Legislative Session amended R.S. 22:1404, authorizing the Department of Public Safety and Corrections, Public Safety Services, Office of State Police (department) to promulgate rules and regulations to establish criteria and standards for the approval and certification of defensive driving courses. The expenses of the approval and certification process by the department shall be funded through an interagency agreement with the Department of Insurance, contingent upon the appropriation of funds by the legislature.

3. These rules shall apply to any person, business, or entity producing defensive driving courses and seeking department approval and certification of their defensive driving course.

4. The department shall not incur an unfunded mandate and if funds are not available, the department shall not be required to certify defensive driving courses.

5. These rules are promulgated in accordance with R.S. 22:1404.

B. Defensive Driving Course Objectives

1. How to identify and avoid unsafe driving conditions and behaviors that may cause a licensed driver to be involved in or cause a traffic crash which may result in the loss of life, bodily injury, or damage to property.

2. Educate drivers on proper defensive driving techniques and identifying and avoiding traffic hazards that may lead to vehicle crashes.

3. How to identify aggressive driver behavior patterns along with alternatives to avoid confrontations and stressful driving situations.

C. Defensive Driving Course; Application, Curriculum and Certification

1. A business, individual, or Louisiana state agency applying for department certification of a defensive driving course must make application and submit all course materials to the department to obtain approval and certification. Any certification fraudulently obtained or issued shall be revoked by the department.

2. A business, individual, or agency seeking approval of their course must be domiciled within Louisiana and submit the following information and documents to the department prior to consideration:

a. notarized application. The application shall be a completed affidavit including, but not limited to, the following:

i. the business name, address and phone number of the company or entity producing the course. The business trade name must be registered with the Louisiana Secretary of State;

ii. name of the owner(s), or if a corporation, names of all corporate officers and registered agent(s) for service of process;

iii. actual name of the defensive driving course to be considered for approval;

iv. a statement substantially as follows: "Under oath, I affirm and attest, under penalty of law, that the information submitted in this application is true and accurate and I agree to abide by all applicable laws, rules and regulations governing the license, certification and business operations for which this application is made and that I am the responsible party having authority to enter into binding obligations on behalf of this company or the above named entity";

v. date of application; and

vi. notarized signature(s) of the applicant or authorized company officers;

b. specific and complete course guide and curriculum;

c. a description of the testing process and procedures, including a copy of the final examination;

d. electronic or computer based courses must be submitted to the department for viewing on a compact disc or similar electronic format;

e. uniform certificate of completion shall be legible and on a form of certification determined and approved by the Louisiana Insurance Rating Commission; and

f. any additional information required by the department.

3. In addition to basic curriculum, the following topics of instruction shall be included in the defensive driving course curriculum:

a. sharing the road with:

i. tractor trailer trucks, motor coaches and other commercial motor vehicles;

ii. motorcycles;

iii. school buses;

iv. emergency vehicles, including yielding to stopped emergency vehicles and yielding to emergency vehicles in pursuit or responding to calls;

b. training on railroad and highway grade crossing safety;

c. operating vehicles in inclement weather and at night;

d. sleep deprivation;

e. aggressive driving;

f. vehicle safety features, i.e., seat belts, air bags, anti-lock brakes;

g. how alcohol and drugs effect driving ability; and

h. Louisiana's traffic laws, especially those violations that are leading causes of traffic crashes, such as: careless operation, failure to yield, following too closely and disregarding traffic controls.

4. The course shall be divided into five specific parts to facilitate the learning process. A student must participate in each part. The defensive driving course shall be divided into the following parts:

a. sharing the road with other vehicles:

i. tractor trailer trucks, motor coaches and other commercial motor vehicles;

ii. motorcycles;

iii. school buses;

iv. emergency vehicles, including yielding to stopped emergency vehicles and yielding to emergency vehicles in pursuit or responding to calls;

b. traffic laws:

i. Louisiana's traffic safety laws, specifically, but not limited to, those violations that are leading causes of traffic crashes, namely:

(a). careless operation;

(b). failure to yield;

(c). following too closely; and

(d). disregarding traffic controls;

ii. training on railroad and highway grade crossing safety;

c. dangers of impaired drivers;

i. how alcohol and drugs affect driving ability;

ii. sleep deprivation;

d. aggressive driving and exceeding safe speed limits; and

e. vehicle safety features and road hazards:

i. seat belts, air bags, anti-lock brakes;

ii. operating vehicles in inclement weather and at night.

5. The duration of the course shall be at least four hours of instruction and testing in a traditional classroom setting, or as an alternative, a minimum of 60 minutes of instruction in a computer-based, electronic medium designed to allow students to progress and test at his/her own pace, which may include written instructions, narratives supplemented with video clips, etc.

6. Written evidence of successful completion of the defensive driving course by a student shall be part of the course curriculum and be provided by the course administrators or instructors to the student on a form approved by the Insurance Rating Commission.

7. All students shall have adequate access to course instructors, and if computer based courses, to technical support personnel throughout the duration of the training. In no event shall a student have to wait longer than five minutes for personal interaction by an instructor or if

computer based, a way to contact technical support personnel.

8. Course providers shall be able to provide documentation proving all requirements have been met.

9. Submitted applications and supporting documents shall be reviewed for accuracy and content by the department to determine if the defensive driving course meets all the requirements listed within these rules. Once a determination is made by the department the company shall be notified in writing of the decision to certify or reject the defensive driving course.

10. A company or entity shall be required to reapply for certification if there is a change in the defensive driving course curriculum.

11. Any certification fraudulently obtained or issued shall be revoked by the department.

D. Defensive Driving Testing and Student Identity Certification

1. The final examination shall be a minimum of 25 questions, selected randomly from a question pool of no less than 125 questions, based on actual course material, and composed to test the student's knowledge of the course's content and what the student has learned.

2. The final examination shall be administered at the conclusion of the course and be divided into the course's five parts. A student must successfully complete the exam by scoring at least 80 percent on the examination. A student not achieving the minimum 80 percent on the final examination shall be advised of the correct answer and required to review the deficient part(s) and retest on the deficient parts subject matter with different randomly selected questions.

3. The course content shall advise students of the prohibition on cheating, advise them that they will not be allowed to continue the course if they are found cheating and action may be taken against them by the Department of Insurance or the Insurance Rating Commission.

4. Each student enrolled in a defensive driving course shall be required to present their driver's license as proof of identity or if computer based, enter their driver's license number in to the computer, which shall be printed on the certificate of completion.

5. Course providers shall develop and deploy a means to authenticate the identity of a student throughout the duration of the course, with added emphasis during the final examination.

E. Defensive Driving Course; Prohibitions

1. Companies shall not reference "Department of Public Safety and Corrections" or "Louisiana State Police" in any advertisements or imply that the defensive driving course is recommended, supervised or endorsed by the department or the state of Louisiana.

2. Course providers are prohibited from issuing a certificate of completion to any person who has not enrolled in its defensive driving course and met all of the requirements for course completion.

3. Course providers shall adhere to all federal and state laws and shall not engage in any form of unlawful discrimination or other illegal activities.

4. This defensive driving course shall not be utilized in lieu of the requirements of the "driver education course" or the "pre-licensing training course" (6 or 36 hour commercial driving schools) authorized in R.S. 32:402.1.

5. This defensive driving course shall not be utilized in lieu of the requirements of the "driver improvement program for remediation" authorized in R.S. 32:402.2.

6. No company operating a defensive driving course, its agents, responsible parties, or other persons shall release or provide relevant data, answers to examinations, or otherwise compromise the integrity of a defensive driving course.

7. No company, employees, instructors, or agents shall violate the Federal Driver's Privacy Protection Act of 1994, R.S. 32:401 et seq., or any other privacy or security laws or regulations.

F. Administrative Penalties for Noncompliance

1. Any person, business, or entity failing to comply with any provision of these rules shall be subject to an administrative civil penalty. Each day's failure to comply with these administrative rules shall constitute a separate offense. The penalties may include a warning, monetary fine, suspension of the department's certification of the defensive driving course or a combination of these penalties.

2. In accordance with the rules and regulations adopted pursuant to the Administrative Procedure Act, an administrative penalty may be assessed by the Department of Public Safety and Corrections and shall be payable to the Louisiana Towing and Storage Fund.

3. If the department determines to revoke a course's certification, the company or individual shall be notified in writing of the intent to revoke its certification in 30 days. The company or individual shall have 30 days from the date of the written notice of intent to show cause as to why the department should not revoke its certification. If a company fails to respond within the 30 days, the revocation shall be final. The department shall notify the Department of Insurance of the effective date of such revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1404.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 31:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These Rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These Rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no effect on family earning and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These Rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These Rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments to Paul Schexnayder, Post Office Box 66351, Baton Rouge, LA 70896. Written comments will be accepted through September 15, 2005.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Defensive Driving Class Certification**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This new agency rule, creating an approval and certification process for a defensive driver training course as authorized by a recent legislative amendment, will result in a cost to state government of approximately \$25,000 annually. This amount will be provided to the Department of Public Safety and Corrections by the Department of Insurance through an inter-agency transfer, as authorized by the enabling statute.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of state or local governmental units as there is no provision in the statute for assessing fees for the approval process.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Defensive driving class providers will benefit by having their classes certified thereby making such classes more marketable. Automobile insurance policyholders will benefit by possibly receiving a discount on their premium upon completion of the defensive driving class.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as the proposed rule change will have an equal impact on all providers of defensive driving courses submitted for approval.

Stephen J. Hymel
Undersecretary
0508#067

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Sales Tax Refund for Tangible Personal Property Destroyed in a Natural Disaster (LAC 61:I.4371)

Under the authority of R.S. 47:315.1 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4371, pertaining to the refund allowed for state sales tax paid on tangible personal property that has been destroyed in a natural disaster.

These proposed amendments clarify that the refund is for the state sales tax paid on the destroyed property and provide that the secretary may estimate the sales tax paid on the purchase of the tangible personal property that was

destroyed if the taxpayer is unable to provide documentation to show the actual amount of tax that was paid.

Title 61

REVENUE AND TAXATION

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

Chapter 43. Sales and Use Tax

§4371. Sales Tax Refund for Tangible Personal Property Destroyed in a Natural Disaster

A. Under certain circumstances, a refund is allowed for state sales or use tax paid on tangible personal property that has been destroyed in a natural disaster. The conditions and requirements are as follows:

1. - 3. ...

B. A refund claim packet can be obtained from the secretary, and when the claimant properly executes the required forms and prepares a sworn statement attesting to the facts, a refund will be processed.

C. The secretary may estimate the sales tax originally paid on the purchase of the tangible personal property that was destroyed if the taxpayer is unable to provide documentation to show the actual amount of tax that was paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:315.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:99 (January 2005), LR 31:

Family Impact Statement

1. The Effect on the Stability of the Family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All

comments must be submitted by 4:30 p.m., Monday, September 26, 2005. A public hearing will be held on Wednesday, September 28, 2005, at 2 p.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Sales Tax Refund for Tangible Personal
Property Destroyed in a Natural Disaster**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Implementation of these amendments will have no effect on state or local governmental unit costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. The number of declared natural disasters in Louisiana will govern the amount of state sales tax refunds issued. The proposal does not apply to local sales and use taxes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers regarding the refund of sales taxes on property destroyed in a natural disaster as allowed under R.S. 47:315.1.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0508#011

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Bureau of Licensing**

Foster Care/Substitute Family Care
Licensing and Certification
(LAC 48:I.4113)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Bureau of Licensing proposes to revise its policy to allow for the periodic re-certification evaluations of family foster homes.

The purpose of this notice is to advise of the Bureau of Licensing's intent to adopt a rule to allow the Office of Community Services to re-certify family foster homes on a periodic basis.

Pursuant to 42 USC §671 and 45 CFR 1355.20 a family foster home shall be licensed or approved as meeting the standards established by the state licensing or approval authority.

This Rule is being implemented to allow for longer certification time frames for foster/adoptive families in an attempt to prevent lapses in certification, which can impact federal IV-E funding to support the care provided to foster children in the custody of the state of Louisiana. Lapses in certification contributed to the agency having to reimburse the federal government \$52,512.60 for the past year.

Title 48

PUBLIC HEALTH GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

**Chapter 41. Minimum Licensing Requirements for
Child Placing Agencies with and without
Adoption Programs**

§4113. Family Foster Care Services

- A. - F.3. ...
- G. Monitoring and Periodic Re-Certification Services
1. ...
 2. The agency shall conduct periodic re-certification evaluations of each family foster home to determine continued compliance with family home regulations, its maximum usefulness and limitations.
- G.3. - N.12.c. ...
- O. Professional Responsibilities of the Foster Parent(s)
1. - 6.a.xvii. ...
 7. Re-Certification
 - a. Foster parent(s) shall cooperate with the child placing agency conducting the family foster home periodic re-certification study to verify compliance with family foster home regulations.
- P. - V.2. ...
- AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.
- HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 15:546 (July 1989), amended LR 31:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. No known effect.
2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. No known effect.
3. The Effect of this Rule on the Functioning of the Family. No known effect.
4. The Effect of this Rule on Family Earnings and the Family Budget. No known effect.
5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. No known effect.
6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. No known effect.

A public hearing beginning at 9 a.m. will be conducted on September 27, 2005, in Baton Rouge, at DSS State Office, 755 Third Street.

Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days prior to the hearing they wish to attend. For assistance call 225-342-4120 (voice and TDD).

Interested persons may submit verbal or written comments regarding this matter at the hearing.

Copies of the entire text of the revised policy manual may be obtained at the Bureau of Licensing, 2751 Wooddale Blvd., Baton Rouge, LA 70806.

Ann S. Williamson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Foster Care/Substitute Family Care
Licensing and Certification**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs to state or local governmental units. There are anticipated long-term savings as the multi-year certification may reduce penalties imposed on the agency by the federal government. The minimal cost of publishing the rule is estimated to be approximately \$68 and is routinely covered in the agency's annual budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

DSS/OCS, regional Home Development staff and foster, foster/adoptive, and adoptive parents certified by the state of Louisiana would be directly affected by the proposed action. There are no anticipated costs, workload adjustments or additional paperwork as a result of the proposed action for either group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Ann S. Williamson
Secretary
0508#075

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Combat Pay Exclusions, Food Stamps, Family Independence Temporary Assistance, and Kinship Care Subsidy Programs (LAC 67:III.1229, 1980, 5329)

The Department of Social Services, Office of Family Support, proposes to amend Louisiana Administrative Code 67 Part III, Subpart 2 Family Independence Temporary Assistance Program (FITAP), Subpart 3 Food Stamp Program, and Subpart 13 Kinship Care Subsidy Program (KCSP).

Pursuant to Public Law 108-447, the Consolidated Appropriations Act of 2005, the agency proposes to amend §1980 in the Food Stamp Program, §1229 in FITAP, and §5329 in KCSP. Public Law 108-447, signed by the President on December 8, 2004, provides that additional pay received by military personnel as a result of deployment to a combat zone is to be excluded from countable income for the Food Stamp Program. Additional pay received and made

available to the household by a member of the military deployed to a designated combat zone is excluded from countable income for the duration of the member's deployment. The law also provides that this exclusion is effective for the Federal Fiscal Year 2005. The income exclusion is therefore retroactive to October 1, 2004. To provide program continuity, this income exclusion will also apply in FITAP and KCSP. A Declaration of Emergency effecting these changes was signed March 15, 2005, and published in the April issue of the Louisiana Register.

Also, the agency is proposing to include additional income types that are excluded from countable income for the purpose of determining eligibility for food stamp benefits in Section 1980. These incomes were always excluded but were not codified in the Louisiana Administrative Code. This list is not all-inclusive. Other excluded income types are identified throughout Chapter 19 but due to numerous qualifiers and extensive descriptions of each, these income types will remain in their current, individual sections.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1229. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. 28. ...

29. Effective October 1, 2004 additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C.601 et. Seq. and 10602(c), R.S. 36:474, R. S. 46:231.1.B, R.S. 46:231.2, P.L.108-447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000), LR 31:

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter I. Income and Deductions

§1980. Income Exclusions

A. In addition to those income exclusions previously adopted and codified in Chapter 19, Certification of Eligible Households, the following income types will be excluded from countable income for the Food Stamp Program:

1. payments or allowances to provide energy assistance under any Federal law, including the Department of Housing and Urban Development and the Farmers Home Administration, except that provided under Title IV-A;

2. earnings of an elementary or secondary student through age 17 who is the child of, or under parental control of, a member of the household;

3. legally obligated child support payments to non-household members are excluded when determining eligibility based on gross income standards;

4. effective October 1, 2004, additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone;

5. Agent Orange Settlement payments income (Retroactive to 01-01-89);

6. Agriculture and Stabilization and Conservation Service payments received as a result of a presidentially declared disaster or emergency;

7. assistance payments income that is being recouped for overpayment of non-fraud overpayments;

8. bonus income that is non-recurring or cannot be anticipated to recur;

9. Child Care Food Program payments received for the client's own children;

10. child support income received by FITAP/KCSP recipients, which must be transferred to IV-D to maintain eligibility;

11. child support arrearage payments that were previously counted as income or payment that is a one-time non-recurring lump-sum payment;

12. deposits made into joint accounts when the joint account is considered a convenience account, the income deposited into the account is verified to be a loan, or the account is considered inaccessible to the household;

13. disaster payments provided to rebuild a home or replace personal possessions damaged in a disaster if the household is subject to legal sanction if the funds are not used as intended. This includes Individual and Family Grant payments or Small Business Administration loans;

14. disaster relief income funded under national emergency grants or disaster unemployment assistance paid to an individual who is unemployed as a result of a major disaster;

15. the prorated portion of the income for persons disqualified for SSNs, for ineligible aliens, or for persons who failed to attest to citizenship/alien status;

16. Delta Service Corps income if the allowances, earnings, and payments to individuals participating in the programs are received under Title I of the National and Community Service Act;

17. Domestic Volunteer Service Act income received by volunteers for services performed in programs stipulated in Title II of the amended Domestic Volunteer Service Act of 1973(P.L. 93-118), which include Foster Grandparents and Retired Senior Volunteer Program; or payments received by volunteers for services in programs under Title I (VISTA) if the person was receiving food stamps or public assistance when he joined VISTA or the household was receiving an income exclusion for a Title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977;

18. Indian and Native claims and lands income received:

a. under Public Law 94-189, (Sac and Fox Indian Claims Agreement);

b. under Public Law 94-540, (Grand River Band of Ottawa Indians);

c. under Public Law 95-433, Section 2, Confederated Tribes and Bands of the Yakima Nation and the Apache Tribe of the Mescalero Reservation received from the Indian Claims Commission;

d. by certain Indian tribal members under Public Law 94-114, Section 6, regarding submarginal lands held in trust by the United States;

e. under Public Law 93-531 (Navajo and Hopi Tribes);

f. tax-exempt portions made pursuant to Public Law 92-203, The Alaska Native Claims Settlement Act; or

g. under Public Law 96-420 (Passamaquoddy Tribe and Penobscot Nation, or the Houlton Band of Maliseet Indians pursuant to the Maine Indian Claims Settlement Act of 1980);

19. Indian Gambling Operations income paid to children under 18 when the household is not given a choice and the money is deposited in an inaccessible trust fund;

20. in-kind income not in the form of money payable directly to the household except earned income vendor payments made by the employer instead of all or part of the salary;

21. irregular and unpredictable income when the anticipated income will be less than \$30 in a three-month period, and the income is received too infrequently and irregularly to be reasonably anticipated;

22. Strategies to Empower People (STEP) payments for supportive services;

23. loans except educational loans in which repayment is deferred;

24. non-recurring lump-sum payments;

25. Crime Victim Compensation payments made to a client whose assistance is necessary, in full or in part, because of the commission of a crime against the client, and to the extent it is sufficient to fully compensate the client for losses suffered as a result of the crime;

26. National and Community Service Corporation payments for living allowance (stipend) and child care received by participants as well as in-kind benefits provided to the participants;

27. non-household member's portion of income that is received by a household member which is intended and used for care and maintenance of a third-party beneficiary who is not a household member;

28. Nutrition Programs Income The value of supplemental food assistance under the Child Nutrition Act of 1966 and under the Special Food Service Program for Children (The National School Lunch Act) or benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965;

29. payments made to victims of Nazi persecution;

30. payments made to persons through the Radiation Exposure Compensation Act, which was enacted October 15, 1990;

31. Railroad Retirement Income that is being recouped for a prior overpayment;

32. reimbursement income which:

a. is not a gain or benefit to the household;

b. is not provided specifically for normal living expenses; or

c. does not exceed the actual expenses for which the reimbursement was paid;

33. Relocation Assistance Income if received under Title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970;

34. Senior Community Service Employment Program (SCSEP) income received by individuals 55 or older;

35. Supplemental Security Income that is being recouped for non-fraud SSI overpayment;

36. Unemployment Compensation Benefits that are paid as the result of unemployment due to a major disaster and funded through the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

37. vendor payments made by a person or organization outside the household/assistance unit directly to the client's creditor or to a person or organization providing the service unless:

a. the vendor payment is made by an employer instead of all or part of the salary;

b. it is a local GA Vendor Payment provided to cover housing expenses exclusive of energy or utility expenses; or

c. the vendor payment is made in lieu of payments which are legally obligated to the household;

38. severance pay received in a single lump-sum payment;

39. payments made through the Wartime Relocation of Civilians Law:

a. payments of \$20,000 made to eligible persons of Japanese ancestry who were interned during World War II, or such payments made to the spouse, children or parents if the eligible individual is deceased;

b. payments of \$12,000 made to eligible Aleuts who were relocated from their home on the Pribolof or Aleutian Islands to an internment camp during World War II, or such payments made to an individual who was born while his mother was relocated.

AUTHORITY NOTE: Promulgated in accordance with P.L.103-66, 7 CFR 273.9(c)(11), P.L. 104-193, P. L. 107-171, P.L. 108-447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 20:991 (September 1994), amended LR 21:188 (February 1995), LR 23:82 (January 1997), LR 29:607 (April 2003), LR 31:

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

Subchapter B. Conditions of Eligibility

§5329. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. - 27. ...

28. effective October 1, 2004, additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B, R. S. 46:237, and P.L.108-447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:2832 (December 2000), LR 31:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The Rule will have no effect on the stability of the family.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? The Rule will have no effect on the functioning of the family.

4. What effect will this Rule have on family earnings and family budget? This Rule should have a positive impact on the family budget, as it could result in an increase in benefits for qualified households.

5. What effect will this Rule have on the behavior and personal responsibility of children? This Rule will not impact the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this is strictly an agency function.

Interested persons may submit written comments by September 28, 2005, to Adren O. Wilson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, LA, 70804-9065. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on September 28, 2005, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Ann Silverberg Williamson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Combat Pay Exclusions, Food Stamps,
Family Independence Temporary Assistance, and
Kinship Care Subsidy Programs**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The number of households receiving combat pay is anticipated to be very small. Federal Food Stamp funds and Louisiana's current TANF block grant represent sufficient funds to finance expenditures. The minimal cost of publishing the rule, printing policy changes and form revisions is estimated to be approximately \$600 and is routinely included in the agency's annual budget.

There will be no costs to local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no impact on revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A small number of households may be eligible for increased Food Stamps/FITAP/KCSP benefits as a result of the income exclusion. There is no available data on which to project numbers of affected households or the amount of benefits which could be involved.

There are no costs to any persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0508#076

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of State
Elections Division**

**Voter Registration and Voter Education
(LAC 31:II.Chapter 7)**

Under the authority of R.S. 18:18(A)(8)(a), Public Law 107-252 (Help America Vote Act of 2002), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Secretary of State hereby gives notice of his intent to adopt uniform rules, regulations, forms, and instructions as to standards for effective non-partisan voter registration and voter education in the state of Louisiana. Through Act No. 286 of the 2003 Regular Session of the Louisiana Legislature and these rules and regulations, the Secretary of State will address voter education concerning the following: voter registration; balloting procedures for early voting in person, absentee voting by mail, and voting on election day in person at the polling place; distribution of sample ballots; recruiting election poll workers; and effective voter education methods to assist in increasing voter education, voter registration, and voter participation.

**Title 31
ELECTIONS**

**Part II. Voter Registration and Voter Education
Chapter 7. Standards for Effective Non-Partisan
Voter Registration and Voter Education**

§701. Department of State's Outreach Activities

A. The department shall develop and update material to be utilized in the department's outreach efforts related to voter registration and voter education. In order to convey the department's outreach message, the department will: send out press releases statewide; make public awareness appearances at public meetings and at educational institutions; hold mock elections; conduct elections (e.g., schools, unions, etc.); and participate in media interviews on television programs and radio station programs.

B. With the passage of the Help America Vote Act of 2002 (HAVA), the department will be procuring a new electronic voting system. As a result, the department shall develop educational materials for voters regarding the use of the voting system in the form of instructional brochures and visual presentations. In accordance with the provisions of

R.S. 18:563(C), voters are allowed only three minutes to vote on election day. Therefore, these educational materials will be vital to the successful operation of the voting system by the voters and the voting process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(8)(a), R.S. 18:563(C), Public Law 107-252, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 31:

§703. Registrars of Voters

A. All registrars of voters are required to participate in the state's annual voter registration week. The department will be required to provide uniform information to registrars of voters to use when conducting certain outreach activities. These activities shall encourage Louisiana citizens to register to vote, to exercise their right to vote, and to encourage participation of voters as election poll workers. In addition, new registrants and existing registrants will receive information on early voting in person, voting absentee by mail, and voting in person on election day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(8)(a), Public Law 107-252, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 31:

§705. Annual Voter Registration Week

A. Under the provisions of R.S. 18:18(A)(8)(b), the official state voter registration week shall be held annually during the last full week which occurs two weeks prior to the close of registration books for the regular fall primary election. Registrars of voters and their employees are an integral part of this process. Representatives from the Louisiana Registrars of Voters Association shall work with the department on the development of the outreach presentation for various groups of participants. The department will annually update registrars of voters on any legislative changes that will affect outreach activities and information.

B. Voter registration outreach activities should be structured to encourage participants who are not registered to vote to register. Participants should be provided the following information:

1. the requirements to register to vote;
2. how to update voter registration information (such as changes in name and address);
3. voter registration deadlines for scheduled election dates;
4. why a registrant may be removed from the voter registration roles; and
5. registration for individuals with disabilities and residents in nursing homes.

C. During the annual voter registration week, the focus of the department and registrars of voters will not only be on voter registration. Registrars of voters will be encouraging registered voters to go out and exercise their right to vote by informing citizens of the following:

1. the registrant's voting rights;
2. the procedures to follow during early voting in person or voting absentee by mail:
 - a. timing of early voting in person and location of early voting for various scheduled election dates during the year;
 - b. timing of voting absentee by mail;

- c. type of identification required for early voting in person;
 - d. how to vote absentee by mail;
 - e. how to vote if the registrant is in the military or resides overseas;
 - f. special handicap program for individuals with disabilities; and
 - g. special program for residents of nursing homes;
3. how to vote in person on election day:
 - a. time the polls open and close;
 - b. type of identification required to vote at the polls;
 - c. how individuals with disabilities can vote;
 - d. election dates scheduled during the year; and
 - e. provisional balloting procedures for federal elections only;
 4. how to cast a vote;
 5. where to obtain a sample ballot;
 6. how to use the voting system for that parish;
 7. encouraging and recruiting voters to serve as election poll workers on election day;
 8. procedures to follow to file a complaint; and
 9. procedures to report election fraud or violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(8)(a), R.S. 18:18(A)(8)(b), Public Law 107-252, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 31:

§707. Funding for Outreach Efforts

A. The department shall pay for all outreach efforts conducted by employees of the department. If the department is asked to provide a voting system for a private election, the organization requesting the voting system will be responsible for the payment for the hauling of the voting system.

B. The department shall provide registrars of voters with printed materials on voter registration, voter education, voting rights, and the voting system for use during the annual voter registration week. In addition, the department will advertise the annual voter registration week in the official journal of every parish and issue a statewide public service announcement on the annual voter registration week.

C. Although not mandatory, registrars of voters are encouraged to provide other outreach activities and materials tailored toward their individual communities. The registrar of voters must receive advance written approval by the commissioner of elections for the department to pay the expense. If the commissioner of elections gives prior approval, the procurement of said service or materials must be procured in accordance with state or parish purchasing procedures and guidelines. The department, upon receipt of the original invoice and supporting documents, shall pay the expense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(8) and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 31:

§709. Reporting Requirements

A. Report on Voter Education Programs

1. The commissioner of elections shall develop and provide a report form to be utilized by the registrars of voters in fulfilling the responsibilities of R.S. 18:18(A)(8). This report form shall require the registrar to provide the following information:

a. a listing of all voter registration and voter education events/activities held by the registrar's office, the location, the amount of time spent on the event/activity, the estimated amount of citizen participation, and any other detailed information describing such event/activity;

b. a listing of any group or organization that requested voter registration information or registration forms and the number of completed voter applications received; and

c. any other relevant voter registration activities.

B. Report Deadlines

1. Registrars of voters must submit the report on voter education programs to the department prior to the close of business on December 15 of each year. If December 15 falls on a weekend or holiday, the report form will be due on the last business work day prior to December 15.

2. The department is required to submit a consolidated annual report on the effectiveness of the state's non-partisan voter registration and voter education programs by January 31 of each year. Information gathered from the annual reports submitted by the registrars of voters, statistical information generated by the statewide voter registration system, and the information generated by the department's outreach division will be utilized to produce this comprehensive report.

3. Under the provisions of R.S. 18:18(8)(a), copies of this comprehensive annual report shall be submitted to the governor, the president of the Senate, and the speaker of the House of Representatives. In addition, the department shall submit copies of this report to the members of the House and Governmental Affairs Committee, members of the Senate and Governmental Affairs Committee, members of the State Board of Election Supervisors, and all registrars of voters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(8) and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 31:

Interested persons may submit written comments to Angie R. LaPlace, Commissioner of Elections, Department of State, P. O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, September 26, 2005 at 1 p.m. in the Broadwing Building, Auditorium, 1st Floor, 8549 United Plaza Blvd., Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the department to receive written comments is 4:30 p.m. on September 27, 2005 after the public hearing.

Al Ater
Secretary of State

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Voter Registration and Voter Education**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These rules are being proposed due to the provisions of Act 286 of 2003, which requires the Secretary of State to prescribe uniform rules, regulations, forms and instructions as standards for effective nonpartisan voter education that shall be

implemented by each registrar of voter. Since the Secretary of State and the registrars of voters are currently performing most of the voter education procedures outlined in this proposal, adoption of the new rules will have no impact on state or local governmental costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of the proposed rules will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Adoption of the proposed rules will have no effect on the costs and/or economic benefits to the voters of the state. However, there may be non-monetary benefits resulting from citizens being better informed regarding voting procedures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of the proposed rules will have no effect on competition and employment.

Angie R. LaPlace
Commissioner of Elections
0508#042

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

2005 Reef Fish Harvest (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.335) modifying size limits, establishing a closed commercial season and modifying recreational creel and possession limits for vermilion snapper, which are parts of the existing rule for daily take, possession, and size limits for reef fishes set by the commission, and provides that all persons fishing in the federal exclusive economic zone (EEZ) shall comply with all applicable federal and state laws and regulations. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), 56:320.2, 56:326.1 and 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§335. Reef Fish Harvest Regulations

A. Recreational bag limits regarding the harvest of reef fish triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies, within and without Louisiana's territorial waters.

Species	Recreational Bag Limits
* * *	
3. Vermilion snapper, lane snapper, gray triggerfish, almaco jack, goldface tilefish, tilefish, blackline tilefish, anchor tilefish, blueline tilefish	20 per person per day (in aggregate) with not more than 10 vermilion snapper per person
* * *	

B. - D.3. ...

E. Recreational and commercial minimum and maximum size limits, unless otherwise noted.

Species	Minimum Size Limits
* * *	
5. Vermilion snapper	11 inches total length
* * *	

F. ...

G. Seasons

1. Seasons for the commercial harvest of reef fish species or groups shall be closed within and without Louisiana's territorial waters during the periods listed below. Possession of reef fish in excess of the daily bag limit while on the water is prohibited during the specified closed season. Any reef fish harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. This prohibition on sale/purchase does not apply to reef fish that were harvested, landed ashore, sold and purchased prior to the closed season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing reef fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6. The provisions of §335.G apply to fish taken within or without Louisiana's territorial waters.

Species or Group	Closed Season
a. Greater Amberjack	March 1 through May 31
b. Gag, Black and Red Grouper	February 15 through March 15
c. Vermilion Snapper	April 22 through May 31

2. Persons aboard a vessel for which the permits indicate both charter vessel/headboat for Gulf reef fish and commercial Gulf reef fish may continue to retain reef fish under the recreational take and possession limits specified in §335.A and size limits specified in §335.E, provided the vessel is operating as a validly licensed charter vessel or headboat with prepaid recreational charter fishermen aboard the vessel. The provisions of §335.G.2 apply to fish taken within or without Louisiana's territorial waters.

H. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15, for reef fishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange reef fishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:320.2(C), 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), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries and Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to October 6, 2005.

Terry D. Denmon
Vice-Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: 2005 Reef Fish Harvest

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule change will have no implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule change is anticipated to have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule change is intended to complement Federal rules presently in effect in waters beyond the State Territorial Sea. The rule would establish an annual vermilion snapper commercial season closure from April 22 through May 31. It would place a recreational and commercial minimum size limit of 11 inches total length and set a vermilion snapper recreational bag and possession limit of 10 fish within the existing aggregate bag limit of 20 reef fishes. Louisiana saltwater anglers and commercial fishers who harvest vermilion snapper and dealers who buy and sell vermilion snapper will be directly affected by the proposed rule change. Reduced benefits to commercial vermilion snapper fishers may occur from decreased revenue associated with the decreased harvest of vermilion snapper, an increase in harvest costs due to increased discard rates, and price differentials received for alternative-harvested species compared to vermilion snapper. Dealers may be affected by having to locate alternative sources of vermilion snapper and find substitutes for vermilion snapper. Louisiana saltwater anglers may also be directly impacted by the number of vermilion snappers that can be harvested and by a higher discard rate of vermilion snapper brought about by this rule change. These impacts are anticipated to be minimal, since only a very small share of vermilion snapper are harvested from state waters. Long run benefits to directly affected persons or groups would be derived by ensuring a healthy fish stock and a continuing supply of vermilion snapper for harvest in the future.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on employment in the public or private sector.

Janice A. Lansing
Undersecretary
0508#054

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2006 Turkey Season (LAC 76:XIX.113, 115, and 117)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the turkey rules and regulations for the 2006 season.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§113. Turkey Hunting Regulations

A. Daily limit is one gobbler, two gobblers per season. Taking of hen turkeys, including bearded hens, is illegal. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited.

B. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

C. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed.

D. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

E. The Department of Wildlife and Fisheries strongly discourages feeding agricultural grains to wild turkeys as this practice increases the risk of birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

F. It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

G. All licensed turkey hunters are required to have a Turkey License in their possession while turkey hunting in addition to basic and big game hunting licenses. Additionally, a WMA Hunting Permit is required of any person (age 18-59) who hunts on land administered by the Department of Wildlife and Fisheries, including Wildlife Management Areas, Wildlife Refuges, and Habitat Conservation Areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2375 (November 2002), LR 29:2512 (November 2003), LR 30:2874 (December 2004), LR 31:

§115. Statewide Turkey Hunting Areas Resident Game Birds and Animals

A. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

Species	Season Dates	Daily Bag Limit	Possession Limit
Turkey	See Schedule	1	2/Season

B. Turkey season will open in designated areas on the fourth Saturday in March. The Area A turkey season will be 30 consecutive days in length, the Area B turkey season will be 23 consecutive days in length, and the Area C turkey season will be 9 consecutive days in length. Wildlife Management Areas, National Forests, National Wildlife Refuges, and U.S. Army Corps of Engineers land may vary from this framework. Deviation from this framework may occur in those years when the fourth Saturday in March falls the day before Easter.

C. Statewide Youth Turkey Season on private lands shall be the weekend prior to the statewide turkey season. Only youths younger than 16 years of age may hunt. Youth must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm or bow. Youths may possess only one firearm or bow while hunting. Legal weapons and shot are the same as described for the turkey season. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Only one gobbler per day may be taken and any gobbler taken by the youth during this special season counts towards their seasonal bag limit of 2.

D. 2006 Turkey Hunting Schedule

Area	Season Dates
A	March 25-April 23
B	March 25-April 16
C	March 25-April 2
Private Lands Youth Hunt	March 18-19

E. 2006 Turkey Hunting Season Open Only in the Following Areas

1. Area A March 25-April 23

- a. All of the following parishes are open:
 - i. Beauregard;
 - ii. East Baton Rouge;
 - iii. East Feliciana;
 - iv. LaSalle;
 - v. Livingston;
 - vi. Natchitoches (Exception See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - vii. Sabine;
 - viii. St. Helena;
 - ix. St. Tammany;
 - x. Tangipahoa;
 - xi. Vernon (Exception See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - xii. Washington;
 - xiii. West Baton Rouge;
 - xiv. West Feliciana (including Raccourci Island);
 - xv. Winn (Exception See Federal Lands Hunting Schedule for Kisatchie National Forest dates).

b. Portions of the following parishes are also open:

- i. Allen north of LA 104, west of LA 26 south of junction of LA 104 to US 190, north of US 190 east of Kinder, west of US 165 south of Kinder;
- ii. Avoyelles that portion bounded on the east by the Atchafalaya River, on the north by Red River to the Brouillette Community, on the west by LA 452 from Brouillette to LA 1, on the south by LA 1, eastward to Hamburg, thence by the West Atchafalaya Basin Protection levee southward;
- iii. Calcasieu north of I-10;
- iv. Caldwell west of Ouachita River southward to Catahoula Parish line;
- v. Catahoula west of Ouachita River southward to LA 559 at Duty Ferry, north of LA 559 to LA 124, south and west of LA 124 from Duty Ferry to LA 8 at Harrisonburg and north and west of LA 8 to LaSalle Parish line. ALSO that portion lying east of LA 15;
- vi. Concordia that portion east of LA 15 and west of US 65 from its juncture with LA 15 at Clayton;
- vii. Evangeline north and west of LA 115, north of LA 106 from St. Landry to LA 13, west of LA 13 from Pine Prairie to Mamou and north of LA 104 west of Mamou;
- viii. Franklin: That portion lying east of LA 17 and east of LA 15 from its juncture with LA 17 at Winnsboro;
- ix. Grant all of the parish except that portion of land that lies north of the Red River between US 71 and LA 8. Exception see Federal Lands Hunting Schedule for Kisatchie National Forest dates;
- x. Iberville west of LA 1. Exception see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
- xi. Jefferson Davis north of US 190 from junction with LA 26 to Kinder, west of US 165 and north of I-10 west from junction of US 165;
- xii. Madison that portion lying east of US 65 from East Carroll Parish line to US 80 and south of US 80. Also, all lands east of the main channel of the Mississippi River;
- xiii. Pointe Coupee all of the parish except that portion bounded on the north by LA Hwy. 1, from Innis to the junction of LA Hwy 417, on the west by LA Hwy. 417 southward toward McCrea, on the south by LA Hwy. 417 from McCrea to its junction with Delhi Lane, then by Delhi

Lane to LA Hwy. 418, then LA Hwy. 418 northward to LA Hwy. 1 at Innis. Exception **C**see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;

xiv. Rapides **C**all of the parish except that portion of lands that lies north of the Red River and south of US 71 from its juncture with the Red River northward to the Grant Parish line. Exception **C**see Federal Lands Hunting Schedule for Kisatchie National Forest season dates;

xv. Richland **C**that portion south of US 80 and east of LA 17;

xvi. St. Landry **C**that portion bounded on the west by the West Atchafalaya Basin Protection Levee and on the east by the Atchafalaya River. Exception **C**the Indian Bayou Area, see Federal Lands Hunting Schedule for Indian Bayou Area dates;

xvii. Upper St. Martin **C**all within the Atchafalaya Basin. EXCEPTIONS: Sherburne WMA and Indian Bayou Area, see WMA Turkey Hunting Schedule for special season dates on all state, federal and private lands within Sherburne WMA boundaries and see Federal Lands Hunting Schedule for Indian Bayou dates;

xviii. Tensas **C**that portion west of US 65 from the Concordia Parish line to its juncture with LA 128, north of LA 128 to St. Joseph; west and north of LA 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands east of the main channel of the Mississippi River.

2. Area B **C**March 25-April 16

a. All of the following parishes are open:

- i. Bienville;
- ii. Bossier;
- iii. Caddo;
- iv. Claiborne (Exception **C**see Federal Lands Hunting Schedule for Kisatchie National Forest dates);
- v. DeSoto;
- vi. Jackson;
- vii. Lincoln;
- viii. Red River;
- ix. Union;
- x. Webster (Exception **C**see Federal Lands Hunting Schedule for Kisatchie National Forest dates).

Hunting Schedule for Kisatchie National Forest dates).

b. Portions of the following parishes are open:

- i. Ascension **C**all east of the Mississippi River;
- ii. East Carroll **C**east of US 65 from Arkansas state line to Madison Parish line;
- iii. Iberville **C**all east of the Mississippi River;
- iv. Ouachita **C**east of LA 143 from Union Parish line to US 80 in West Monroe, north of US 80 to LA 139, west of LA 139 to the Morehouse Parish line;
- v. Morehouse **C**west of US 165 from the Arkansas line to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to US 165, north of US 165 to LA 139, west of LA 139 to Ouachita Parish line.

3. Area C **C**March 25-April 2

a. Portions of the following parishes are open:

- i. Catahoula **C**that portion lying south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west and north of LA 8 to LA 15, west of LA 15 to Deer Creek;
- ii. Concordia **C**north and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red

River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to US 84, south of US 84 eastward to LA 15 (Ferriday), east of LA 15 northward to US 65 (Clayton), east of US 65 northward to Tensas Parish line;

iii. Franklin **C**that portion lying west of LA 17, from Richland Parish line to LA 577 at Crowville, north of LA 577 to LA 15 at Baskin, east of LA 15 to Big Creek, and south and east of Big Creek to Richland Parish line. Also, that portion east of Turkey Creek Lake, Turkey Creek and Boeuf River, north of Deer Creek, west of LA 15 and south of LA 562;

iv. Richland **C**west of LA 17 from Franklin Parish line to Ringle Road, south of Ringle Road to Ferguson Road, south of Ferguson Road to Little Road, south of Little Road to Big Creek, east of Big Creek to Franklin Parish line;

v. Tensas **C**east and south of US 65 from Concordia Parish line to LA 128, south of LA 128 to St. Joseph, east and south of LA 605, 604 and 3078 northward to Port Gibson Ferry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2376 (November 2002), LR 29:2512 (November 2003), LR 30:2875 (December 2004), LR 31:

§117. 2006 Wildlife Management Area Turkey **CHunting Regulations**

A. General

1. The following rules and regulations concerning management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the management area.

2. Only those Wildlife Management Areas listed are open to turkey hunting.

3. ATVs, ATCs and motorcycles cannot be left overnight on WMAs EXCEPT in designated camping areas. ATVs are prohibited from two hours after sunset to 3 a.m. All roads including trails and roads designated as ATV only trails shall be closed to ATVs from March 1 through August 31 unless otherwise specified. ATV off-road or off-trail travel is prohibited. Certain trails may be open during this time period to provide access for fishing or other purposes. These trails will be marked by signs at the entrance of the trail. Otherwise, only walk-in hunting is permitted (bicycles permitted).

4. Bag limits on WMAs are part of the season bag limit. Only one turkey is allowed to be taken during special lottery hunts.

5. WMAs with youth turkey hunts are closed to all activities except turkey hunting by authorized youth hunt participants and fishing on the day(s) of the youth hunt.

B. Permits

1. Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing. Hunters must check in daily by obtaining a permit from a self-clearing station prior to hunting. The self-clearing permit must be in the hunter's

possession while hunting. Upon completion of each days hunt, the hunter must check out by completing and depositing the hunter report portion of the permit in the check-out box at a self-clearing station before exiting the WMA.

2. Lottery Hunts. Bayou Macon, Boise-Vernon, Loggy Bayou, Sabine, Sherburne, Sicily Island, Tunica Hills, Union and West Bay WMAs are restricted to those persons selected as a result of the pre-application lottery. Special youth only lottery hunts will be held on Big Lake, Bens Creek, Fort Polk/Peason Ridge, Jackson-Bienville, Loggy Bayou, Sherburne, Spring Bayou, Thistlewaite, Union and West Bay WMAs. Deadline for receiving complete applications in the Baton Rouge office for all lottery hunts is 4:30 p.m. February 15, 2006. An application fee of \$5 must be sent with each application. Applicants for WMA youth hunts must be at least 8 years old on the day of the hunt. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any district office for applications. Hunters must abide by self-clearing permit requirements. Youths chosen for special youth only hunts will be guided by members of the Louisiana Chapter of the National Wild Turkey Federation. One family member may accompany the youth and guide, but may not hunt.

C. Wildlife Management Area Turkey Hunting Schedule*

WMA	Season Dates	Permit Requirements	Lottery Dates**
Bayou Macon	April 8-9	Self-Clearing	April 8-9
Bens Creek ¹	March 25-April 9	Self-Clearing	None
Big Lake	March 25-April 2	Self-Clearing	None
Bodcau	March 25-April 9	Self-Clearing	None
Boeuf	March 25-April 2	Self-Clearing	None
Clear Creek (formerly Boise Vernon)	March 25-26 April 1-23	Self-Clearing	March 25-26 April 1-2
Camp Beaugard	March 25-April 9	Self-Clearing	None
Fort Polk	March 25-April 23	Self-Clearing	None
Grassy Lake	March 25-April 9	Self-Clearing	None
Hutchinson Creek	March 25-April 23	Self-Clearing	None
Jackson-Bienville	March 25-April 9	Self-Clearing	None
Lake Ramsey	March 25-April 9	Self-Clearing	None
Little River	March 25-April 9	Self-Clearing	None
Loggy Bayou	April 15-16	Self-Clearing	April 15-16
Pearl River	March 25-April 2	Self-Clearing	None
Peason Ridge	March 25-April 23	Self-Clearing	None
Red River	March 25-April 2	Self-Clearing	None
Sabine	March 25-26 April 1-2	Self-Clearing	March 25- 26 April 1-2
Sandy Hollow ¹	March 25-April 9	Self-Clearing	None
Sherburne ²	March 25-April 2	Self-Clearing	March 25-26 March 27-29
Sicily Island	March 25-April 2	Self-Clearing	March 25-27 March 28-30 March 31-April 2
Three Rivers	March 25-April 2	Self-Clearing	None
Tunica Hills South Tract	March 25-26 April 1-2 April 8-9 April 10-16	Self-Clearing	March 25-26 April 1-2 April 8-9

Tunica Hills Angola Tract ³	March 25-26 April 1-2 April 8-9 April 10-16	Self-Clearing	March 25-26 April 1-2 April 8-9
Union	April 8-9	Self-Clearing	April 8-9
Walnut Hills	March 25-April 23	Self-Clearing	None
West Bay	March 25-26 April 1-2	Self-Clearing	March 25-26 April 1-2

*Only those Wildlife Management Areas listed have a turkey hunting season. All other areas are closed.

**The deadline for receiving applications for all turkey Lottery Hunts on WMAs is February 15, 2006.

¹No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

²All turkeys harvested on Sherburne WMA must be weighed and checked at WMA headquarters.

³Area closed to all users April 17–August 31.

D. Wildlife Management Area Youth Hunts

WMA	Lottery Youth Hunt Date
Bens Creek	March 18
Big Lake	March 18
Fort Polk/Peason Ridge	March 18
Jackson-Bienville	March 18
Loggy Bayou	April 8
Sherburne	March 18 and 19
Spring Bayou	March 18
Thistlewaite	April 8
Union	April 1
West Bay	March 18

E. Federal Lands Turkey Hunting Schedule

1. Kisatchie National Forest (KNF) Turkey Hunting Schedule. Caney Ranger District, March 25-April 9; all remaining KNF lands, March 25-April 16 (including Catahoula and Red Dirt National Wildlife Management Preserves).

2. U.S. Army Corps of Engineers Turkey Hunting Schedule. Indian Bayou Area, March 18 handicap only hunt, March 25-April 2, lottery hunt only on March 25-26 and March 27-29. Contact USCOE at 337-585-0853 for further information. Old River Control and Lock Areas, March 25-April 2. Contact U.S.C.O.E.(225)492-2690 for further information.

3. National Wildlife Refuges. Bogue Chitto NWR, March 25-April 23; Lake Ophelia NWR, March 25-31, April 8-23; Tensas NWR, March 18-19 (youth lottery only), March 25-April 9. Contact the U.S. Fish and Wildlife Service for information regarding NWR hunts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 25:2265 (November 1999), amended LR 26:2636 (November 2000), LR 27:2272 (December 2001), LR 28:2377 (November 2002), LR 29:2514 (November 2003), LR 30:2876 (December 2004), LR 31:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of

the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed Rule to David Moreland, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than October 6, 2005.

Terry D. Denmon
Vice-Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: 2006 Turkey Season**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The costs to the state of implementing the proposed rule, aside from the biologist staff time, involve production of the turkey regulation pamphlets and the issuance of wild turkey licenses. Implementation costs are estimated to be \$15,202. The state agency currently has sufficient funds to implement the proposed action and local governmental units will incur no implementation costs or savings from the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

License revenue from the sale of wild turkey licenses is estimated to be \$55,020. Failure to adopt this rule would result in no turkey hunting seasons and loss of state revenue collections from the sale of wild turkey licenses. In addition, reductions in tax revenues of undeterminable amounts may

occur to both state and local governmental units from the lost sales of supplies and equipment used in the pursuit of turkeys.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

An estimated 25,800 resident and nonresident sportsmen and an undeterminable number of sporting good distributors, retail outlets and landowners may be directly affected by this proposal. Turkey hunters in Louisiana generate income to retail outlets, landowners and commercial businesses that cater to the hunting public through hunting leases and the sale of related outdoor equipment and associated items (food, fuel, clothing, shotgun shells, etc.). These land and business owners will be negatively impacted if turkey hunting seasons, rules and regulations are not established and promulgated. The actual amount of this impact is not estimable at this time. Resident and nonresident hunters who desire to hunt turkeys, and are exempt from licensing requirements or possess a license which includes turkey hunting privileges, will be required to purchase a separate turkey hunting license at a cost of \$5.50 or \$20.50. This rule sets the 2006 Wild Turkey hunting season.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting supports approximately 17,000 full and part-time jobs in Louisiana, some of which are directly related to turkey hunting. Failure to establish turkey hunting seasons may have a negative impact on some of these jobs. It is anticipated that there will be little or no effect on competition in either the public or private sectors resulting from the proposed action.

Janice A. Lansing
Undersecretary
0508#055

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Potpourri

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Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given December 5-6, 2005, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows.

New Candidates:	September 2, 2005
Re-Take Candidates:	September 23, 2005
Reciprocity Candidates:	November 11, 2005

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to September 2, 2005. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0508#045

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Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given October 24-28, 2005, 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is September 9, 2005. No applications will be accepted after September 9, 2005.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to September 9, 2005. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0508#044

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment

UL 971 Revision Affects Non-Metallic Piping (LAC 33:XI.599.Appendix A-Industry Codes and Standards) (0508Pot1)

Underwriters Laboratories Standard 971 deals with non-metallic underground piping for flammable liquids. The specification from October 1995 has been revised and was effective July 1, 2005. This standard affects the manufacture of non-metallic flexible pipe used in installation and repair of UST systems. This new standard will be adopted in future regulations incorporating the standard into LAC 33:XI.599.Appendix A-Industry Codes and Standards. LDEQ will allow the installation of flexible and other non-metallic piping meeting the previous UL standard through December 31, 2005. Starting January 1, 2006, LDEQ will require the installation of piping meeting the new UL standard at new sites and for piping needing repairs and/or replacing.

The new standard can be acquired through COMM 2000, 1414 Brook Drive, Downers Grove, IL 60515, or <http://www.comm-2000.com>.

If you should have any questions, please contact Phyllis Luke, Office of Environmental Compliance, Surveillance Division, at (225) 219-3615.

Wilbert F. Jordan, Jr.
Assistant Secretary

0508#059

POTPOURRI

Department of Labor Office of Workers' Compensation

Average Weekly Wage Rate

Pursuant to Act 583 of the Regular Session of the 1975 Louisiana Legislature, this state's average weekly wage upon which the maximum workers' compensation weekly benefit amount will be based, effective September 1, 2005, has been determined by the Department of Labor to be \$605.46

John Warner Smith
Secretary

0508#098

POTPOURRI

**Department of Labor
Office of Workers' Compensation**

Weekly Compensation Benefit Limits

Pursuant to R.S. 23:1202 and based on the statewide average weekly wage as determined by the Department of Labor, the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 2005 through August 31, 2006.

Average Weekly Wage	Maximum Compensation	Minimum Compensation	Mileage Reimbursement
\$605.46	\$454.00	\$121.00	\$00.36 per mile*

*Effective July 1, 2005, the mileage reimbursement is \$00.36 per mile pursuant to R.S. 23:1203.D.

John Warner Smith
Secretary

0508#099

POTPOURRI

**Office of the Governor
Commission on Law Enforcement and
Administration of Criminal Justice**

Operational Policies

The Louisiana Commission on Law Enforcement and Administration of Criminal Justice does hereby give notice of proposed revisions to its Operational Policies. A public hearing will be held at approximately 10:30 a.m. on Thursday, September 15, 2005, at the commission's quarterly meeting being held at the Fairmont Hotel, 125 Baronne Street, New Orleans, LA. All interested persons will be afforded an opportunity to present their comments at the hearing. Any individual requiring special accommodations due to a disability should notify the office prior to September 14, 2005. Questions may be directed to (225) 925-4942 to Bob Wertz.

A copy of the proposed revisions may be viewed from 8 a.m. to 4:30 p.m. in the LCLE Conference Room, 1885 Wooddale Boulevard, Room 724, Baton Rouge, LA. An electronic version will be available at: <http://www.cole.state.la.us.htm>.

Michael A. Ranatza
Executive Director

0508#063

POTPOURRI

**Office of the Governor
Oil Spill Coordinator's Office**

**Restoration Planning in Jefferson Parish
Mendicant Island Oil Spill**

Purpose

The Louisiana Oil Spill Coordinator's Office (LOSCO) as the Trustee coordinator for the State of Louisiana, in consultation and agreement with the state natural resource trustees, namely the Louisiana Department of Environmental Quality (LDEQ), the Louisiana Department of Natural Resources (LDNR), the Louisiana Department of Wildlife and Fisheries (LDWF); and the federal natural resource trustee, namely the National Oceanic and Atmospheric Administration (NOAA), have determined that the impacts of the December 2, 2003 discharge of crude oil by ExxonMobil Pipeline Company (EMPCo), over which such trustees have jurisdiction, warrant conducting a natural resource damage assessment that will include restoration planning.

Site and Release Information

On December 2, 2003, a pipeline, owned and operated by (EMPCo), discharged approximately 400 barrels of crude oil into Barataria Bay and surrounding coastal waters, Jefferson Parish, Louisiana. An undetermined amount of brackish and salt marsh flora and fauna inhabiting this area may have been exposed to crude oil as a result of this discharge. EMPCo, as owner and operator of the source pipeline, is the Responsible Party (RP) for this incident as defined by the Oil Pollution Act of 1990 (OPA), 33 U.S.C. 2701 *et seq.*, and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA), La. Rev. Stat. 30:2451 *et seq.*

Barataria Bay and the adjacent areas are part of a shallow estuarine bay system characterized by soft organic sediment and tidal range generally less than 3 feet. Barataria Bay is bordered by extensive acreage of brackish and salt marsh, which is critical nursery habitat for numerous species and provides many other ecological services. The Barataria Bay area also includes bayous, channels, and small islands, including Mendicant Island. Aquatic species present include, but are not limited to, estuarine and estuarine-dependent white and brown shrimp, blue crabs, oysters, and finfish. Wildlife species that may be present in the Barataria Bay area include, but are not limited to, resident and migratory birds, furbearers, marine mammals, and sea turtles. Some of the species that may be present have threatened or endangered status.

Authorities

The trustees are designated pursuant to 33 U.S.C. §2706(b), Executive Order 12777, and the National Contingency Plan, 40 C.F.R. §§300.600 and 300.605. Pursuant to La. Rev. Stat. 30:2460, the State of Louisiana Oil

Spill Contingency Plan, September 1995, describes state trust resources, including the following: vegetated wetlands, surface waters, ground waters, air, soil, wildlife, aquatic life, and the appropriate habitats on which they depend. NOAA's trust resources include, but are not limited to, commercial and recreational fish species, anadromous and catadromous fish species, marshes and other coastal habitats, marine mammals, and endangered and threatened marine species.

Trustees' Determinations

Following the notice of the discharge, the natural resource trustees have made the following determinations required by 15 C.F.R. §990.41(a).

- The natural resource trustees have jurisdiction to pursue restoration pursuant to the OPA, 33 U.S.C. §2702 and 2706(c) and the OSPRA, R.S. 30:2451 et seq. The trustees have further determined that the discharge of crude oil into the area of Barataria Bay on December 2, 2003, was an incident, as defined in 15 C.F.R. §990.30 and LAC 43:XXIX.109.
- This discharge was not permitted under state, federal, or local law.
- The discharge was not from a public vessel.
- The discharge was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. §1651, et seq.
- Natural resources under the trusteeship of the natural resource trustees listed above may have been injured as a result of the incident. The crude oil discharged contains components that may be harmful to aquatic organisms, birds, wildlife and vegetation. Vegetation, birds, and or aquatic organisms may have been exposed to the oil from this discharge, and injury to some flora and fauna and lost ecological services may have resulted from this incident.

Because the conditions of 15 C.F.R. §990.41(a) were met, as described above, the trustees made the further determination pursuant to 15 C.F.R. §990.41(b) and LAC 43:XXIX.101 to proceed with preassessment. EMPCo, at the invitation of the trustees, pursuant to 15 C.F.R. §990.14(c) and LAC 43:XXIX.115, agreed to participate in the preassessment.

Determination to Conduct Restoration Activities

For the reasons discussed below, the natural resource trustees have made the determinations required by the 15 C.F.R. §990.42(a) and are providing notice, pursuant to 15 C.F.R. §990.44 and LAC 43:XXIX.123, that they intend to conduct restoration planning in order to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of this incident.

Injuries have resulted from this incident, the extent of which has not been fully determined at this time. The trustees base this determination upon data, which is collected and analyzed pursuant to 15 C.F.R. §990.43 and LAC 43:XXIX.119, which demonstrate that resources and services have been injured from this incident. Natural resources injured as a result of the discharge and the response may include, but are not limited to, benthic communities, wetlands, birds, wildlife species, shorelines, and recreational use opportunity.

Although response actions were pursued, the nature of the discharge and the sensitivity of the environment precluded

prevention of some injuries to some natural resources. The trustees believe that injured natural resources could return to baseline through natural or enhanced recovery, but interim losses have occurred and will continue to occur until a return to baseline is achieved.

Feasible compensatory restoration actions exist to address injuries from this incident. Restoration actions that could be considered include, but are not limited to: replanting native wetland vegetation in appropriate areas, creation, enhancement or protection of marsh or other habitat with similar service flows, protection of endangered species, creation of oyster reef habitat, creation of submerged aquatic vegetation habitat, and creation of bird colony areas.

Assessment procedures are available to evaluate the injuries and define the appropriate type and scale of restoration for the injured natural resources and services. Among these procedures are bird and marsh habitat injury assessment studies to be used in conjunction with the Resource Equivalency Analysis (REA) and Habitat Equivalency Analysis (HEA), respectively, to determine compensation for injuries to birds and marsh habitats. Models, comparisons to observations of injury resulting from similar releases, or other methodologies are available for evaluating injuries to the ecosystem.

Public Involvement

Pursuant to 15 C.F.R. §990.44(c) and LAC 43:XXIX.35, the trustees seek public involvement in restoration planning for this discharge, through public review of and comments on the documents contained in the administrative record, which is maintained in the Louisiana Oil Spill Coordinator's Office, as well as on the Draft Damage Assessment and Restoration Plan when completed.

For more information, please contact the Louisiana Oil Spill Coordinator's Office, State Office Building, 150 3rd Street, Suite 405, Baton Rouge, LA, 70801; phone (225) 219-5800 (Attn: Oil Spill/Gina Muhs Saizan).

The Louisiana Oil Spill Coordinator, as the Lead Administrative Trustee, and on behalf of the natural resource trustees of the State of Louisiana and NOAA, pursuant to the determinations made above and in accordance with 15 C.F.R. §990.44(d) and LAC 43:XXIX.135, hereby provides ExxonMobil Pipeline Company, this notice to conduct restoration planning and invites its participation in conducting the restoration planning for this incident.

Roland J. Guidry
Louisiana Oil Spill Coordinator

0508#072

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

Restoration Planning in Plaquemines Parish
Raphael Pass Oil Spill

Purpose

The Louisiana Oil Spill Coordinator's Office (LOSCO) as the Trustee coordinator for the State of Louisiana, in consultation and agreement with the state natural resource trustees, namely the Louisiana Department of Environmental Quality (LDEQ), the Louisiana Department of Natural

Resources (LDNR), the Louisiana Department of Wildlife and Fisheries (LDWF); and the federal natural resource trustee, the U.S. Department of the Interior (DOI), represented by the U.S. Fish and Wildlife Service (USFWS); have determined that the impacts of the discharge of crude oil from the Gulf Production Company, Inc. storage tank, over which such trustees have jurisdiction, warrant conducting a natural resource damage assessment that will include restoration planning.

Site and Release Information

On or about September 19, 2004, a storage tank owned and operated by Gulf Production Company Inc., discharged approximately 362 barrels of crude oil into Raphael Pass, Plaquemines Parish, Louisiana. An undetermined amount of marsh, other habitats, and fauna inhabiting this area may have been exposed to crude oil as a result of this discharge. The trustees have determined that Gulf Production Company, Inc. is the Responsible Party (RP) for this incident pursuant to the Oil Pollution Act of 1990 ("OPA"), 33 U.S.C. §2701 *et seq.* and the Louisiana Oil Spill Prevention and Response Act (OSPRI) R.S. 30:2451 *et seq.*

Raphael Pass is located within the Delta/Breton National Wildlife Refuge. Raphael Pass is part of the modern Mississippi River delta complex, which is characterized by soft organic sediment. Tidal amplitude is small and often driven primarily by wind. Raphael Pass is bordered by an extensive acreage of freshwater marsh, which is critical nursery habitat for numerous species and provides many other ecological services. The Raphael Pass area also includes bayous, channels, and small islands.

Aquatic organisms present include, but are not limited to, finfish, crustaceans, and shellfish. Wildlife species that may be present in the Raphael Pass area include, but are not limited to, resident and migratory birds, furbearers, aquatic mammals, and turtles. Some of the species that may be present have threatened or endangered status.

Authorities

The trustees are designated pursuant to 33 U.S.C. §2706(b), Executive Order 12777, and the National Contingency Plan, 40 C.F.R. §§300.600 and 300.605. Pursuant to R.S. 30:2460, the State of Louisiana Oil Spill Contingency Plan, September 1995, describes state trust resources, including the following: vegetated wetlands, surface waters, ground waters, air, soil, wildlife, aquatic life, and the appropriate habitats on which they depend. The DOI, through the involvement of the USFWS, is trustee for natural resources described within the National Contingency Plan, 40 C.F.R. §300.600(b)(2) and (3), which include the following and their supporting ecosystems: migratory birds, anadromous fish, endangered species and marine mammals, federally owned minerals, certain federally managed water resources, and natural resources located on, over, or under land administered by DOI.

Trustees' Determinations

Following the notice of the discharge, the trustees have made the following determinations required by 15 C.F.R. §990.41(a).

- The natural resource trustees have jurisdiction to pursue restoration pursuant to the Oil Pollution Act (OPA), 33 U.S.C. §§2702 and 2706(c) and the OSPRI, R.S. 30:2451, *et seq.* The trustees have further determined that the discharge of crude oil into

Raphael Pass and surrounding marsh on or about September 21, 2004 was an incident, as defined in 15 C.F.R. §990.30 and the State NRDA Regulations at LAC 43:XXIX.109.

- This discharge was not permitted under state, federal, or local law.
- This discharge was not from a public vessel.
- This discharge was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. § 1651, *et seq.*
- Natural resources under the trusteeship of the natural resource trustees listed above may have been injured as a result of the incident. The crude oil discharged contains components that may be toxic to aquatic organisms, birds, wildlife and vegetation. Vegetation, birds, and aquatic organisms may have been exposed to the oil from this discharge, and mortalities to some flora and fauna and lost ecological services may have resulted from this incident.

Because the conditions of 15 C.F.R. §990.41(a) were met, as described above, the trustees made the further determination pursuant to 15 C.F.R. §990.41(b) and LAC 43:XXIX.101 to proceed with preassessment. Gulf Production Company, Inc., at the invitation of the trustees, agreed to participate in the preassessment, pursuant to 15 C.F.R. §990.14(c) and LAC 43:XXIX.115.

Determination to Conduct Restoration Activities

For the reasons discussed below, the natural resource trustees have made the determinations required by 15 C.F.R. §990.42(a) and are providing notice pursuant to 15 C.F.R. §990.44 and LAC 43:XXIX.123 that they intend to conduct restoration planning in order to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of this incident.

Injuries have resulted from this incident, the extent of which has not been fully determined at this time. The trustees base this determination upon data, which is collected and analyzed pursuant to 15 C.F.R. §990.43 and LAC 43:XXIX.119, which demonstrate that resources and services have been injured from this incident. Natural resources and natural resource services injured or lost as a result of the discharge and the response may include, but are not limited to, aquatic organisms, infauna, birds, vegetation, benthic communities, water quality, fish and wildlife, and recreational use opportunity.

The nature of the discharge and the sensitivity of the environment precluded prevention of some injuries to natural resources. The trustees believe that injured natural resources could eventually return to baseline through natural or enhanced recovery, but interim losses have occurred and will continue to occur until a return to baseline is achieved.

Feasible compensatory restoration actions exist to address injuries from this incident. Restoration actions that could be considered include, but are not limited to replanting native wetland vegetation in appropriate areas, and creation, enhancement or protection of marsh.

Assessment procedures are available to evaluate the injuries and define the appropriate type and scale of restoration for the injured natural resources and services. Among these procedures are habitat injury assessment studies to be used in conjunction with the Habitat

Equivalency Analysis, to determine compensation for injuries to marsh habitat. Models, comparisons to observations of injury resulting from similar releases, and/or other methodologies are available for evaluating injuries to the ecosystem.

Public Involvement

Pursuant to 15 C.F.R. §990.44(c) and LAC 43:XXIX.135, the trustees seek public involvement in restoration planning for this discharge, through public review of and comments on the documents contained in the administrative record, which is maintained in the Louisiana Oil Spill Coordinator's Office, as well as on the Draft Plan when completed.

For more information, please contact the Louisiana Oil Spill Coordinator's Office, State Office Building, 150 3rd Street, Suite 405, Baton Rouge, LA, 70801; phone (225)

219-5800 (Attn: Oil Spill/Gina Muhs Saizan); gina.saizan@la.gov.

The Louisiana Oil Spill Coordinator, as the Lead Administrative Trustee, and on behalf of the natural resource trustees of the State of Louisiana and USDOJ/USFWS, pursuant to the determinations made above and in accordance with 15 C.F.R. §990.44(d) and LAC 43:XXIX.135, hereby provides Gulf Production Company, Inc. this notice to conduct restoration planning and invites their participation in conducting the restoration planning for this incident.

Roland J. Guidry
Oil Spill Coordinator

0508#073

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