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EXECUTIVE ORDER MJF 03-13

Prohibited Expenditure of State Monies
Fiscal Year 2003-2004

WHEREAS, Article IV, Section 5(A) of the Louisiana Constitution declares that the governor shall faithfully support the constitution and laws of the state and the United States and shall see that the laws are faithfully executed;

WHEREAS, Article III, Section 16(A) of the Louisiana Constitution declares that no money shall be withdrawn from the state treasury except through specific appropriations, except as otherwise provided by the constitution;

WHEREAS, Article VII, Section 10(D)(1) of the Louisiana Constitution declares that money shall be drawn from the state treasury only pursuant to an appropriation made in accordance with law, except as otherwise provided by the constitution;

WHEREAS, Article XII, Section 10(C) of the Louisiana Constitution declares that no judgment against the state, a state agency, or a political subdivision shall be exigible, payable, or paid except from funds appropriated therefor by the Louisiana Legislature or by the political subdivision against which the judgment is rendered;

WHEREAS, thirty-five coroners filed suit against the state of Louisiana in *Warren W. Hoag, Jr., et al. v. State of Louisiana, through its Treasurer, John Neely Kennedy*, 19th Judicial District Court, Parish of East Baton Rouge, No. 471,708, for past due and future extra compensation pursuant to R.S. 33:1559¹ which provides that extra compensation for coroners in the amount of \$548.00 shall be payable monthly by the state treasurer on the warrant of the coroners *from funds appropriated* by the Louisiana Legislature for this purpose, and in *Hoag v. State*, 2001-1076 (La. App.1 Cir. 11/20/02), 836 So. 2d 207, *writ den.*, 2002-3199 (La. 3/28/03), 840 So. 2d 570, the First Circuit Court of Appeal held that the legislature's failure to appropriate funds for payment of the extra compensation to coroners violated Article V, Section 31 of the Louisiana Constitution which provides that the salary of a coroner shall not be diminished during his term of office; despite this holding, no reduction or diminution of salary actually occurred during the 1996-2000 or the 2000-2004 terms of office of coroner because no extra compensation was ever appropriated for or paid to the coroners during those terms of office;

WHEREAS, House Bill No. 1632 of the 2003 Regular Session of the Louisiana Legislature would have provided for the appropriation of the amount of the judgment in *Warren W. Hoag, Jr., et al. v. State of Louisiana, through its Treasurer, John Neely Kennedy*, 19th Judicial District Court, Parish of East Baton Rouge, No. 471,708, plus legal interest until paid, but the Louisiana Legislature did not enact the bill into law;

WHEREAS, the judgment against the state in *Warren W. Hoag, Jr., et al. v. State of Louisiana, through its*

Treasurer, John Neely Kennedy, 19th Judicial District Court, Parish of East Baton Rouge, No. 471,708, is final and a writ of mandamus² has been filed praying for the state treasurer to be directed to pay all past due extra compensation for the 1996-2000 and the 2000-2004 terms of office of coroner and, in the alternative, for the Louisiana Legislature, through the Joint Legislative Committee on the Budget, the House Appropriations Committee, and the Senate Finance Committee, to be directed to appropriate funds to pay all past due and future compensation for the 1996-2000 and the 2000-2004 terms of office of coroner;

WHEREAS, R.S. 39:77 prohibits the expenditure of any monies in excess of the funds appropriated or otherwise allocated for expenditure by any board, commission, department, or agency of the state during any fiscal year unless approval for the expenditure has been obtained from the interim emergency board and/or the Louisiana Legislature by a two-thirds vote of the members thereof taken by mail ballot; and

WHEREAS, in the absence of an appropriation by the Louisiana Legislature, the withdrawal, expenditure, payment or disbursement of monies from the state treasury to pay the warrants of the coroners, the extra compensation of the coroners, or the judgment against the state in *Warren W. Hoag, Jr., et al. v. State of Louisiana, through its Treasurer, John Neely Kennedy*, 19th Judicial District Court, Parish of East Baton Rouge, No. 471,708, would have the effect of creating and/or exacerbating a deficit in the state general fund and be in violation of constitutional and statutory requirements placed upon the withdrawal, disbursement, payment or expenditure of monies from the state treasury;

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

SECTION 1: I hereby declare and certify that, based on the official forecast for the state general fund established by the Revenue Estimating Conference compared to total authorized appropriations from the state general fund, without a specific appropriation from the Louisiana Legislature, the withdrawal, disbursement, payment, or expenditure of any monies from the state treasury on the warrant of the coroners, to pay extra compensation to a coroner or coroners, or to satisfy, in whole or in part, the judgment or a writ of mandamus against the state in *Warren W. Hoag, Jr., et al. v. State of Louisiana, through its Treasurer, John Neely Kennedy*, 19th Judicial District Court, Parish of East Baton Rouge, No. 471,708, would have the effect of creating and/or exacerbating a deficit in the state general fund for fiscal year 2003-2004, and be in violation of the requirements placed upon the expenditure of monies by the Louisiana Legislature and the people of Louisiana.

SECTION 2: As chief executive officer of the state of Louisiana, with the constitutional duty and authority to protect and preserve the public fisc and to see that the

constitution and laws of this state pertaining to the expenditure of state monies are faithfully executed, I hereby order that the state treasurer shall not withdraw, disburse, pay or expend any monies from the state treasury on the warrant of the coroners, to pay any extra compensation to a coroner or coroners, or to satisfy, in whole or in part, the judgment or a writ of mandamus against the state in *Warren W. Hoag, Jr., et al. v. State of Louisiana, through its Treasurer, John Neely Kennedy*, 19th Judicial District Court, Parish of East Baton Rouge, No. 471,708, without a specific appropriation from the Louisiana Legislature that has become law.

SECTION 3:

A. The provisions of this Order are supplemental and in addition to those set forth in Executive Order No. MJF 2003-10, issued May 23, 2003.

B. This Order is effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 15th day of August, 2003.

¹ Act No. 1001 of the 2003 Regular Session of the Louisiana Legislature, effective July 2, 2003, repealed R.S. 33:1559 for all terms of office of coroner that commence after the effective date of the Act, and for all coroners appointed after the Act became effective for the remainder of the 2000-2004 term of office.

² The plaintiffs in *Warren v. Hoag, Jr., et al. v. State of Louisiana, through its Treasurer, John Neely Kennedy*, 19th Judicial District Court, Parish of East Baton Rouge, No. 471,708, claim in their petition for writ of mandamus filed on July 28, 2003, that as of July 1, 2003, the sum of \$1,211,080.00, is owed, together with legal interest thereon from date of judicial demand until paid, attorney fees, and all costs of the proceedings.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0309#001

EXECUTIVE ORDER MJF 03-14

Toledo Bend Reservoir Conservation
Pool Level Advisory Council

WHEREAS, pursuant to R.S. 38:2321, et seq., all the territory in the parishes of DeSoto, Sabine, Vernon, Beauregard, Calcasieu, and Cameron, lying within the watershed of the Sabine River and its tributary streams constitute the Sabine River Authority, state of Louisiana, a conservation and reclamation district under the governing authority of a board of commissioners, given powers and duties that include providing for the preservation of the equitable rights of the people of the different sections of the watershed area of the Sabine River and its tributary streams in the beneficial use of the waters of the watershed area, including the Toledo Bend Reservoir; facilitating economic development and promoting recreation within the watershed area; and utilizing, selling and/or leasing the waters or the use of the water of the Sabine River for the generation of hydroelectric power;

WHEREAS, Act. No. 295 of the 2003 Regular Session of the Louisiana Legislature effective primarily on May 1, 2004, amends R.S. 38:2325 to generally restrict the use of the Toledo Bend Reservoir for hydroelectric power generation or production when the mean sea level of the reservoir is below one hundred sixty-eight (168) feet (hereafter a conservation pool level@);

WHEREAS, the use and levels of the waters of the Sabine River and its tributaries, and restrictions and/or prohibitions concerning their use and levels, impact the utility industry and the people, businesses and municipalities in the watershed area; and

WHEREAS, the interests of the citizens of the state of Louisiana will best be served by the creation of an advisory council charged with the duty of studying issues and concerns pertaining to the establishment and/or enforcement of a conservation pool level in the Toledo Bend Reservoir, and advising the governor, the Board of Commissioners for the Sabine River Authority, and the Louisiana Legislature regarding the same;

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

SECTION 1: The Toledo Bend Reservoir Conservation Pool Advisory Council (hereafter a Council@) is established within the executive department, Office of the Governor.

SECTION 2:

A. The duties of the Council shall include, but are not limited to, the following:

1. Identifying the user groups and/or businesses and entities (hereafter a user groups@) that potentially would be impacted by the establishment of a conservation pool level in the Toledo Bend Reservoir and/or the prohibition of hydroelectric power generation by the Sabine River Authority when the mean sea level of Toledo Bend Reservoir is below one hundred sixty-eight (168) feet, and describe the nature and the degree of the impact on each user group;

2. Studying all issues, including the concerns of the various user groups, pertaining to the establishment of a conservation pool level in the Toledo Bend Reservoir and/or the prohibition of hydroelectric power generation by the Sabine River Authority when the mean sea level of Toledo Bend Reservoir is below one hundred sixty-eight (168) feet; and

3. Recommending an action plan that balances and/or recognizes the concerns, needs, and rights of the various user groups.

B. In the performance of its duties under subsection 2(A) of this Order, the Council may hold public hearings and/or receive public comment by other means.

SECTION 3:

A. On or before March 1, 2004, the Council shall submit a preliminary report on the matters set forth in subsection 2(A) of this Order to the governor, the Board of Commissioners of the Sabine River Authority, the chair of the House Committee on Commerce, and the chair of the Senate Committee on Commerce.

B. On or before May 1, 2004, the Council shall submit a final report on the matters set forth in subsection 2(A) of this Order to the governor, the Board of Commissioners of the Sabine River Authority, the chair of the House Committee on Commerce, and the chair of the Senate Committee on Commerce.

SECTION 4: The Council shall be composed of a maximum of seventeen (17) members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the governor. The membership of the Council shall be selected as follows:

- A. the governor, or the governor's designee;
- B. the chair of the Board of Commissioners for the Sabine River Authority, or the chair's designee;
- C. the chair of the House Committee on Commerce, or the chair's designee;
- D. the chair of the Senate Committee on Commerce, or the chair's designee;
- E. one (1) representative of the Louisiana Public Service Commission;
- F. two (2) representatives of the Toledo Bend Citizens Advisory Committee;
- G. two (2) representatives of the CLECO Power, L.L.C.;
- H. two (2) representatives of the Entergy Corporation;
- I. two (2) representatives of the South Toledo Bend Civic Association;
- J. two (2) representatives of the Toledo Bend Lake Association; and
- K. two (2) members at-large.

SECTION 5: The chair of the Council shall be appointed by the governor from the membership of the Council. All other officers, if any, shall be elected by the membership of the Council.

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

SECTION 7:

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

B. Any Council member who is also an employee or an elected public official of the state of Louisiana or a political subdivision of the state of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

C. Any Council member who is also a member of the Louisiana Legislature, the Louisiana Public Service Commission, or the Board of Commissioners of the Sabine River Authority may seek a per diem from the Louisiana Senate, House of Representatives, Louisiana Public Service Commission, or the Board of Commissioners of the Sabine River Authority, as appropriate, for their attendance at Council meetings and/or services on the Council.

SECTION 8: Support staff, facilities, and resources for the Council shall be provided by the Sabine River Authority.

SECTION 9: All departments, commissions, boards, offices, 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 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 21st day of August, 2003.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0309#021

EXECUTIVE ORDER MJF 03-15

Louisiana Aquaculture Advisory Council

WHEREAS, aquaculture, which is the production, raising, harvesting and marketing of aquatic livestock and/or finfish species within or from a constructed facility, is a vital component of the economy of the state of Louisiana;

WHEREAS, through the enrollment of House Bill No. 2013 of the 2003 Regular Session of the Louisiana Legislature (hereafter "House Bill No. 2013"), the Louisiana Legislature recognized the importance of aquaculture to the state's economy, declared the need to establish an aquaculture council for the purpose of developing a program to oversee, coordinate, and regulate aquaculture in the state of Louisiana and to promote Louisiana aquacultural products, and created an aquaculture council within the Department of Agriculture and Forestry;

WHEREAS, House Bill No. 2013 was vetoed on July 11, 2003, for the reasons that Article IX, Section 7 of the Louisiana Constitution of 1974 expressly vests "the control and supervision of the wildlife of the state, including all aquatic life, ... in the Louisiana Wildlife and Fisheries Commission", and the enforcement capabilities of the Department of Wildlife and Fisheries are needed to reduce potential risks of harm to the state of Louisiana's indigenous aquatic species and native ecosystems from escaping foreign aquatic species, or their intentional or unintentional introduction into native ecosystems; and

WHEREAS, the best interests of the citizens of the state of Louisiana will be served by creating an aquaculture advisory council within the Office of the Governor that is consistent with the Louisiana Legislature's purpose for enrolling House Bill No. 2013 and with the mandates of Article IX, Section 7 of the Louisiana Constitution of 1974, and charging it with the duty to recommend an aquaculture industry regulatory program that ensures the Louisiana Wildlife and Fisheries Commission's role in protecting and preserving the state of Louisiana's native species and ecosystems;

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

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

SECTION 2:

A. The duties of the Council shall be to:

1. Recommend a regulatory framework for the orderly development of a modern, sustainable aquaculture industry and the promotion of aquaculture and aquacultural products that is consistent with the mandates of Article IX, Section 7 of the Louisiana Constitution of 1974, and environmentally safe and economically feasible;

2. Based on scientific risk assessment, recommend which species of aquatic livestock and/or finfish species are suitable for aquacultural production in the state of Louisiana under controlled conditions and, for each recommended species, describe any specie-specific safeguards that may be necessary to reduce potential risks of harm to the state of Louisiana's indigenous aquatic species and/or native ecosystems;

3. Recommend appropriate criteria for requiring, granting and/or denying Louisiana aquaculture licenses and/or permits consistent with the authority granted to the Louisiana Wildlife and Fisheries Commission in Article IX, Section 7 of the Louisiana Constitution of 1974;

4. Recommend an appropriate fee structure for all proposed Louisiana aquaculture licenses and/or permits;

5. Consistent with the mandates of Article IX, Section 7 of the Louisiana Constitution of 1974, recommend rules and regulations for the enforcement of a Louisiana aquaculture industry regulatory scheme and appropriate penalties for the violation thereof without expanding the authority of any department or agency inconsistent with Article IX, Section 7 of the Louisiana Constitution of 1974;

6. Draft a guidebook which sets forth all regulations, recommendations, and necessary or helpful information associated with the raising, producing, harvesting, marketing, transporting, and/or selling of the various types of aquatic livestock and/or finfish species the Council recommends for Louisiana aquaculture production under controlled conditions;

7. Identify all impediments to the development of an aquaculture industry in the state of Louisiana, including market development, financial incentives, potential predators and research needs, and propose the means to overcome such impediments; and

8. Perform any other advisory function related to aquaculture requested by the governor.

B. In the performance of its duties under subsection 2(A) of this Order, the Council may hold public hearings and/or receive public comment by other means.

SECTION 3:

A. On or before December 31, 2003, the Council shall submit a preliminary report on the issues set forth in Section 2 of this Order to the governor, the commissioner of agriculture, the secretary of the Department of Wildlife and Fisheries, the chair of the Louisiana Wildlife and Fisheries Commission, and the secretary of the Department of Economic Development.

B. On or before August 20, 2004, the Council shall submit a final report on the issues set forth in Section 2 of this Order to the governor, the commissioner of agriculture, the secretary of the Department of Wildlife and Fisheries, the chair of the Louisiana Wildlife and Fisheries Commission, and the secretary of the Department of Economic Development.

SECTION 4: The Council shall be composed of no more than twenty-two (22) members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the governor. The membership of the Council shall be selected as follows:

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

B. the commissioner of agriculture, or the commissioner's designee;

C. the secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

D. the chair of the Louisiana Wildlife and Fisheries Commission, or the chair's designee;

E. the executive assistant to the governor for coastal activities, or the executive assistant's designee;

F. the secretary of the Department of Economic Development, or the secretary's designee;

G. the chair of the Senate Committee on Agriculture, or the chair's designee;

H. the chair of the House Committee on Agriculture, or the chair's designee;

I. the chair of Senate Committee on Natural Resources, or the chair's designee;

J. the chair of the House Committee on Natural Resources, or the chair's designee;

K. two (2) faculty members of the Louisiana State University, College of Agriculture;

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

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

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

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

P. a representative of the Coastal Conservation Association;

Q. a representative of the Louisiana Crawfish Producers Association that is an active crawfish producer;

R. a representative of the Louisiana Bass Federation;

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

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

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

SECTION 5: The chair of the Council shall be appointed by the governor from the membership of the Council. All other officers, if any, shall be elected by and from the membership of the Council.

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

SECTION 7:

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

B. Any Council member who is also an employee or an elected public official of the state of Louisiana or a political subdivision of the state of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

C. Any Council member who is also a member of the Louisiana Legislature may seek a per diem from the Louisiana Senate or House of Representatives, as appropriate, for their attendance at Council meetings and/or services on the Council.

SECTION 8: Support staff, facilities, and resources for the Council shall be arranged and/or provided by the Office of the Governor.

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

SECTION 10:

A. This Order shall not be construed to expand and/or recommend the expansion of the authority of any department or agency inconsistent with Article IX, Section 7 of the Louisiana Constitution of 1974.

B. 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 21st day of August, 2003.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0309#013

EXECUTIVE ORDER MJF 03-16

Bond AllocationCShreveport Home Mortgage Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2003 (hereafter "the 2003 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2003 Ceiling; and

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

WHEREAS, the Shreveport Home Mortgage Authority has requested an allocation from the 2003 Ceiling to provide mortgage financing for persons with low and moderate income for single family, owner-occupied residences throughout the parishes of Caddo and Bossier, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2003 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$7,500,000	Shreveport Home Mortgage Authority	Single Family Mortgage Revenue Bonds

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2003, provided that such bonds are delivered to the initial purchasers thereof on or before November 22, 2003.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 25th day of August, 2003.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0309#014

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences

Fees (LAC 7:XV.143)

In accordance with the Administrative Procedure Act R.S. 49:953 and R.S. 3:1734, the Commissioner of Agriculture and Forestry, at the request of the Horticulture Commission, is exercising the emergency provisions of the Administrative Procedure Act in implementing the following Rule governing fees assessed for the sweetpotato weevil quarantine program.

For the last three years, the Sweetpotato Weevil Quarantine Program budget has ended in a deficit. The department has used other funds to make up for each years deficit. The department cannot continue to find funds from other areas to make up this continuing deficit.

Louisiana is experiencing an unprecedented shortfall in state finances. The Legislature has cut the Department's budget; therefore, using other Department funds to cover the deficit of the Sweetpotato Weevil Quarantine Program is not a continuing option. The fiscal year begins on the first of July. The department must use the emergency adoption provisions to insure that programs that begin in July will have adequate funding for the entire fiscal year and beyond. Adoption of the Rule changes will take place according to the Administrative Procedure Act. However, this process takes up to six months to complete and would cause additional deficits to continue and the possibility of work reductions that could cause an imminent peril to the health and safety of Louisiana citizens.

This Emergency Rule becomes effective on September 5, 2003, upon signature, and will remain in effect until the Rule becomes effective through the normal Administrative Procedure Act process. The Louisiana Department of Agriculture and Forestry (LDAF) will begin collecting the fees for the sweetpotato weevil quarantine program beginning September 5, 2003.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter C. Sweetpotato Weevil Quarantine

§143. Fees

A. A fee of six cents per bushel shall be charged for each bushel of sweet potatoes moved or shipped within or out of Louisiana.

B. ...

C. A fee of ten cents per thousand shall be charged for vines, plants, slips or cuttings moved or shipped within or out of Louisiana.

D. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655, R.S. 3:1732 and R.S. 3:1734.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:321 (April 1985), amended LR 15:77 (February 1989), LR 18:705 (July 1992), LR 27:1178 (August 2001), LR 29:

Bob Odom
Commissioner

0309#015

DECLARATION OF EMERGENCY

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.503, 507, and 703)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend the rules of the Scholarship/Grant programs (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

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

This declaration of emergency is effective August 14, 2003, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

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

§503. Application Deadlines

A. - B.2. ...

3. Returning Students

a. Notwithstanding the deadline established by §503.B.1 above, Returning Students, who graduated from high school during the 2001-2002 Academic Year (High School) and who enroll in an Eligible College or University in the spring semester of 2003, must submit the FAFSA to be received by the federal processor no later than July 1, 2004.

b. Notwithstanding the deadline established by §503.B.1 above, Returning Students, who enroll in an Eligible College or University in the fall semester of 2003 or later, must submit the FAFSA to be received by the federal processor no later than July 1 following the first semester of enrollment. Examples:

i. a student who seeks to enroll in an Eligible College or University for the spring semester of 2004 must submit his FAFSA to be received by the federal processor no later than July 1, 2004;

ii. a student who seeks to enroll in an Eligible College or University for the fall semester of 2004 must submit his FAFSA to be received by the federal processor no later than July 1, 2005.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1900 (October 1998), LR 25:655 (April 1999), LR 2396 (December 1999), LR 26:1996 (September 2000), repromulgated LR 27:1847 (November 2001) amended LR 28:447 (March 2002), LR 28:1760 (August 2002), LR 29:

§507. Final Deadline for Submitting Documentation of Eligibility

A. - B. ...

C.1. Returning Students, who graduated high school during the 2001-2002 Academic Years (High School) and who enroll in an Eligible College or University in the spring semester 2003, must submit documentation that establishes TOPS eligibility no later than May 1, 2004.

2. Returning Students, who enroll in an Eligible College or University in the fall semester of 2003 or later, must submit documentation that establishes TOPS eligibility no later than May 1 of the Academic Year (College) the student enrolls in an Eligible College or University. For example, a student who seeks to enroll in an Eligible College or University in the fall semester of 2003 must submit documentation that establishes TOPS eligibility no later than May 1, 2004.

D.1. A student who successfully completed an undergraduate degree prior to or during the 2001-2002 Academic Year (College) and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than May 1, 2004.

2. A student who successfully completes an undergraduate degree during the 2002-2003 Academic Year (College) or later and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than May 1 of the Academic Year (College) the student seeks to receive his remaining award eligibility. For example, to receive the remaining award for the 2003-2004 Academic Year (College), the student must submit the required documents no later than May 1, 2004.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001) amended LR 28:447 (March 2002), LR 29:

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

§703. Establishing Eligibility

A. - A.4.g.ii. ...

5.a. graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3; and

i.(a). For students graduating in Academic Year (High School) 2006-2007 and prior, 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
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): Advanced Technical Drafting (1 credit) Computer/Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (1/2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (1/2 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1 credit) Multimedia Productions (1 credit) Technology Education Computer Applications (1 credit) Telecommunications (1/2 credit) Web Mastering (1/2 credit) Word Processing (1 credit) Independent Study in Technology Applications (1 credit)

(b). 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.

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
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 1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one and one-half units of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE). BESE has approved the following courses as computer related for purposes of satisfying the 1 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1 credit) Computer/Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (1/2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (1/2 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1 credit) Multimedia Productions (1 credit) Technology Education Computer Applications (1 credit) Telecommunications (1/2 credit) Web Mastering (1/2 credit) Word Processing (1 credit) Independent Study in Technology Applications (1 credit)

A.5.a.ii. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:2021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602, 1998 (August 2000), LR 26:1996, 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, 1219 (August 2001), LR 27:1850 (November 2001), LR 28:772 (April 2002), LR 28:1760 (August 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:

George Badge Eldredge
General Counsel

0309#004

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Unauthorized Emissions Reporting Procedures (LAC 33:I.3931)(OS052E)

Editor's Note: This Emergency Rule is being republished to correct a technical error in the original emergency rule published in the August 20, 2003, *Louisiana Register*. The footnote designation was left off of the amount in the Pounds column for the last pollutant in the table.

In accordance with the emergency provisions of La. R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Environmental Quality ("Department") to use emergency procedures to establish Rules, and La. R.S. 30:2011, the secretary of the Department hereby finds that imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule, which shall be effective seven days after the date of adoption for 120 days, or until promulgation of the final Rule, whichever occurs first.

In the last two years, the Baton Rouge Nonattainment Area (the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge) has experienced exceedances of the one-hour National Ambient Air Quality Standard (NAAQS) promulgated by the United States Environmental Protection Agency (US EPA). These exceedances did not occur during circumstances that typically result in excessive ozone formation and led to ozone readings the Baton Rouge area has not experienced in a decade. The ozone readings for two separate episodes in September 2002 and July 2003 were 164 parts per billion (ppb) and 174 ppb respectively, over 30 percent above the standard. Monitoring results from these exceedances indicate a high rate and efficiency of ozone production, which was limited spatially to the immediate Baton Rouge area. These ozone episodes correspond very well to the kind of episodes that have occurred in the Houston/Galveston areas. The Texas Air Quality Study, conducted in the Houston/Galveston areas, concluded that the reactivity of the hydrocarbons was most often dominated by low molecular weight alkenes and aromatics resulting in explosive ozone formation. Air quality sampling in the Baton Rouge area also showed substantial quantities of the mentioned ozone precursors. The ozone formation experienced in the Baton Rouge area may similarly be the result of the emissions of "highly reactive" ozone precursors.

The Department needs additional information regarding the emissions of these highly reactive ozone precursors to understand, predict, and prevent further exceedances of the ozone standard. Results from computer simulations based on Houston's industrial regions suggest emissions of as little as 100 pounds of light alkenes and aromatics can lead to 50 ppb or greater enhancements of ozone concentrations. Baton Rouge's type of industry (petrochemical plants and refineries) and meteorological conditions are similar enough to Houston to warrant further investigation. This information is needed immediately to monitor the remainder of the 2003 ozone season in the hopes of achieving attainment of the standard. Facilities are to continue to follow the LAC

33:I.Chapter 39 reporting protocols and, whenever possible, to utilize the new notification procedures found at <http://www.deq.state.la.us/surveillance/irf/forms> and <http://www.deq.state.la.us/surveillance>.

This Emergency Rule is effective on August 12, 2003, 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 OS052E, you may contact the Regulation Development Section at (225) 219-3550.

**Title 33
ENVIRONMENTAL QUALITY**

**Part I. Office of Secretary
Subpart 2. Notification**

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. - A.2. ...

B. Modifications or Additions. The following table contains modifications to the federal reportable quantity lists incorporated by reference in Subsection A of this Section, as well as reportable quantities for additional pollutants.

Pollutant	CAS No. ¹	RCRA ² Waste Number	Pounds
Acetaldehyde	75070	U001	100 ⁺

2-Butanone	78933	U159	5000/1000 [®]
Butenes (all isomers except 1,3 butadiene)	25167673		100 ⁺

Ethylene	74851		5000/(100) ⁺

Propionaldehyde	123386		1000/100 [®]
Propylene	115071		100 ⁺

Thiomethanol	74931	U153	100/25 [®]
Toluene	108883	U220	100 ⁺

Volatile Organic Compounds not otherwise listed ⁴			5000
Highly reactive volatile organic compounds listed below: acetaldehyde; butenes (all isomers); ethylene; propylene toluene; xylene (all isomers); and/or isoprene ⁵			100 ⁺

Note * - Note⁺ ...

⁵ The combined emission of these highly reactive VOC shall be totaled to determine if a RQ has been exceeded.

Note[®] ...

⁺ For facilities in the following parishes: Ascension, East Baton Rouge, Iberville, Livingston, West Baton Rouge, St. Charles, St. James, St. John the Baptist, Pointe Coupee, and West Feliciana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR

22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 29:

L. Hall Bohlinger
Secretary

0309#019

DECLARATION OF EMERGENCY

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

Waste Tires
(LAC 33:VII.10505, 10519, 10525,
10527, and 10533)(SW034E2)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953.B, and under the authority of R.S. 30:2011, the secretary of the Department of Environmental Quality declares that an emergency action is necessary in order to strengthen the regulations that will ensure proper disposal of waste tires processed in Louisiana.

This is a renewal of Emergency Rule SW034E1, which was effective May 15, 2003, and published in the *Louisiana Register* on May 20, 2003. The department is drafting a Rule to promulgate these regulation changes.

Waste tires that are not processed in accordance with LAC 33:VII.Chapter 105 create environmental and health-related problems and pose a significant threat to the safety of the community. The elimination of breeding areas for mosquitoes will reduce the exposure to these insects and the serious health problems associated therewith.

This Emergency Rule is effective on September 12, 2003, 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 SW034E2, you may contact the Regulation Development Section at (225) 219-3550.

**Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 2. Recycling**

Chapter 105. Waste Tires

§10505. Definitions

A. The following words, terms, and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

Adjustment TireCa tire that becomes unusable for any reason within the manufacturer's control and is returned to the dealer under a tire warranty by the tire manufacturer. Tire adjustments are initiated by the consumer.

Eligible TireCa waste tire generated for which a fee was charged as per LAC 33:VII.10519.E.2.

Recall TireCa tire that is specified as defective by the manufacturer and returned to the dealer so that the dealer

may provide a replacement or repair. Recalls are initiated by the manufacturer.

* * *

*Used Tire*Ca tire that can be salvaged and sold as a good, functional vehicle tire.

*Used Tire Dealer*Any person, business, or firm that engages in the sale of used tires for use on motor vehicles.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:2226 (December 2001), LR 28:1953 (September 2002), LR 29:

§10519. Standards and Responsibilities of Generators of Waste Tires

A. - E.1. ...

2. "All Louisiana tire dealers are required to collect a waste tire cleanup and recycling fee of \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire, upon sale of each new tire. These fees shall also be collected on all recall and adjustment tires. Tire fee categories are defined in the Waste Tire Regulations. No fee shall be collected on tires weighing more than 500 pounds or solid tires. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every new tire sold, unless the purchaser elects to retain the waste tire."

F. - O. ...

P. Generators other than new tire dealers (used tire dealers, salvage yards, recappers, etc.) shall maintain a complete record of purchase invoices, inventory records, and sales invoices for a period of no less than three years. These records shall be open for inspection and/or audit by the administrative authority at all reasonable hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:

§10525. Standards and Responsibilities of Waste Tire Processors

A. Upon receiving a shipment containing waste tires, the processor shall be responsible for verifying the number of waste tires in each shipment by actually counting each waste tire. The processor shall sign each waste tire manifest upon receiving waste tires. In order to be reimbursed from the Waste Tire Management Fund, processors shall only accept eligible tires from authorized Louisiana transporters or in accordance with LAC 33:VII.10519.K. Each processor shall accept no more than five unmanifested tires per day per customer. The processor shall maintain a log for all unmanifested loads. The log shall include, at the minimum, the following:

1. name and address of customer;
2. license plate number of vehicle delivering the tires;
3. phone number of customer;
4. number of tires received;
5. date;
6. time; and
7. signature of customer delivering the tires.

B. - F. ...

G Processors shall maintain a complete set of records pertaining to manifested tires or shredded waste tire material coming in or leaving their place of business. This shall include, but is not limited to, manifests, monthly reimbursement reports, records of all payments from/to end markets, inventory records, logs, any documents related to out-of-state tire activity, and financial records. These records shall be maintained for a period of no less than three years and shall be open for inspection by the administrative authority at all reasonable hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2779 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 28:1953 (September 2002), LR 29:

§10527. Standards and Responsibilities for Waste Tire Collectors and Collection Centers

A. All collection center operators shall satisfy the manifest requirements of LAC 33:VII.10533. All collection center operators shall be responsible for counting the tires in the shipment. Each collection center shall accept no more than five unmanifested tires per day per customer. The collection center shall maintain a log for all unmanifested loads. The collection center shall report monthly to the administrative authority, due no later than the fifteenth of the following month, the total number of tires received at the facility. These records shall be maintained by the collection center for a minimum of three years and are subject to audit by the administrative authority. The log for all unmanifested loads shall include, at the minimum, the following:

1. name and address of customer;
2. license plate number of vehicle delivering the tires;
3. phone number of customer;
4. number of tires received;
5. date;
6. time; and
7. signature of customer delivering the tires.

B. - G.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 29:

§10533. Manifest System

A. All shipments of more than 20 waste tires shall be accompanied by a waste tire manifest provided by the department and executed in accordance with this Section.

Tires transported in Louisiana that are not eligible tires, as defined in LAC 33:VII.10505, shall be clearly labeled ineligible on the manifest.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 29:

L. Hall Bohlinger
Secretary

0309#018

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Racing Commission

Claiming Rule (LAC 35:XI.9905 and 9913)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule effective August 18, 2003, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to (1) readopt §9905 to ensure proper timing when claiming a horse, and (2) amend §9913 to protect the successful claimant's ownership at the moment the horse becomes a starter.

Title 35

HORSE RACING

Part XI. Claiming Rules and Engagements

Chapter 99. Claiming Rule

§9905. Timing of Entering Next Claiming Race

Note: This rule is being reinstated; it was repealed in 1996.

A. Except as otherwise provided herein, a claimed horse shall not enter in starter, optional or claiming races for 30 days after being claimed in a race in which the determining eligibility price is less than 25 percent more than the price at which the horse was claimed. The day claimed shall not count, but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so the horse may start on the 31st day following the claim for any claiming price. This provision shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper. A similar rule in other states will be recognized and enforced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 29:

§9913. Vesting of Title; Tests

A. Title to a claimed horse shall be vested in the successful claimant at the time the horse becomes a starter. The successful claimant shall then become the owner of the horse whether alive or dead, sound or unsound, or injured at

any time after leaving the paddock, during the race or after. However, the successful claimant may request on the claim blank at the time he makes his claim that the horse be tested for the presence of equine infections anemia via a Coggins test. Should this test prove positive, it shall be cause for a horse to be returned to his previous owner and barred from racing in the state of Louisiana. The expense of the Coggins test and the maintenance of the horse during the period requested for the test shall be absorbed by the successful claimant. If such a test is requested the claimed horse will be sent to the retention barn of the Louisiana State Racing Commission where the state veterinarian will draw a blood sample, which sample shall be sent to a laboratory approved by the Louisiana Livestock Sanitary Board for the conduct of such test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), repromulgated LR 3:42 (January 1977), LR 4:285 (August 1978), amended LR 5:136 (June 1979), amended by the Office of the Governor, Division of Administration, Racing Commission LR 29:

Charles A. Gardiner III
Executive Director

0309#006

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Examiners for Licensed Professional Counselors

Licensure of Licensed Professional Counselors
and Licensed Marriage and Family Therapists
(LAC 46:LX.Chapters 1-47)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B) et seq., the Louisiana Board of Examiners is declaring an Emergency Rule relative to the licensing of marriage and family therapists, and the "grandfathering" licensure of certain marriage and family therapists who meet certain statutory requirement.

The effective date of this Emergency Rule is August 15, 2003, and it shall be in effect for 120 days or until the final Rule takes effect through the normal rulemaking process, which ever occurs first.

The Emergency Rule is necessary to allow for the licensing "grandfathering" process to be put in place within the deadlines specified by the Legislature. Earlier implementation of this process, mandated by Act 1195 of 2001, expired January 1, 2003. Act 1139 of 2003 "reopened" the grandfathering process, retroactive to January 1, 2003, and that Act becomes effective August 15, 2003.

This Emergency Rule is therefore necessary to continue the "grandfathering" licensure of marriage and family therapists, in accordance with the expressed legislative extent to regulate such practice.

This Emergency Rule is further necessary to comply with Senate Concurrent Resolution 104 of the 2003 Louisiana Legislature, which suspended portions of certain state laws

relative to licensure, continuing education, and payment of licensing fees by licensees on "active military service."

There will be no adverse fiscal impact on the state as a result of this Rule, inasmuch as the LPC Board operates solely on self-generated funds. Individuals wishing to be licensed through the "grandfathering" process will enjoy an economic advantage by not having to comply with more stringent licensing qualifications.

Further, licensees in the active military service will have certain licensure and financial burdens deferred until they cease active duty.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LX. Licensed Professional Counselors

Subpart 1. Licensed Professional Counselors

Chapter 1. General Provisions

§101. Statutory Authority

A. The Louisiana Licensed Professional Counselors Board of Examiners was initially created and empowered by Act 892 of the 1987 Legislature to provide regulation of the practice of mental health counseling and provide for the regulation of the use of the title "Licensed Professional Counselor" (R.S. 37:1102). Subsequently Act 1195 of 2001 empowered the Board to provide regulation of marriage and family therapy and the use of the title "Licensed Marriage and Family Therapist" (R.S.37:1102(B)). Therefore, the Professional Counselors Board of Examiners establishes the rules and regulations herein pursuant to the authority granted to, and imposed upon said board under the provisions of the Louisiana Revised Statutes, Title 37, Chapter 13, R.S. 37:1101-1122.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:128 (February 2003), amended LR 29:

§103. Description of Organization

A. The Louisiana Licensed Professional Counselors Board of Examiners, hereafter referred to as the board, resides in the Department of Health and Hospitals, and consists of ten members, who shall be residents of the state of Louisiana. Each term shall be for four years. The governor shall make seven appointments to the board from a list of qualified candidates submitted by the executive board of the Louisiana Counseling Association. The governor shall make three appointments to the board from a list of candidates submitted by the executive board of the Louisiana Association for Marriage and Family Therapy. Each appointment by the governor shall be submitted to the senate for confirmation. Board membership shall consist of three licensed professional counselors, three educators who are licensed professional counselors and whose function is the training of mental health counselors in accredited programs, three licensed marriage and family therapists, and one individual from the public at large. No board member shall serve more than two full consecutive terms. The professional membership of the board shall be licensed under this Chapter. No board member shall be liable in any civil action for any act performed in good faith in the execution of his duties under Chapter 13 of Title 37.

1. The licensed professional counselor board shall establish a Marriage and Family Therapy Advisory

Committee, which shall consist of the three board members appointed by the governor from the list of names submitted by the executive board of the Louisiana Association for Marriage and Family Therapy.

2. The function of the advisory committee shall be established by rules and regulations developed by the advisory committee, promulgated by the board, and approved jointly by the House and Senate Health and Welfare Committee.

3. The functions and duties of the advisory board may include but are not limited to the following:

a. develop rules and regulations in accordance with the Administrative Procedure Act as it may deem necessary to implement the provisions of this Chapter for promulgation and implementation by the board;

b. examine and qualify all applicants for licensure as marriage and family therapists and recommend to the board each successful applicant for licensure, attesting to his professional qualifications to be a licensed marriage and family therapist;

c. develop for the board application forms for licensure pursuant to this Chapter; and

d. maintain complete records of all meetings, proceedings, and hearings conducted by the advisory committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:128 (February 2003), amended LR 29:

§105. Vacancies

A. The governor shall fill, within 30 days, for the remainder of the term, any vacancy occurring in board membership for an unexpired term from a list of qualified candidates as prescribed in Section 1104(C) of R.S. 37:1101- 1122.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:128 (February 2003), amended LR 29:

§309. Quorum

A. Six members of the board shall constitute a quorum of the board at any meeting or hearing for the transaction of business and may examine, approve, and renew the license of applicants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003), amended LR 29:

Chapter 9. Fees

§901. General

A. The board shall collect the following fees stated in R.S. 37:1106.

1. Application, license and seal	\$200
2. Privileging review for appraisal and other specialty areas	\$100
3. Registration of Supervision	\$100
4. Renewal of license	\$150
5. Late fee for renewal	\$ 50
6. Reissue of license duplicate	\$ 25
7. Name change on records	\$ 25

- 8. Copy of LPC file \$ 25
- 9. Copy of any documents cost incurred

B. The late fee will be incurred the day after a licensee's designated renewal deadline (no grace period). No part of any fee shall be refundable under any conditions. All fees for licensing must be paid to the board by certified check or money order. The renewal shall be deemed timely when:

- 1. the renewal is delivered on or before the due date; or
- 2. the renewal is mailed on or before the due date. If the renewal is received by mail on the first working day following the due date, there shall be a rebuttable presumption that it was timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. For purpose of this Section, "by mail" applies only to the United States Postal Service.

C. The board may assess and collect fines in an amount not to exceed \$500 for violations of Chapter 9 and Rules promulgated by the board.

D. Senate Concurrent Resolution 104 of the Regular Session of the Louisiana Legislature suspended certain state law provisions relative to continuing education, annual applications, and/or annual payment of licensing fees for individuals on "active military service."

E. Licensees who are placed on active duty status shall immediately notify the board of such status, and provide documentation of same, and shall likewise promptly notify the board, and provide documentation of the cessation of active duty status. Licensees with questions concerning the continued applicability of the resolution should contact the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:136 (February 2003), amended LR 29:

Subpart 2. Professional Standards for Licensed Marriage and Family Therapists

Chapter 27. General Provisions

§2705. Description of Organization

A. The Marriage and Family Therapy Advisory Committee, hereafter referred to as the advisory committee, consists of three members, who shall be residents of the state of Louisiana. All candidates and advisory committee members shall be licensed marriage and family therapists except for the first three members who shall be members of the American Association for Marriage and Family Therapy. These first three advisory committee members shall be eligible for licensure as licensed marriage and family therapists under Title 37, Chapter 13 as soon as these Rules and regulations are approved. The three advisory committee members shall be members of the board.

B. The governor shall make appointments to the board and the advisory committee from a list of qualified candidates submitted by the executive board of the Louisiana Association for Marriage and Family Therapy,

hereinafter referred to as LAMFT. Each appointment by the governor shall be submitted to the Senate for confirmation.

C. Board member terms shall be for four years. No advisory committee member shall serve more than two full consecutive terms.

D. Any vacancy occurring in advisory committee membership, other than by expiration of term, shall be filled for the remainder of the unexpired term by the governor within 30 days from a list of qualified candidates supplied by the LAMFT board as prescribed in Section 1104 of R.S. 37:1101-1122.

E. No advisory committee member shall be liable in any civil action for any act performed in good faith in the execution of his or her duties under Chapter 13 of Title 37.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:153 (February 2003), amended LR 29:

Chapter 29. Advisory Committee Meetings, Procedures, Records, Powers and Duties

§2911. Records

A. The advisory committee shall maintain records of pertinent matters relating to application, licensure, and discipline. Registers of LMFT-approved supervisors and LMFT-registered supervisor candidates and a register of licensed marriage and family therapists shall be made available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:154 (February 2003), amended LR 29:

Chapter 31. License of Title for Marriage and Family Therapy

§3105. Definitions for Licensed Marriage and Family Therapists

Advisory Committee C the Marriage and Family Therapy Advisory Committee.

Assessment C

- 1. the evaluation through the use of systems oriented methods and processes of:
 - a. individual;
 - b. couple;
 - c. family; and
 - d. larger systems;
- 2. for the purpose of:
 - a. developing treatment plans;
 - b. monitoring psychotherapeutic processes;
 - c. measuring psychotherapeutic progress; and
 - d. measuring psychotherapeutic outcomes;
- 3. such evaluation may include the use of:
 - a. informal; or
 - b. formal instruments;
- 4. for which the licensed marriage and family therapist has received:
 - a. appropriate training; and
 - b. supervision in:
 - i. individual settings; and
 - ii. group settings.

Board the Louisiana Licensed Professional Counselors Board of Examiners

Marriage and Family Therapy the professional application of psychotherapeutic and family systems theories and techniques in the assessment and treatment of:

1. individuals;
2. couples; and
3. families.

Qualified Supervision the supervision of the clinical services of an applicant working toward licensure as a licensed marriage and family therapist:

1. in accordance with standards developed by the advisory committee; and
2. by an individual who has been recognized by the advisory committee as an LMFT-approved supervisor or an LMFT-registered supervisor candidate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:154 (February 2003), amended LR 29:

Chapter 33. Requirements for Licensure

§3303. Definitions

Allied Mental Health Discipline includes, but may not be limited to, mental health counseling, social work, psychology, psychiatric nursing, and psychiatry.

Applicant any individual seeking licensure who has submitted an official application and paid the application fee.

Appropriate Graduate Degree a master's or doctoral degree from a college or university accredited by the Southern Association of Colleges and Schools (SACS), or a comparable accrediting body. If a discipline requires a specific terminal degree, that degree will be considered the appropriate degree.

Client Contact Hour a 50-minute period a therapist spends working face-to-face with an individual, couple, family, or group.

Direct Client Contact face-to-face (therapist and client) therapy with individuals, couples, families, and/or groups from a relational perspective. Activities such as telephone contact, case planning, observation of therapy, record keeping, travel, administrative activities, consultation with community members or professionals, or supervision, are not considered direct client contact. Assessments done face-to-face and more than clerical in nature and focus may be counted as direct client contact. Psychoeducation may be counted as direct client contact.

Marriage and Family Therapist Intern or MFT Intern a person who has earned a qualifying graduate degree and is receiving MFT approved postgraduate supervision.

Recognized Educational Institution a postgraduate training institute or any regionally accredited educational institution that grants a master's or doctoral degree that meets the standards established by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as determined by the advisory committee or, until June 30, 2003, the standards for marriage and family counseling or therapy established by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as determined by the ad hoc committee on licensure and supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003), amended LR 29:

§3307. Specific Licensing Requirements for

Applications Made on or before June 30, 2004

A. On applications postmarked on or before June 30, 2004, the board upon recommendation of the advisory committee shall issue licenses to applicants who meet the requirements in this section.

1. Specific requirements for §3307 may be met in one of four ways:

a. an appropriate graduate degree and two years of supervised clinical experience:

i. the applicant must have an appropriate graduate degree in:

(a). marriage and family therapy; or

(b). an allied mental health discipline; and

ii. have completed, after the receipt of a qualifying degree:

(a). at least two years of supervised clinical experience; and

(b). a minimum of 1000 hours of direct client contact;

(i.) in the practice of marriage and family therapy; or

(ii.) as part of the scope of practice of an allied mental health discipline;

b. persons with appropriate graduate degrees who do not meet the two years of supervised clinical experience may apply to become MFT interns:

i. the minimum of 1000 hours of direct client contact may be met by:

(a). supervised clinical experience obtained in the degree program beyond that required for the degree; and

(b). supervision recommended for approval by the advisory committee;

ii. applicants may not become licensed without two years of post-degree clinical experience;

c. current clinical membership in the Association for Marriage and Family Therapy (AAMFT);

i. verification of such membership sent directly from AAMFT will be accepted as a presumption of having met both the educational and clinical experience required;

d. a valid license from a licensing body that requires standards substantially equivalent to the licensing requirements for licensed marriage and family therapists in Louisiana as specified in Subparagraph A.1.a.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003), amended LR 29:

§3309. Specific Licensing Requirements for

Applications Made after June 30, 2004

A. For applications postmarked after June 30, 2004, the board upon recommendation of the advisory committee shall issue licenses to applicants who meet the requirements in this section.

1. Summary of Specific Requirements for §3309

a. Academic Requirements

i. A master's or doctoral degree from a marriage and family therapy program that meets the standards established by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as determined by the advisory committee in a regionally accredited educational institution or training from a postgraduate training institute that meets the standards established by COAMFTE as determined by the advisory committee; or

ii. until June 30, 2003, a master's or doctoral degree in mental health counseling with a specialization in marriage and family counseling that substantially meets the standards established by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as determined by the ad hoc committee on licensure and supervision from a regionally accredited educational institution or training from a postgraduate training institute that meets the standards established by CACREP as determined by the ad hoc committee on licensure and supervision; or

iii. an appropriate graduate degree in an allied mental health field from a regionally accredited educational institution with graduate level coursework equivalent to:

(a). a master's degree in marriage and family therapy that meets the standards established by COAMFTE as determined by the advisory committee and specified in §3311 Academic Requirements for Equivalency; or

(i). until June 30, 2003, the standards for marriage and family counseling or therapy established by CACREP as determined by the ad hoc committee on licensure and supervision and specified in §3311. Academic Requirements for Equivalency.

b. Supervision Requirements

i. Applicants must complete a minimum of two years of supervised work experience in marriage and family therapy as specified in §3315 Supervision Requirements after receipt of a qualifying degree.

c. Examination Requirements

i. Applicants must pass the national examination in marriage and family therapy as specified in §3313 Examination Requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:156 (February 2003), amended LR 29:

§3311. Academic Requirements for Equivalency after June 30, 2004

A. General

1. An applicant must have completed a minimum of 48 semester hours or its equivalent of graduate coursework.

2. One course is defined as 3 semester credits, 4 quarter credits, or 45 didactic contact hours (i.e., lecture hours).

3. If titles of academic courses are not self-explanatory, their content and relevance must be substantiated by the applicant through course descriptions in official school catalogs, bulletins, syllabi, or by other means approved by the advisory committee.

4. Undergraduate level courses will not meet academic requirements unless the applicant's official transcript clearly shows that the course was given graduate credit.

5. Only coursework taken for credit and receiving a passing grade will be accepted.

6. Coursework taken outside of a program of studies for which a degree was granted must receive an "A," "B," or "pass."

7. In a postgraduate training program, a minimum of 45 contact hours will be considered equivalent to a 3-hour semester credit course.

8. An applicant who wishes to make up academic deficiencies may propose a plan of additional coursework to the advisory committee.

9. An applicant who has completed a master's degree program in marriage and family therapy or counseling that was accredited by the Council on the Accreditation of Counseling and Related Educational Programs (CACREP) and has a minimum of six graduate courses in Marriage and Family Therapy, will be determined by the Advisory Committee and the Board to have met the equivalency of standards established by the Commission on Accreditation for Marriage and Family Education (COAMFTE).

B. Specific equivalency requirements that meet the standards for marriage and family therapy established by COAMFTE as determined by the advisory committee.

1. Academic Course Content. An applicant with a graduate degree in an allied mental health field must have coursework in each of the following areas (one course equals three semester hours).

a. Theoretical Knowledge of Marriage and Family TherapyCa minimum of two courses.

i. Courses in this area shall contain such content as the historical development, theoretical and empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy and will be related conceptually to clinical concerns. Students will be able to conceptualize and distinguish the critical epistemological issues in the profession of marriage and family therapy. Materials covered will provide a comprehensive survey and substantive understanding of the major models of marriage, couple, and family therapy.

b. Clinical Knowledge of Marriage and Family TherapyCa minimum of four courses.

i. Courses in this area shall contain such content as:

(a). couple and family therapy practice and be related conceptually to theory;

(b). contemporary issues, which include but are not limited to gender, violence, addictions, and abuse, in the treatment of individuals, couples, and families from a relational/systemic perspective;

(c). a wide variety of presenting clinical problems;

(d). issues of gender and sexual functioning, sexual orientation, and sex therapy as they relate to couple, marriage and family therapy theory and practice;

(e). diversity and discrimination as it relates to couple and family therapy theory and practice.

c. Assessment and Treatment in Marriage and Family TherapyCa minimum of two courses.

i. Courses in this area shall contain such content from a relational/systemic perspective as:

(a). psychopharmacology;

(b). physical health and illness;

(c). traditional psychodiagnostic categories; and
(d). the assessment and treatment of major mental health issues. One course must be in psychopathology.

d. Individual, Couple, and Family DevelopmentCa minimum of one course.

i. Courses in this area shall contain such content as individual, couple, and family development across the lifespan.

e. Professional Identity and EthicsCa minimum of one course

i. Courses in this area shall contain such content as:

(a). professional identity, including professional socialization, scope of practice, professional organizations, licensure, and certification;

(b). ethical issues related to the profession of marriage and family therapy and the practice of individual, couple, and family therapy. A generic course in ethics does not meet this standard;

(c). the AAMFT Code of Ethics, confidentiality issues, the legal responsibilities and liabilities of clinical practice and research, family law, record keeping, reimbursement, and the business aspects of practice;

(d). the interface between therapist responsibility and the professional, social, and political context of treatment.

f. ResearchCa minimum of one course.

i. Courses in this area shall include significant material on research in couple and family therapy; focus on content such as research methodology, data analysis and the evaluation of research, and include quantitative and qualitative research.

g. Additional LearningCa minimum of one course.

i. Courses in this area will augment students' specialized interest and background in individual, couple, and family therapy and may be chosen from coursework offered in a variety of disciplines.

2. Supervised Clinical PracticumC500 supervised direct client contact hours with 100 hours of face-to-face supervision. At least 250 of these hours will be with couples or families present in the therapy room.

a. The training of the supervisor must be equivalent to that of an AAMFT approved supervisor or AAMFT supervisor candidate.

b. If a student is simultaneously being supervised and having direct client contact, the time may be counted as both supervision time and direct client contact time.

C. Until June 30, 2003, specific equivalency requirements that meet the standards for marriage and family counseling/therapy established by CACREP as determined by the committee on mental health counseling licensure/supervision for the advisory committee.

1. Academic Course Content. To fulfill the CACREP requirements of the academic component for eligibility, the applicant must have completed a minimum of four courses from the following areas.

a. Foundations of Marital, Couple, and Family Counseling/Therapy:

i. the history of marital, couple, and family counseling/therapy including philosophical and etiological

premises that define the practice of marital, couple, and family counseling/therapy;

ii. the structure and operations of professional organizations, preparation standards, and credentialing bodies pertaining to the practice of marital, couple, and family counseling/therapy (e.g., the International Association of Marriage and Family Counselors);

iii. the ethical and legal considerations specifically related to the practice of marital, couple, and family counseling/therapy (e.g., the *ACA* and *IAMFC Code of Ethics*);

iv. the implications of professional issues unique to marital, couple, and family counseling/therapy including recognition, reimbursement, and right to practice;

v. the role of marital, couple, and family counselors/therapists in a variety of practice settings and in relation to other helping professionals; and

vi. the role of racial, ethnic, and cultural heritage, nationality, socioeconomic status, family structure, age, gender, sexual orientation, religious and spiritual beliefs, occupation, physical and mental status, and equity issues in marital, couple, and family counseling/therapy.

b. Contextual Dimensions of Marital, Couple, and Family Counseling/Therapy:

i. marital, couple, and family life cycle dynamics, healthy family structures, and development in a multicultural society, family of origin and intergenerational influences, cultural heritage, socioeconomic status, and belief systems;

ii human sexuality issues and their impact on family and couple functioning, and strategies for their resolution; and

iii. societal trends and treatment issues related to working with diverse family systems (e.g., families in transition, dual-career couples, and blended families).

c. Knowledge and skill requirements for marital, couple, and family counselor/therapists:

i. family systems theories and other relevant theories and their application in working with couples and families, and other systems (e.g., legal, legislative, school and community systems) and with individuals;

ii. interviewing, assessment, and case management skills for working with individuals, couples, families, and other systems; and implementing appropriate skill in systemic interventions;

iii. preventive approaches for working with individuals, couples, families, and other systems such as pre-marital counseling, parenting skills training, and relationship enhancement;

iv. specific problems that impede family functioning, including issues related to socioeconomic disadvantage, discrimination and bias, addictive behaviors, person abuse, and interventions for their resolution; and

v. research and technology applications in marital, couple, and family counseling/therapy.

2. The supervised CACREP clinical practice must include:

a. a 100-hour practicum, of which 40 hours must be direct client contact; and

b. a 600-hour internship, of which 240 hours must be direct hour contact. The requirements for this internship are:

- i. it must occur in a counseling setting, under the clinical supervision of a site supervisor;
- ii. direct service clock hours are defined as work with couples, families, and individuals from a systems perspective;
- iii. at least half the direct service clock hours must be with couples and family units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:156 (February 2003), amended LR 29:

§3315. Supervision Requirements

A. General Provisions

1. Applicants who apply before June 30, 2004, who meet the degree requirements but do not meet the experience requirements and applicants who apply after June 30, 2004, who meet the degree requirements must successfully complete two years of work experience in marriage and family therapy under qualified supervision in accordance with COAMFTE supervision standards as described in this section.

B. Definitions for Supervision

Co-Therapy Supervision supervision outside the session on cases in which the supervisor is a co-therapist.

Consultation a voluntary relationship between professionals of relative equal expertise or status wherein the person being consulted offers his/her best advice or information on an individual case or problem for use by the person asking for assistance. The consultant has no functional authority over the person asking for assistance, no legal or professional accountability for either the services performed or the welfare of the client. Consultation is not supervision. Experience under contract for consultation will not be credited toward fulfillment of supervision requirements.

Group Supervision face-to-face supervision of more than two MFT Interns and no more than six MFT Interns per group regardless of the number of supervisors. Group supervision provides the opportunity for the supervisees to interact with other supervisees and offers a different learning experience than that obtained from individual supervision.

Individual Supervision face-to-face supervision of one or two individuals by one supervisor.

LMFT-Approved Supervisor an individual who has met requirements and takes responsibility for the practice of the supervisee during a specific time to enable the supervisee to meet the requirements of licensing. The supervisor is responsible for the delivery of services, the representation to the public of services, and the supervisor/supervisee relationship.

LMFT-registered Supervisor Candidate an individual under the supervision of an LMFT-approved supervisor for the purpose of qualifying as an LMFT-approved supervisor.

Live Supervision supervision (individual and /or group) in which the supervisor directly observes the case while the therapy is being conducted and has the opportunity to provide supervisory input during the session. When a supervisor conducts live supervision the time is counted as

individual supervision for up to two interns providing therapy in the room with the client(s) and for up to two interns observing the therapy and interacting with the supervisor. The time is counted as group supervision when more than two MFT interns involved in direct client contact or more than two observers interacting with the supervisor are present, providing that there are no more than six interns involved.

MFT Intern an individual who has been recommended by the LMFT Advisory Committee and approved by the Board for supervision by an LMFT-approved supervisor.

Qualified Supervision supervision of the clinical services of an MFT intern by an LMFT-approved supervisor or LMFT-registered supervisor candidate recommended by the MFT Advisory Committee and approved by the Board.

Supervision the professional relationship between a supervisor and supervisee that promotes the development of responsibility, skill, knowledge, and ethical standards in the practice of licensed marriage and family therapy. In addition to monitoring the MFT intern's supervised interaction with clients, the supervisor provides regular, face-to-face guidance and instruction. Supervision may include, without being limited to, the review of case presentations, audiotapes, videotapes, and direct observation.

Registered Candidate for LMFT-approved Supervisor Plan a written agreement on a form required by the advisory committee that establishes the supervisory framework for supervision of a licensed marriage and family therapist who is training to become an LMFT approved supervisor.

Supervised Experience Plan a written agreement on a form required by the advisory committee that establishes the supervisory framework for postgraduate clinical experience and describes the expectations and responsibilities of the supervisor and the supervisee.

Work Experience includes direct client contact and activities such as telephone contact, case planning, observation of therapy, record keeping, travel, administrative activities, consultation with community members or professionals, or supervision.

C. Supervision Requirements for Licensure

1. After receipt of a qualifying degree an applicant must complete a minimum of two years of work experience in marriage and family therapy that includes at least three thousand hours of clinical services to individuals, couples, or families.

a. At least 2000 hours of these hours must be direct clinical services.

b. The remaining 1000 hours may come from related experiences that may include but are not limited to workshops, public relations, writing case notes, consulting with referral sources, etc.

c. Supervisees should apply systemic theories and treatment with all clients and make every effort to work with as many couples and families as possible.

2. The required supervision must include at least 200 hours of supervision, of which at least 100 hours must be individual supervision. Up to 100 hours of supervision received during a graduate program that can be documented as systemic may be counted toward the 200 hours.

3. The work experience shall be obtained over not less than two years.

4. After the supervision plan is submitted and fees are paid, the board upon recommendation of the advisory committee will approve supervisors before supervision begins. Supervision hours may not be counted until after approval. Approval of a supervised experience plan does not mean that the supervised experience when completed will be automatically approved.

5. To meet the requirements of the supervised clinical experience, the supervisee must:

a. meet face-to-face with the supervisor for sustained and intense learning customarily for one hour per 10 hours of client contact, with once every other week, the minimum; and three times a week ordinarily the maximum;

b. file with the advisory committee a supervised experience plan as defined in §3315.B.Definitions for Supervision.

6. It is recommended that the supervisory experience include sequentially at least two supervisors with diverse family therapy orientations, such as, but not limited to, narrative, MRI, Bowenian, structural, strategic, behavioral, or solution focused.

7. The following are not acceptable as approved supervision:

a. peer supervision (supervision by a person of equivalent, rather than superior, qualifications, status and experience);

b. supervision by current or former family members (such as parents, spouse, former spouse, siblings, children, cousins, present or former in-laws, aunts, uncles, grandparents, grandchildren, step-children), anyone sharing the same household, employees, or any other person where the nature of the personal relationship prevents or makes difficult the establishment of a professional relationship. For purposes of this rule, a supervisor shall not be considered an employee of the supervisee if the only compensation received by the supervisor consists of payment for actual supervisory hours;

c. administrative supervision (administrative supervision by an institutional director or executive, for example, conducted to evaluate job performance or for case management rather than the clinical supervision of the quality of therapy given to clients);

d. a primarily didactic process wherein techniques or procedures are taught in a group setting, classroom, workshop, or seminar;

e. consultation, staff development, or orientation to a field program, or role-playing of family interrelationships as a substitute for current clinical practice in an appropriate clinical situation.

D. Qualifications of an LMFT-approved Supervisor and an LMFT-registered Supervisor Candidate

1. Supervision not provided by an LMFT-approved supervisor or an LMFT-registered supervisor candidate as determined by the advisory committee will not be counted toward licensure.

2. A supervisor may not have more than a combined total of 10 supervisees, including MFT interns and interns in other disciplines and/or registered supervisor candidates at the same time.

3. A person who wishes to become an LMFT-approved supervisor must be a licensed marriage and family therapist and must submit a completed application that documents that he or she meets the requirements in one of two ways.

a. The applicant may meet the requirements by meeting the following requirements.

i. Coursework requirements:

(a). a one-semester graduate course in marriage and family therapy supervision from a regionally accredited institution; or

(b). an equivalent course of study consisting of a 15-hour didactic component and a 15-hour interactive component in the study of marriage and family therapy supervision approved by the advisory committee. The interactive component must include a minimum of four persons.

ii. Experience requirements:

(a). has at least two years experience as a licensed Marriage and Family therapist.

iii. Supervision of Supervision

(a). Before June 30, 2005, an applicant must have 36 hours of supervision of supervision for marriage and family therapy from a person considered to be a qualified supervisor by the advisory committee.

(b). Before June 30, 2005, applicants with a degree in marriage and family therapy or its equivalent as determined by the advisory committee who meet the requirements in Clauses i. and ii. in this Subparagraph will not be required to obtain the 36 hours of supervision of supervision.

(c). After June 30, 2005, supervision of supervision must be taken from an LMFT-approved supervisor.

b. Designation as an AAMFT Approved Supervisor qualifies a person to become an LMFT approved supervisor. Documentation must be submitted and recommended by the advisory committee for Board approval.

4. LMFT-Registered Supervisor Candidate

a. A person who wishes to become an LMFT-registered supervisor candidate must submit an application provided by the board upon recommendation of the advisory committee that:

i. includes documentation that he has at least two years experience as a Licensed Marriage and Family Therapist;

ii. either documents that he or she has met the coursework and interactional requirement specified in Clause D.3.a.i. or proposes how this requirement shall be met;

iii. includes the name of the LMFT-approved supervisor who will be supervising his or her supervision of MFT interns and the approximate dates such supervision will begin and end.

b. The advisory committee will review the application and inform the individual in writing that the proposed supervision of supervision arrangement either has been approved or rejected. Any rejection letter will outline the reasons for rejection.

c. An advisory committee member cannot participate in deliberations or votes on any applicant who has been supervised by that advisory committee member.

d. Upon completion of the required hours of supervision of supervision, the registered supervisor candidate must submit an application to become an LMFT approved supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:158 (February 2003), amended LR 29:

Chapter 35. Renewal of License

§3501. General Provisions

A. Licenses shall be renewed every two years. The licensee shall submit an application form and payment of the renewal fee. Renewals must be postmarked no later than December 31. Upon approval by the advisory committee, the board shall issue a document renewing the license for two years.

B. A license not renewed shall lapse December 31. To renew a lapsed license, the licensee must pay all fees in arrears and provide documentation of the continuing education requirements. A lapsed license not renewed within two years will expire and the individual must re-apply under the current Rules for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:160 (February 2003), amended 29:

§3503. Continuing Education Requirements

A. General Guidelines

1. A licensee must accrue 40 clock hours of continuing education by every renewal period every two years.

2. One continuing education unit (CEU) is equivalent to one clock hour.

3. Accrual of continuing education begins only after the date the license was issued.

4. Continuing education hours accrued beyond the required 40 clock hours may not be applied toward the next renewal period. Renewal periods run from January 1 to December 31

5. The licensee is responsible for keeping a personal record of his/her continuing education hours until official notification of renewal is received. Do not forward documentation of continuing education hours to the board office as they are accrued.

6. At the time of renewal 10 percent of the licensees will be audited to ensure that the continuing education requirement is being met. Licensees audited will be requested by letter to submit documentation as specified in §3503.B of their continuing education hours.

7. Licensees will be asked in the renewal application to note any changes in areas of expertise. The advisory committee, at its discretion, may require the licensee to present satisfactory documentation supporting these changes.

8. A licensee must accrue three clock hours of training in ethics that specifically addresses ethics for licensed marriage and family therapy as defined in Subparagraph C.3.e every renewal period. A generic ethics class will not be acceptable.

9. Those licensed marriage and family therapists who hold another license that requires continuing education hours may count the continuing education hours obtained for that license toward their LMFT CEU requirements. Of the 40 CEU's submitted, however, 20 hours must be in the area of marriage and family therapy with an emphasis upon systemic approaches or the theory, research, or practice of systemic psychotherapeutic work with couples or families including three hours of ethics specific to marriage and family therapy.

10. The approval of and requirements for continuing education are specified in Subsection C.

B. Types of documentation needed for continuing education audit:

1. copy of certificate of attendance for workshops, seminars, or conventions;

2. copy of transcript for coursework taken for credit/audit;

3. letter from workshop/convention coordinator verifying presentation;

4. copy of article plus the table of contents of the journal it appears in, copy of chapter plus table of contents for chapter authored for books, title page and table of contents for authoring or editing books, letter from conference coordinator or journal editor for reviewing refereed workshop presentations or journal articles.

C. Approved Continuing Education for Licensed Marriage and Family Therapists

1. Continuing education requirements are meant to ensure personal and professional development throughout an individual's career.

2. An LMFT may obtain the 40 clock hours of continuing education through the options listed. All continuing education hours may be obtained through Subparagraph a or 20 of the 40 hours may be obtained through Subparagraph b:

a. Direct participation in a structured educational format as a learner in continuing education workshops and presentations or in graduate coursework (either for credit or audit).

i. The advisory committee will accept workshops and presentations approved by the American Association for Marriage and Family Therapy (AAMFT) and its regional or state divisions including the Louisiana Association for Marriage and Family Therapy (LAMFT). Contact them directly to find out which organizations, groups, or individuals are approved providers graduate coursework either taken for credit or audit must be from a regionally accredited college or university and in the areas of marriage and family therapy described in Paragraph C.3.

ii. Licensees may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner. Credit cannot be given to persons who leave early from an approved session or to persons who do not successfully complete graduate coursework.

iii. Continuing education taken from organizations, groups, or individuals not holding provider status by one of the associations listed in Clause i. will be subject to approval by the advisory committee at the time of renewal.

(a). The advisory committee will not pre-approve any type of continuing education.

(b). The continuing education must be in one of the seven approved content areas listed in §3503.C and given by a qualified presenter.

(c). A qualified presenter is someone deemed by the advisory committee to be a professional in marriage and family therapy, another mental health profession, or another profession with information, knowledge, and skills relevant to the practice of marriage and family therapy.

(d). One may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner.

(e). Credit cannot be granted for business/governance meetings; breaks; and social activities including meal functions, except for the actual time of an educational content speaker.

(f). Credit may not be given for marketing the business aspects of one's practice, time management, supervisory sessions, staff orientation, agency activities that address procedural issues, personal therapy, or other methods not structured on sound educational principles or for content contrary to the LMFT Code of Ethics (Chapter 43).

b. Optional Ways to Obtain Continuing Education (20 Hours Maximum)

i. Licensees may receive one clock hour of continuing education for each hour of direct work in:

(a). teaching a marriage and family therapy course (10 hours maximum) in an area as described in Paragraph C.3 in an institution accredited by a regional accrediting association. Continuing education hours may be earned only for the first time the individual teaches the course, or

(b). authoring, editing, or reviewing professional manuscripts or presentations (10 hours maximum) in an area of marriage and family therapy as described in Paragraph C.3. Articles must be published in a professional refereed journal.

ii. Presentations at workshops, seminars, symposia, and meetings in an area of marriage and family therapy as described in Paragraph C.3 may count for up to 10 hours maximum at a rate of two clock hours per one-hour presentation. Presenters must meet the qualifications stated in Subparagraph 2.a. The presentation must be to the professional community, not to the lay public or a classroom presentation.

3. Continuing education hours must be relevant to the practice of marriage and family therapy and generally evolve from the following seven areas.

a. Theoretical Knowledge of Marriage and Family Therapy. Continuing education in this area shall contain such content as the historical development, theoretical and empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy and will be related conceptually to clinical concerns.

b. Clinical Knowledge of Marriage and Family Therapy: Continuing education in this area shall contain such content as:

i. couple and family therapy practice and be related conceptually to theory;

ii. contemporary issues, which include but are not limited to gender, violence, addictions, and abuse, in the treatment of individuals, couples, and families from a relational/systemic perspective;

iii. a wide variety of presenting clinical problems;

iv. issues of gender and sexual functioning, sexual orientation, and sex therapy as they relate to couple, marriage and family therapy theory and practice;

v. diversity and discrimination as it relates to couple and family therapy theory and practice.

c. Assessment and Treatment in Marriage and Family Therapy. Continuing education in this area shall contain such content from a relational/systemic perspective as psychopharmacology, physical health and illness, traditional psychodiagnostic categories, and the assessment and treatment of major mental health issues.

d. Individual, Couple, and Family Development. Continuing education in this area shall contain such content as individual, couple, and family development across the lifespan.

e. Professional Identity and Ethics in Marriage and Family Therapy. Continuing education in this area shall contain such content as:

i. professional identity, including professional socialization, scope of practice, professional organizations, licensure and certification;

ii. ethical issues related to the profession of marriage and family therapy and the practice of individual, couple and family therapy. Generic education in ethics does not meet this standard;

iii. the AAMFT Code of Ethics, confidentiality issues, the legal responsibilities and liabilities of clinical practice and research, family law, record keeping, reimbursement, and the business aspects of practice;

iv. the interface between therapist responsibility and the professional, social, and political context of treatment.

f. Research in Marriage and Family Therapy. Continuing education in this area shall include significant material on research in couple and family therapy; focus on content such as research methodology, data analysis and the evaluation of research, and include quantitative and qualitative research.

g. Supervision in Marriage and Family Therapy: Continuing education in this area include studies in theory and techniques of supervision as well as ethical and legal issues, case management, and topics relative to the specific supervised training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:160 (February 2003), amended LR 29:

§4720. AppendixC Statement of Practice for Licensed Marriage and Family Therapists

A. Each licensed marriage and family therapist/MFT intern in Louisiana shall write a statement of practice incorporating the following information to provide to all clients. Licensed marriage and family therapists also licensed in other mental health professions may need to add additional information required by that licensure. This statement is subject to review and approval by the advisory

committee. Sample statements of practice are available from the board office.

1. Your name, mailing address, and telephone number.
2. Qualifications:
 - a. degrees earned and institution(s) attended;
 - b. your LMFT licensure number, noting that the Board of Examiners is the grantor of your license. Include the address and telephone number of the board;
 - c. other licensure numbers, including the name, address, and telephone number of the grantor;
 - d. an MFT intern must use this title and include the name and address of his/her approved supervisor and a brief explanation of how supervision affects the therapy provided.
3. Specify the type(s) of clients you serve.
4. Specialty Areas
 - a. List your specialty areas such as family of origin, parenting, stepfamilies, adolescents, marriage, etc.
 - b. List your national certifications.
5. What Clients Can Expect from Therapy
 - a. Briefly describe the theoretical orientation and the type of techniques and/or strategies that you use in therapy.
 - b. Briefly describe your philosophical view of therapy, including clients' input for treatment plans.
 - c. Briefly describe your general goals and objectives for clients.
6. Note Any Expectations that You Have for Clients
 - a. Clients are expected to inform you before and during the therapy about seeing another mental health professional or professional in another discipline because of the possible impact upon therapy.
 - b. Clients are expected to inform you on their intake form and during therapy of their general physical health, any medical treatments that may impact their therapy and any medications that they are taking.
 - c. You are required to include that clients must make their own decisions regarding such things as deciding to marry, divorce, separate, reconcile, and how to set up custody and visitation; that is, you may help them understand the consequences of various decisions, but your code of ethics does not allow you to advise a specific decision.
7. Code of Ethics
 - a. State that you are required by state law to adhere to The Louisiana Code of Ethics for Licensed Marriage and Family Therapists; and
 - b. that a copy is available on request;
 - c. you might want to specifically note some of the provisions in the Code of Ethics that you would like clients to be aware of;
8. Describe the Rules governing privileged communication for Licensed Marriage and Family Therapists. You may use your own language, but need to cover all the areas included in the Sample Statement and 8 (a-c).
 - a. Include instances where confidentiality may be waived. This includes, but is not limited to danger to self or others, suspected child abuse/neglect, elderly abuse/neglect, or disabled adult abuse/neglect.

b. Include the information that when providing couple, family or group treatment, a licensed marriage and family therapist cannot:

- i. disclose any information outside the treatment context without a written authorization from each individual competent to execute a waiver; and
 - ii. may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.
- c. If you audio- or video-tape sessions, include information specific to their use.
 - d. See Chapter 39 and the Code of Ethics in the Appendix for Rules on privileged communication.
9. State your policy for emergency client situations.
 10. Fees, Office Procedures, Insurance Policies
 - a. List your fees and describe your billing policies.
 - b. State your policy on insurance payments.
 - c. Describe your policy on payments, scheduling and breaking appointments, etc.
 11. Adequately inform clients of potential risks and benefits of therapy. You may use your own language and are not required to use the examples given in a-f:
 - a. clients may realize that they have additional issues that they were not aware of before the therapy as a result of the therapy;
 - b. making changes through therapy may bring about unforeseen changes in a person's life;
 - c. individual issues may surface for each spouse as clients work on a marital relationship;
 - d. making changes in communication and/or ways of interacting with others may produce adverse responses from others;
 - e. marital or family conflicts may intensify as feelings are expressed;
 - f. individuals in marital or family therapy may find that spouses or family members are not willing to change.
 12. Briefly add any additional information that you believe is important for your clients to be informed about your qualifications and the therapy that you provide.
 13. End with a general statement indicating that the client(s) have read and understand the statement of practice, providing spaces for the date, client(s)' signatures, and your signature. MFT Interns need to have a line for their LMFT-approved supervisor's signature.
 - B. Provide clients with a copy or copies of the signed statement of practice.
 - C. A Licensed Marriage and Family Therapist/MFT Intern must have a copy of his/her statement of practice on file in the board office. An MFT Intern must include a copy of his/her statement of practice with his/her Registration of Supervision. The Code of Ethics can be duplicated for clients and additional copies are available at www.lpcboard.org or from the board office.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.
- HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:172 (February 2003), amended LR 29:

Gary S. Grand
Board Chair

0309#022

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies Small Rural Hospitals (LAC 50:V.311)

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

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

In accordance with the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 and the findings and recommendations contained in the final reports of the study committees, the department promulgated an Emergency Rule that repealed and replaced all provisions governing disproportionate share hospital payments (*Louisiana Register, Volume 29, Number 6*). Acts 14, 526 and 1148 of the 2003 Regular Session of the Louisiana Legislature directed the department to amend the qualifying criteria and the payment methodology for disproportionate share payments to small rural hospitals. In compliance with Acts 14, 526 and 1148, the bureau proposes to amend the July 1, 2003 Emergency Rule. This action is necessary to enhance federal revenue. It is anticipated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2003-2004.

Effective September 20, 2003 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the July 1, 2003 Emergency Rule and revises qualifying criteria and the payment methodology for disproportionate share payments to small rural hospitals.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 3. Disproportionate Share Hospital Payment Methodologies

§311. Small Rural Hospitals

A. Definitions

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

all other inpatient and outpatient payments received from patients.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. Pro Rata Decrease

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

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

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

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

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

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

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

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

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

David W. Hood
Secretary

0309#103

DECLARATION OF EMERGENCY

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

Early and Periodic Screening, Diagnosis and Treatment Program—Early Intervention Services for Infants and Toddlers with Disabilities (LAC 50:XV.8105)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends LAC 50:XV.Chapter 81 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.

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an emergency rule establishing early intervention services for infants and toddlers with disabilities under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Medicaid covered early intervention services include physical therapy, occupational therapy, speech therapy, audiology services, psychological services and targeted case management (*Louisiana Register, Volume 29, Number 7*). These individual services are also furnished to Medicaid recipients through the outpatient hospital, home health, EPSDT health services, rehabilitation center, and targeted case management service programs. Upon further consideration, the bureau has decided to repeal targeted case management as a covered service under the EPSDT early intervention services for infants and toddlers with disabilities. This action is necessary in order to avoid federal sanctions. It is anticipated that implementation of this Emergency Rule will be revenue neutral for state fiscal year 2003-2004.

Effective September 20, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the July 7, 2003 Emergency Rule to repeal targeted case management (family service coordination) as a covered service under the Early and Periodic Screening, Diagnosis and Treatment Program early intervention services for infants and toddlers with disabilities.

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

Chapter 81. Early Intervention Services

§8105. Covered Services

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

1. physical therapy;
2. occupational therapy;
3. speech therapy;
4. audiology services; and
5. psychological services.

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

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

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

Implementation of this proposed rule is subject to approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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

David W. Hood
Secretary

0309#110

DECLARATION OF EMERGENCY

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

Early Periodic Screening, Diagnosis and Treatment
KidMed Services (LAC 50:XV.6705)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby adopts LAC 50:XV.6705 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 provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) KidMed Services under the Medicaid Program. The administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires national standards for electronic health care transactions and national

identifiers for providers, health plans, and employers (*Federal Register, Volume 65, Number 160*). This includes standardized procedure codes and definitions. The Department is required to implement these codes and definitions or face monetary sanctions. In compliance with HIPAA requirements, the bureau proposes to amend current Rules to clarify the billing procedures for KidMed services in order to conform to HIPAA compliant standardized procedure codes. The bureau also proposes to amend the reimbursement rates to equalize fees for all providers of EPSDT consultation services.

This action is being taken to avoid federal sanctions by complying with the mandates of the Health Insurance Portability and Accountability Act. It is estimated that implementation of this Emergency Rule will decrease expenditures for EPSDT KidMed services by approximately \$36,000 for state fiscal year 2003-2004.

Effective October 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends current Rules to clarify the billing procedures for KidMed services in order to conform to HIPAA compliant standardized procedure codes and also amends the reimbursement rates to equalize fees for all providers of EPSDT consultation services.

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

Chapter 67. KIDMED

§6705. Reimbursement

- A. ...
- B. Reimbursement for follow-up medical screening services is set for the following procedures.

Description	Rate
Consult EPSDT-New Dx by Nurse	\$13.71
Consult EPSDT-New Dx by Nutrition	\$13.71
Consult EPSDT-New Dx by Social Worker	\$13.71
Consult EPSDT-Scm Dx by Nurse	\$13.71
Consult EPSDT-Scm Dx by Nutrition	\$13.71
Consult EPSDT-Scm Dx by Social Worker	\$13.71

C. Effective with Health Insurance Portability and Accountability Act of 1996 (HIPAA) implementation (October 1, 2003), EPSDT consultation claims billed by KIDMED and physician providers will be assigned to new type of service 21 and reimbursement is set at \$13.71.

D. Timely Filing. KIDMED medical screening claims for Medicaid beneficiaries between the ages of 4 months and 20 years must be received by Louisiana KIDMED within 60 calendar days of the date of service in order to be processed and the provider reimbursed by Medicaid of Louisiana. Claims not received by Louisiana KIDMED within this time limit may be denied.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:175 (February 2003), amended LR 29:

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

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

David W. Hood
Secretary

0309#111

DECLARATION OF EMERGENCY

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

Mental Health Rehabilitation Services
Reimbursement Reduction

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 and as directed by the 2003-2004 General Appropriation Act which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This Emergency Rule is 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 Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for mental health rehabilitation services under the Medicaid Program. Reimbursement for these services is a prospective, negotiated and non-capitated rate based on the delivery of services as specified in the service agreement and the service package required for the adult and child/youth populations. As a result of a budgetary shortfall, the bureau has determined it is necessary to reduce all established reimbursement rates for mental health rehabilitation services. The reimbursement shall be 99.2 percent of the rates (a .8 percent reduction) in effect on September 30, 2003. The Commissioner of Administration approved this reduction on September 9, 2003. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Mental Health Rehabilitation Program by approximately \$329,592 for state fiscal year 2003-2004.

Emergency Rule

Effective October 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces all established reimbursement rates for mental health rehabilitation services. The reimbursement shall be 99.2 percent of the rates (.8 percent reduction) in effect on September 30, 2003.

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

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

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

David W. Hood
Secretary

0309#108

DECLARATION OF EMERGENCY

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

Non-Emergency Medical Transportation
Services C Reimbursement Methodology

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for non-emergency medical transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay.

As a result of the allocation of additional funds by the Legislature during the 2003 Regular Session, the bureau increased the reimbursement fees for certain designated procedures (*Louisiana Register, Volume 29, Number 7*). The bureau now proposes to promulgate an Emergency Rule to clarify provisions contained in the August 1, 2003 Emergency Rule. This action is necessary to avoid a budget deficit in the medical assistance programs that could result from the failure to clarify the intent of the reimbursement changed in the August 1, 2003 Emergency Rule. It is estimated that implementation of this Emergency Rule will have no fiscal impact on expenditures for non-emergency medical transportation for the state fiscal year 2003-2004.

Emergency Rule

Effective for dates of service on or after September 12, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the August 1, 2003 Emergency Rule to clarify the intent of provisions contained in the Emergency Rule. Non-emergency medical transportation provided by friends and family is not included in the August 1, 2003 reimbursement increase. These services shall continue to be reimbursed at rates in effect on July 31, 2003.

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

David W. Hood
Secretary

0309#107

DECLARATION OF EMERGENCY

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

Private Hospitals CInpatient Services Reimbursement Reduction

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 and as directed by the 2003-2004 General Appropriation Act, which states, "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is 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 Administrative Procedure 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 (nonstate) acute care general hospitals (*Louisiana Register, Volume 20, Number 6*). The June 20, 1994 Rule was subsequently amended to establish a weighted average per diem for each hospital peer group (*Louisiana Register, Volume 22, Number 1*). This Rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register, Volume 25, Number 5*).

Section 11B of Act 14 of the 2003 Regular Session of the Louisiana Legislature directed the Commissioner of Administration to reduce discretionary state general fund (direct) appropriations contained in the Act by .8 percent across-the-board, or so much thereof more or less as may be necessary, to effect savings of \$17,300,000. Subsequently, the commissioner directed the department to reduce its discretionary expenditures by .8 percent for state fiscal year 2003-2004. In response to the budgetary shortfall, the bureau has determined that it is necessary to reduce the

reimbursement paid to private (non-state) hospitals for inpatient services to 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003. However, in order to generate the amount of savings necessary to comply with the directives of Act 14, the reimbursement paid in state fiscal year 2003-2004 to private (non-state) hospitals for inpatient services shall be 98.75 percent (a 1.25 percent reduction) of the per diem rates in effect on September 30, 2003. The Commissioner of Administration approved this reduction on September 9, 2003. Small rural hospitals as defined by the Rural Hospital Preservation Act (R.S. 40:1300.143) are excluded from this reimbursement reduction. Also, inpatient services provided to fragile newborns or critically ill children in either a Level III Regional Neonatal Intensive Care Unit or a Level I Pediatric Intensive Care Unit, which units have been recognized by the department on or before January 1, 2003, shall be excluded from this reimbursement reduction. This action is being taken in order to avoid a budget deficit in the medical assistance programs. Taking the reduction in per diem rates in state fiscal year 2003-2004 into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (nonstate) inpatient hospital services under the state plan are available at least to the extent that they are available to the general population in the state. It is estimated that implementation of this emergency Rule will reduce expenditures for private hospital inpatient services by approximately \$1,972,421 for state fiscal year 2003-2004.

Emergency Rule

Effective for dates of service October 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement paid for inpatient services rendered in private (nonstate) acute hospitals, including long term hospitals. The reimbursement paid for inpatient services to private (non-state) hospitals with a Medicaid inpatient days utilization rate of less than 25 percent shall be as follows: in state fiscal year 2003-2004 only, 98.75 percent (a 1.25 percent reduction) of the per diem rates in effect on September 30, 2003 and for subsequent years, a 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003 for private hospitals.

The Medicaid inpatient days utilization rate shall be calculated based on the filed cost report for the period ending in state fiscal year 2002 and received by the Department prior to April 30, 2003. Only Medicaid covered days for inpatient hospital services, which include newborn days and distinct part psychiatric units, are included in this calculation. Inpatient stays covered by Medicare Part A can not be included in the determination of the Medicaid inpatient days utilization rate. Small rural hospitals as defined by the Rural Hospital Preservation Act (R.S. 40:1300.143) shall be excluded from this reimbursement reduction. Also, inpatient services provided to fragile newborns or critically ill children in either a Level III Regional Neonatal Intensive Care Unit or a Level I Pediatric Intensive Care Unit, which units have been recognized by the department on or before January 1, 2003, shall be excluded from this reimbursement reduction.

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

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

David W. Hood
Secretary

0309#106

DECLARATION OF EMERGENCY

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

Private Intermediate Care Facilities for the Mentally Retarded C Reimbursement Reduction

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 and as directed by the 2003-2004 General Appropriation Act, which states, "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to, pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is 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 on October 20, 1989 which established the reimbursement methodology for private intermediate care facilities for the mentally retarded (ICFs-MR) (*Louisiana Register, Volume 15, Number 10*). This Rule was subsequently amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register, Volume 25, Number 6*).

Section 11B of Act 14 of the 2003 Regular Session of the Louisiana Legislature directed the Commissioner of Administration to reduce discretionary state general fund (direct) appropriations contained in the Act by .8 percent across-the-board, or so much thereof more or less as may be necessary, to effect savings of \$17,300,000. Subsequently, the Commissioner directed the Department to reduce its discretionary expenditures by .8 percent for state fiscal year 2003-2004. In response to this budgetary shortfall, the bureau has determined that it is necessary to reduce the reimbursement paid to private (non-state) intermediate care

facilities for the mentally retarded to 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003. However, in order to generate the amount of savings necessary to comply with the directives of Act 14, the reimbursement paid in state fiscal year 2003-2004 to private (non-state) intermediate care facilities for the mentally retarded shall be 98.8 percent (a 1.2 percent reduction) of the per diem rates in effect on September 30, 2003. The Commissioner of Administration approved this reduction on September 9, 2003. This action is being taken in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures for private intermediate care facility services for the mentally retarded by approximately \$1,482,068 for state fiscal year 2003-2004.

Emergency Rule

Effective for dates of service on or after October 1, 2003 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement paid to private intermediate care facilities for the mentally retarded. In state fiscal year 2003-2004 only, the reimbursement shall be 98.8 percent (a 1.2 percent reduction) of the per diem rates in effect on September 30, 2003 and for subsequent years, 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003.

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

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

David W. Hood
Secretary

0309#105

DECLARATION OF EMERGENCY

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

Private Nursing Facilities C Reimbursement Reduction

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 and as directed by the 2003-2004 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to, pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This

Emergency Rule is 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 Administrative Procedure 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 establishing a system of prospective payment for nursing facilities based on recipient care needs that incorporates acuity measurements as determined under the Resource Utilization Group III (RUG III) resident classification methodology (*Louisiana Register, Volume 28, Number 8*). This system established a facility specific price for the Medicaid nursing facility residents served. It also provided for enhanced reimbursement for Medicaid residents who require skilled nursing services for an infectious disease and technology dependent care.

Section 11B of Act 14 of the 2003 Regular Session of the Louisiana Legislature directed the Commissioner of Administration to reduce discretionary state general fund (direct) appropriations contained in the Act by .8 percent across-the-board, or so much thereof more or less as may be necessary, to effect savings of \$17,300,000. Subsequently, the commissioner directed the department to reduce its discretionary expenditures by .8 percent for state fiscal year 2003-2004. In response to this budgetary shortfall, the bureau has determined that it is necessary to reduce the reimbursement paid to each private nursing facility for services to 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003. However, in order to generate the amount of savings necessary to comply with the directives of Act 14, the reimbursement paid in state fiscal year 2003-2004 to private nursing facilities shall be 99.175 percent (a .825 percent reduction) of the per diem rates in effect on September 30, 2003. The Commissioner of Administration approved this reduction on September 9, 2003. This action is being taken in order to avoid a budget deficit in the medical assistance program. It is estimated that implementation of this Emergency Rule will reduce expenditures to the private nursing facilities by approximately \$3,893,811 for state fiscal year 2003-2004.

Emergency Rule

Effective for dates of service on or after October 1, 2003 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces each private nursing facility's per diem case mix rate. In state fiscal year 2003-2004 the reimbursement shall be 99.175 percent of the per diem rates (a .825 percent reduction) of the per diem rates in effect on September 30, 2003 and for subsequent years, a 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003 for each private nursing facility's per diem case mix rate

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

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

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

David W. Hood
Secretary

0309#117

DECLARATION OF EMERGENCY

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

Professional Services Program
Anesthesia Services
HIPAA Implementation Reimbursement Reduction

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 as directed by the 2003-2004 General Appropriation Act which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for anesthesia services under the Medicaid Program. In September 1992, the bureau adopted a Rule establishing the reimbursement methodology for anesthesia services (*Louisiana Register, Volume 18, Number 9*). The September 1992 Rule was subsequently amended in April 1997 to clarify the policy governing anesthesia services and to establish policy governing surgery services and reimbursement for designated physician procedure codes (*Louisiana Register, Volume 23, Number 4*).

The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register, Volume 65, Number 160*). This includes standardized procedure codes and definitions. The department is required to implement these codes and definitions or face monetary sanctions.

Section 11B of Act 14 of the 2003 Regular Session of the Louisiana Legislature directed the Commissioner of Administration to reduce discretionary state general fund (direct) appropriations contained in the Act by .8 percent across-the-board, or so much thereof more or less as may be necessary, to effect savings of \$17,300,000. The Commissioner of Administration approved this reduction on September 9, 2003. Subsequently, the commissioner directed

the department to reduce its discretionary expenditures by .8 percent for state fiscal year 2003-2004.

In compliance with HIPAA requirements, the bureau proposes to amend the September 1992 and April 1997 Rules governing the billing procedures for anesthesia services. In compliance with Act 14 of the 2003 Regular Session of the Louisiana Legislature, the bureau also proposes to reduce the reimbursement rates for anesthesia services to 100 percent of the 2003 Region 99 Medicare payable.

This action is being taken to avoid federal sanctions by complying with the mandates of the Health Insurance Portability and Accountability Act and to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of the following Emergency Rule will reduce expenditures by approximately \$533,334 for state fiscal year 2003-2004.

Emergency Rule

Effective October 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the September 20, 1992 and April 20, 1997 Rules governing the billing and reimbursement of anesthesia services.

A. Billing. Physicians' Current Procedural Terminology (CPT) procedure codes in the Anesthesia section of the CPT and standard Health Care Financing Administration Common Procedure Codes (HCPCS) modifiers shall be used to bill for anesthesia, including maternity-related and pediatric anesthesia.

B. Reimbursement. The reimbursement rates for anesthesia procedures are based on 100 percent of the 2003 Region 99 Medicare payable.

1. Reimbursement for maternity-related anesthesia services shall continue to be a flat fee except for the reimbursement for general anesthesia for a vaginal delivery. This service shall continue to be reimbursed according to base units and time units.

2. Reimbursement for conscious sedation. The CPT conscious sedation codes will be used to bill for children up to the age of 13 years when a medically controlled state of depressed consciousness is the preferred method of sedation and the procedure can not be accomplished safely and/or effectively without it. Reimbursement for conscious sedation shall be at a flat rate.

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

David W. Hood
Secretary

0309#109

DECLARATION OF EMERGENCY

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

State-Operated Intermediate Care Facilities for
the Mentally Retarded/Upper Payment Limit

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

The Department of Health and Human Resources, Office of the Secretary promulgated a Rule in April 1983 establishing a uniform rate setting system for 24-hour care facilities. Under this reimbursement methodology, rates for each participating facility were established individually resulting in various rates for the same level of care (*Louisiana Register, Volume 9, Number 4*). The April 1983 rule was subsequently amended to adopt prospective rates for private mental retardation facilities licensed to provide services to Title XIX recipients (*Louisiana Register, Volume 15, Number 7*). The Department amended the reimbursement methodology for state-operated intermediate care facilities for the mentally retarded and established payments using a formula that establishes per diem rates at the Medicare Upper Payment Limit for these services (*Louisiana Register, Volume 29, Number 2*). This Emergency Rule is being promulgated to continue the provisions contained in the February 9, 2003 Rule.

This action is being taken to enhance federal revenues in the Medicaid Program.

Emergency Rule

Effective for dates of services on or after October 9, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology for state operated intermediate care facilities for the mentally retarded (ICF's-MR) and establishes payments using a formula for establishing per diem rates at the Medicare Upper Payment Limit for these services.

Medicaid payments to state-owned and operated ICF's-MR shall be based on the basic Medicare formula for determining the routine service cost limits, as follows:

1. calculate each state owned and operated ICF-MR's per diem routine costs in a base year;
2. calculate 112 percent of the average per diem routine costs; and

3. inflate 112 percent of the per diem routine costs using the skilled nursing facility (SNF) market basket index of inflation. Each state-owned and operated facility's capital and ancillary costs will be paid by Medicaid on a "pass-through" basis.

The sum of the calculations for routine service costs and the capital and ancillary costs "pass-through" shall be the per diem rate for each state-owned and operated ICF-MR. The base year cost reports to be used for the initial calculations shall be the cost reports for the fiscal year ended June 30, 2002.

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

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

David W. Hood
Secretary

0309#102

DECLARATION OF EMERGENCY

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

X-Ray Portage Fees (LAC 50:XIX.4335)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby adopts LAC 50:XIX.3 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 provides coverage and reimbursement for x-ray services under the Medicaid Program. Reimbursement for these services is a flat fee established by the bureau.

The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). This includes standardized procedure codes and definitions. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is required to implement these codes and definitions or face monetary sanctions. In compliance with HIPAA requirements, the bureau proposes to clarify the billing procedures for specific x-ray services to conform with the HIPAA compliant descriptions. This action is being taken to avoid federal sanctions by complying with the mandates of the Health Insurance Portability and

Accountability Act. It is anticipated that this action will reduce the cost of portage fees to Medicaid providers by \$1,893 for state fiscal year 2003-2004.

Effective for dates of services on or after October 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following code and procedure description and adjusts the reimbursement for portable X-ray portage fees.

**Title 50
PUBLIC HEALTHC MEDICAL ASSISTANCE
Part XIX. Other Services**

**Subpart 3. Laboratory and X-Ray
Chapter 43. Billing and Reimbursement
Subchapter B. Reimbursement
§4335. X-Ray Portage**

A. Reimbursement shall be as follows for X-ray portage fees when more than one person receives services.

Procedure Code	Procedure	Rate
R0075	Transportation of portable Xray equipment and personnel to home or nursing home per trip to facility or location, more than one person seen, per patient.	\$17.50

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

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

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

David W. Hood
Secretary

0309#104

DECLARATION OF EMERGENCY

**Department of Revenue
Office of Charitable Gaming**

Progressive Pull-Tabs (LAC 42:I.1775)

The Department of Revenue, Office of Charitable Gaming, is exercising the provisions of the Administrative Procedure Act, R.S. 49:953(B), to adopt this Emergency Rule to implement the provisions of R.S. 4:725.1 to provide guidance regarding progressive pull-tabs for organizations licensed to hold, operate, or conduct charitable games of chance.

Act 736 of the 2003 Regular Session of the Louisiana Legislature enacted R.S. 4:725.1 to authorize progressive pull-tabs during sessions licensed by the Office of Charitable Gaming. The Act established the jackpot limit and the contribution per deal of pull-tabs for the progressive jackpot. The office is adopting this Rule in order to establish guidelines related to progressive pull-tabs and to require that certain documentation and information be maintained and submitted to the office.

This Emergency Rule is effective August 15, 2003, and will remain in effect for the maximum period allowed under the Administrative Procedure act or until adoption of the permanent rule.

Title 42

LOUISIANA GAMING

Part I. Charitable Bingo, Keno, Raffle

Subpart 1. Bingo

Chapter 17. Charitable Bingo, Keno and Raffle

Subchapter E. Pull Tabs

§1775. Progressive Pull-tabs

A. Each progressive pull-tab jackpot must be established only through the play of deals bearing a licensed manufacturer's form number. Each jackpot must use the identical form number for each deal contributing to the prize jackpot. Pull-tab deals must meet all requirements as set forth in R.S. 4:725 and 725.1 and in LAC 42:I.1715, 1719, 1771, and 1773.

B. Accountability. Organizations participating in a progressive pull-tab jackpot must maintain all required forms as prescribed by the office.

1. For each progressive pull-tab jackpot, the organization must maintain, at a minimum, the following records for a period of three years from the date that the progressive game prize was awarded or the game was considered closed:

- a. date the progressive jackpot started;
- b. method or rules of determining a potential jackpot winner;
- c. method or rules of determining how a player wins the jackpot;
- d. dollar amount of contribution into the jackpot per deal;
- e. dollar amount of the jackpot cap;
- f. accumulated jackpot totals including any backup jackpots;
- g. serial number and date sold of the pull tab deals contributing to the jackpot; and
- h. name and identification of the winner with the date and amount won.

2. The organization must maintain a separate non-interest bearing charitable gaming progressive pull-tab checking account. All checks on this account must have preprinted consecutive numbers and have the words "Progressive Pull-Tab Account" and the licensee's state charitable gaming license number printed on the face of the checks. All progressive jackpot winners, regardless of the amount, must be paid by check written from this separate progressive pull-tab account. Checks made payable to cash are prohibited.

3. The amount of contribution into the jackpot per deal must be deposited into this progressive pull-tab account no later than the next banking day following the sale of a complete deal.

4. The organization must maintain a minimum balance in their progressive pull-tab account that is at least \$500 greater than the advertised accumulated jackpot total at the beginning of the session. If an organization offers more than one progressive pull-tab game, the organization must

maintain a minimum balance in their progressive pull-tab account that is at least \$500 greater than the combined jackpot totals of all progressive pull-tab games offered at the beginning of each session.

C. Multiple-locations. If an organization offers progressive pull-tabs at multiple locations, the organization must offer separate progressive pull-tabs at each location.

D. Payout Percentage. Progressive pull-tab deals must meet the payout percentage as described in LAC 42:I.1773. The percentage payout per a progressive pull-tab deal must include any contribution into the progressive jackpot from a particular deal.

E. Posting of Progressive Jackpot. Organizations must conspicuously post all progressive jackpot totals, including any backup amounts, in order for the players to determine the amount of jackpots offered at any one time. Organizations must also conspicuously post house rules in complete view of the players describing the means by which specific progressive jackpots will be awarded. Postings must be visible during the entire session offering the progressive pull-tabs.

F. Jackpot Cap Amount. Prior to a jackpot win, the organization may raise, but not lower, a pull-tab progressive jackpot cap.

G. Continuous Play. Once an organization offers a progressive pull-tab for play, the organization must continue to offer that particular progressive pull-tab at every subsequent session at that location until the jackpot and any backup jackpots are won.

H. Cease Play. If an organization ceases playing charitable gaming or wishes to stop playing a progressive jackpot pull-tab game, the organization must, with prior approval from the office, transfer the current jackpot(s) to another progressive game or determine a method to award all progressive jackpots to the players. With prior approval from the office, an organization may alter the suggested rules of the manufacturer to determine a winner.

I. Prohibitions. The following persons are strictly prohibited from playing, directly or indirectly, any progressive pull-tab games:

1. all members or volunteers holding, operating, or conducting or assisting in the holding, operating, or conducting any part of a particular charitable gaming session that offers a progressive pull-tab game;

2. licensed distributors or manufacturer owners, their shareholders, or directors at any site;

3. any employees of licensed distributors or manufacturers while on official duty during any part of a particular charitable gaming session that offers a progressive pull-tab game.

J. Submission to the Office. The manufacturer must submit, within fifteen calendar days of the progressive pull-tabs being shipped into the state, information on all progressive pull-tabs being offered. The submission of each type of progressive pull-tab must include the following:

1. form number;
2. total number of pull-tabs per deal;
3. total amount of prizes per deal including jackpot contribution; and

4. full set of rules or alternative rules for the progressive pull-tab including the method to determine winners.

AUTHORITY NOTE: Promulgated in accordance with RS. 4:725.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Charitable Gaming, LR 29:

Cynthia Bridges
Secretary

0309#002

DECLARATION OF EMERGENCY

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

Community Supervision Program (LAC 67:III.5573)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt §5573, Community Supervision Program (CSP) effective October 15, 2003. This Emergency Rule will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of June 17, 2003, 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 November 2003).

Under the provisions of the Temporary Assistance to Needy Families (TANF) Block Grant, a state may expend its Maintenance of Effort (MOE) funds on a variety of services, benefits and supports that help families become self-sufficient. To effectuate the use of its MOE funds in accordance with federal and state regulations, the Office of Family Support will count as MOE expenditures those funds expended by the Department of Public Safety and Corrections (DPSC), Office of Youth Development (OYD), to implement and administer the Community Supervision Program, a program intended to further goals and intentions of the federal TANF Block Grant. Emergency rulemaking is necessary as failure to meet MOE funding requirements in accordance with TANF regulations could result in the loss of these monies. This could cause severe federal penalties or sanctions to be imposed, or the loss of TANF Block Grant funds resulting in a decrease or termination of services.

Title 67

SOCIAL SERVICES

Part III. Family Support

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

Chapter 55. TANF Initiatives

§5573. Community Supervision Program

A. OFS shall enter into a Memorandum of Understanding (MOU) with the Department of Public Safety and Corrections (DPSC), Office of Youth Development (OYD), to provide services to youth and their families as a result of an adjudication and disposition by a court that orders DPSC/OYD to supervise youth in their communities in an effort to prevent removal from the home.

B. OYD/CSP will complete an intake/assessment and develop a case plan for addressing the needs of the youth.

The case plan will contain goals for all need areas and when indicated, include referrals to community programs for both youth and parents. These referrals may include but are not limited to:

1. case management, counseling, and in-home services;
2. parenting education and training, either in-home or out-of-home;
3. diagnostic and evaluation services provided in an attempt to make the most appropriate out-of-home placement;
4. supervision or non-residential programs for youth who remain in the home.

C. The agency will identify eligibility retroactive to October 1, 2002.

D. These services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives by providing services to youth, who are in jeopardy of removal from their homes, and their families.

E. Financial eligibility for those services attributable to TANF/Maintenance of Effort (MOE) funds is limited to eligible families, which include a minor child living with a custodial parent, an adult caretaker relative, or a legal guardian. An eligible family is one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title XIX (Medicaid) Medical Assistance Program benefits, Louisiana Children's Health Insurance Program (LACHIP) benefits, or Supplemental Security Income (SSI).

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:

Gwendolyn Hamilton
Secretary

0309#059

DECLARATION OF EMERGENCY

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

2003-2004 Hunting Season for Ducks, Coots, and Geese

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

The hunting season for ducks, coots and geese during the 2003-2004 hunting season shall be as follows.

Ducks and Coots: (60 days)

West Zone:	December 13 - January 18 November 8 - November 30
East Zone: (Including November 15 - November 30 Catahoula Lake)	December 13 - January 25

Pintail Season Dates (30 days)

West Zone: November 8 - November 30
December 13 - December 19
East Zone: November 15 - November 30
December 13 - December 26

Canvasback Season Dates (30 days)

West Zone: December 20 - January 18
East Zone: December 27 - January 25
Youth Waterfowl Weekend - November 1-2 in West Zone,
November 8-9 in East Zone

Daily Bag Limits: The daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 of which may be females), 3 mottled ducks, 1 black duck, 2 wood ducks, 3 scaup, and 2 redhead. During the specified 30 day seasons for pintails and canvasbacks and during youth hunts, the daily bag limit for pintails and canvasback is 1. Daily bag limit on coots is 15.

Mergansers the daily bag limit for mergansers is 5, only 1 of which may be a hooded merganser. Merganser limits are in addition to the daily bag limit for ducks.

Possession Limit the possession limit on ducks, coots and mergansers is twice the daily bag limit.

Geese: Light Geese (Snow, Blue And Ross's) and White-Fronted Geese
Statewide: (86 days) November 1 - November 30
December 13 - February 6

Daily bag limit on light geese (snow, blue and Ross's): 20
Possession limit on light geese (snow, blue and Ross's): None
Daily Limit on white-fronted geese: 2
Possession Limit on white-fronted geese: 4

Canada Geese: Closed in the Area Described Below

January 17 - January 25
Daily Limit on Canada geese: 1
Possession limit on Canada geese: 2

The Canada Goose Season will be open statewide except for a portion of southwest Louisiana. The closed area is described as follows: Beginning at the Texas State Line, proceeding east along Hwy. 82 to the Calcasieu Ship Channel, then north along the Calcasieu Ship Channel to its junction with the Intracoastal Canal, then east along the Intracoastal Canal to its juncture with LA Hwy. 82, then south along LA Hwy. 82 to its juncture with Parish Road 3147, then south and east along Parish Road 3147 to Freshwater Bayou Canal, then south to the Gulf of Mexico, then west along the shoreline of the Gulf of Mexico to the Texas State Line, then north to the point of beginning at LA Hwy. 82.

A special permit shall be required to participate in the Canada Goose Season. A permit is required of everyone, regardless of age, and a non-refundable \$5 administrative fee will be charged. This permit may be obtained from any license vendor.

Conservation Order for Light Geese (Snow, Blue and Ross's)

Statewide: December 1 - December 12
February 7 - March 7

Only snow, blue and Ross's geese may be taken under the terms of the Conservation Order, which allows the use of electronic calls and unplugged shotguns and eliminates the daily bag and possession limits. During the Conservation Order, shooting hours begin one-half hour before sunrise and extend until one-half hour after sunset.

Rails: November 8 - December 31
King And Clapper: Daily bag limit 15 in the aggregate, Possession 30
Sora And Virginia: Daily bag and possession 25 in the aggregate
Gallinules: November 8 - December 31
Daily bag limit 15, Possession limit 30

Shooting Hours: one-half hour before sunrise to sunset, except at the Spanish Lake Recreation Area in Iberia Parish where shooting hours, including the Conservation Order, end at 2 p.m.

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

The aforementioned season dates, bag limits and shooting hours will become effective November 1, 2003 and extend through one-half hour after sunset on March 7, 2004.

James H. Jenkins, Jr.
Secretary

0309#016

DECLARATION OF EMERGENCY

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

2003-2004 Oyster Season

This Emergency Rule is being repromulgated to correct typographical errors. The original Emergency Rule can be viewed on pages 1457-1458 of the August 20, 2003 edition of the Louisiana Register.

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 and R.S. 56:435.1 notice is hereby given that the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declares:

The oyster season in the following areas will open one-half hour before sunrise on September 3, 2003 and will close one-half hour after sunset on April 1, 2004: the Louisiana Public Oyster Seed Grounds not currently under lease located in the Bay Gardene Oyster Seed Reservation and the designated temporary natural reef in Little Lake and vicinity.

The oyster season in the following areas will open one-half hour before sunrise on September 10, 2003 and close one-half hour after sunset on April 1, 2004: the primary public seed grounds east of the Mississippi River bordered

on the north by the Louisiana/Mississippi state line and on the south by the Mississippi River and North Pass including that portion of Lake Borgne as described in LAC 76:VII.513, the sacking only area of the public grounds which is generally Lake Fortuna and Lake Machias to a line from Mozambique Point to Point Gardner to Grace Point at the Mississippi River Gulf Outlet, and the Hackberry Bay Oyster Seed Reservation.

The oyster season in the Bay Junop Public Oyster Seed Reservation will open one-half hour before sunrise on September 10, 2003 and will close one-half hour after sunset on September 16, 2003 in the northern portion of the bay only as determined by the traditional November/February Department of Health and Hospital seasonal classification line which begins on the eastern shoreline of Bay Junop at latitude 29° 14' 03" N, longitude 91° 02' 37" W and follows a westerly line to the western shoreline at latitude 29° 13' 40" N, longitude 91° 03' 31" W.

The oyster season in the Sister (Caillou) Lake Public Oyster Seed Reservation will open for harvest of seed and sack oysters one-half hour before sunrise on September 10, 2003 and close one-half hour after sunset on November 18, 2003.

The season for the Calcasieu Lake public tonging area will open one-half hour before sunrise on October 15, 2003 and will remain open until one-half hour after sunset on April 30, 2004. However, these conservation actions will not supercede public health closures.

The following areas will remain closed for the 2003/2004 oyster season: the Public Oyster Seed Grounds located in portions of Lake Mechant, Lake Tambour, Lake Chien, Lake Felicity, Deep Lake, and Barataria Bay (as described in LAC 76:VII.517), the Atchafalaya-Vermilion Bay Public Oyster Seed Grounds as described in LAC 76:VII.507 and 509, and the Sabine Lake Public Tonging Area.

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 shell in seed oyster loads, 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.

Terry D. Denmon
Chairman

0309#011

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Large Coastal Shark Fishery Closure

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department by the Commission in its rule LAC 76:VII.357.M.2 which allows the secretary to declare a closed season when he is informed that the commercial large coastal shark seasonal quota for that species group and fishery has been met in the Gulf of Mexico, and that such closure order shall close the season until the date projected for the re-opening of that fishery in the adjacent Federal waters, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 11:30 p.m., September 15, 2003, the commercial fishery for large coastal sharks in Louisiana waters, as described in LAC 76:VII.357.B.2, (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark, and tiger shark) will close through December 31, 2003. Nothing herein shall preclude the legal harvest of large coastal sharks by legally licensed recreational fishermen during the open season for recreational harvest. Effective with this closure, no person shall commercially harvest, purchase, exchange, barter, trade, sell or attempt to purchase, exchange, barter, trade or sell large coastal sharks or fins thereof whether taken from within or without Louisiana territorial waters. Also effective with the closure, no person shall possess large coastal sharks in excess of a daily bag limit, which may only be in possession during the open recreational season whether taken from within or without Louisiana territorial waters. Nothing shall prohibit the possession or sale of fish by a commercial dealer if legally taken prior to the closure providing that all commercial dealers possessing large coastal sharks taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The Secretary has been notified by the National Marine Fisheries Service that the second semiannual subquota for large coastal sharks will be reached on or before 11:30 p.m., September 15, 2003 and that the Federal season closure is necessary to ensure that the semiannual quota for large coastal sharks for the period July 1 through December 31, 2003, is not exceeded.

James H. Jenkins, Jr.
Secretary

0309#012

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
 Policy for Louisiana's Public Education Accountability System
 (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components. The changes more closely align the State's Accountability System with the "No Child Left Behind Act of 2002" follow.

Establishing a timeline for the release of School Performance Scores so that LEA's have time to plan and implement actions required in Corrective Actions Level II and III.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:483 (November 1975), amended LR 28:269, 272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:1802 (September 2003).

The Louisiana School and District Accountability System

2.006.03 A School Performance Score (SPS) shall be calculated for each school. This score shall range from 0-100 and beyond, with a score of 100 indicating a school has reached the 10-Year Goal and a score of 150 indicating a school has reached the 20-Year Goal. The lowest score that a given school can receive for each individual indicator index and/or for the SPS as a whole is "0".

For schools entering accountability after 1999, one year's data shall be used for schools formed in mid-cycle years and two year's data for other schools.

New schools with one year of test data shall be included in accountability. For attendance and dropout data, LEA's shall have the option of using:

- the district average for schools in the same category as the new school;
- data from the prior year, if whole grade levels from an existing school or schools moved to the new school.

During the summer of 1999 for K-8 schools, each school shall receive two School Performance Scores as follows:

- a score for regular education students, including gifted, talented, and Section 504 students;
- a score including regular education students AND students with disabilities eligible to participate in the CRT and/or NRT tests.

For the purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools, the School Performance Score that includes only regular education students shall be used.

Any references to Supplemental Educational Services in this policy apply to Title I schools only.

Beginning in 2003, for schools that may be subject to choice and/or Supplemental Educational Services provisions, the LDE shall annually release preliminary School Performance Scores and Corrective Action status at least two weeks prior to the first day of the school year following the school year in which the assessment data was collected. Final School Performance Scores will be issued during the fall semester each year.

Formula for Calculating an SPS [K-6]

The SPS for a K-6 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(66.0 * 60%) + (75.0 * 30%) + (50.0 * 10%)] = 67.1

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
SPS = 67.1			

Criterion-Referenced Tests (CRT) Index Calculations

A school's CRT Index score equals the sum of the student totals divided by the number of students eligible to participate in state assessments times 4 (number of subjects). For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.

Advanced =	200 points
Mastery (Exceeding the Standard) =	150 points
Basic (Meeting the Standard) =	100 points
Approaching Basic (Approaching the Standard) =	50 points
Unsatisfactory =	0 points

Option I students: those students failing the 8th grade LEAP 21 that have been

- retained on the 8th grade campus
 - must retake all parts of the 8th Grade LEAP 21
- If, during spring testing, a repeating fourth grade student or Option I 8th grade student receives a score of Approaching Basic (Approaching the Standard) or above on a LEAP 21 test of mathematics, English language arts, science or social studies for which he/she received a score of Unsatisfactory the previous spring, the retaining school shall receive 50 incentive points per subject in its accountability index. A student may earn a maximum of 200 incentive points for his/her school. (No incentive points will be awarded for passing parts of tests in the summer school of the year they first failed in spring testing.)

Formula for Calculating a CRT Index for a K-8 School

- Calculate the total number of points by multiplying the number of students at each performance level times by the points for those respective performance levels, for all content areas and summing those products. Add to the sum any Incentive Points. Divide by the product of the total number of students eligible to be tested times the number of content area tests.
- Zero shall be the lowest CRT Index score reported for accountability calculations.

Transition Years [K-8]											
To accommodate the phase-in of the Social Studies and Science components of the CRT for Elementary and Secondary Accountability Cycles, the State Department of Education shall use following LEAP Test components when calculating the School Performance Scores (SPS) for K-8:											
Timelines/School Years			LEAP-CRT Index Components								
Cycle	Baseline SPS Data	Growth SPS Data	Grade								
			4				8				
			ELA	Math	Science	Social Studies	ELA	Math	Science	Social Studies	
1	1998-1999	2000-2001	✓	✓				✓	✓		
2	1999-2000 & 2000-2001	2001-2002 & 2002-2003	✓	✓	✓	✓	✓	✓	✓	✓	✓
3	2001-2002 & 2002-2003	2003-2004 & 2004-2005	✓	✓	✓	✓	✓	✓	✓	✓	✓

Norm-Referenced Tests (NRT) Index Calculations [K-8]

For the NRT Index, composite standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a school's NRT Index score.

NRT Goals and Equivalent Standard Scores

Composite Standard Scores Equivalent to Louisiana's 10- and 20-Year goals, by Grade Level *

Goals	Percentile Rank	Grade			
		3	5	6	7
10-Year Goal	55th	187	219	231	243
20-Year Goal	75th	199	236	251	266

NRT Formulas Relating Student Standard Scores to NRT Index [K-8]

Where the 10-year and 20-year goals are the 55th and 75th percentile ranks, respectively, and where SS = a student's standard score, then the index for that student is calculated as follows:

Grade 3:	Index 3 rd grade = (4.167 * SS) - 679.2 SS = (Index 3rd grade + 679.2)/4.167
Grade 5:	Index 5 th grade = (2.941 * SS) - 544.1 SS = (Index 5th grade + 544.1)/2.941
Grade 6:	Index 6 th grade = (2.500 * SS) - 477.5 SS = (Index 6th grade + 477.5)/2.500
Grade 7:	Index 7 th grade = (2.174*SS) - 428.3 SS= (Index 7th grade + 428.3)/2.174

Formula for Calculating a School's NRT Index [K-8]

- Calculate the index for each student, using the grade-appropriate formula relating the Standard Score to NRT Index. (NOTE: For accountability purposes, a student not taking the test and not exempted will be assigned a zero NRT index.)
- Sum the total number of NRT Index points for all grades in the school.
- Divide the sum of the NRT Index points by the total number of students eligible to be tested plus the number of students not exempted.

Zero shall be the lowest NRT Index score reported for School Performance Score calculations.

Attendance Index Calculations [K-8]

An Attendance Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indices shall be calculated using the prior two years' average attendance rates as compared to the State's goals.

Attendance Goals		
	10-Year Goal	20-Year Goal
Grades K-8	95%	98%

Attendance Index Formula

Grades K-8
Indicator (ATT K-8) = (16.667 * ATT) - 1483.4
Where ATT is the attendance percentage, the Index Formula uses the definition of attendance established by the Louisiana Department of Education.

Lowest Attendance Index Score

Zero shall be the lowest Attendance Index score reported for accountability calculations.

Dropout Index Calculations

A Dropout Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indices shall be calculated using the prior two years' average dropout rates as compared to the State's goals.

Dropout Goals		
	10-Year Goal	20-Year Goal
Grades 7 & 8	4%	2%

The national definition of *dropout* shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

Dropout Index Formulas

Non-Dropout Rate (NDO) = 100 - Dropout Rate (DO) (expressed as a percentage)

Grades 7 & 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = (25 * NDO) - 2300.0 NDO = (Indicator DO Gr 7-8 + 2300.0) /25
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Lowest Dropout Index Score

Zero shall be the lowest Dropout Index score reported for accountability calculations.

Formula for Calculating an SPS [K-8]

The SPS for a K-8 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(71.2 * 60%) + (76.1 * 30%) + (87.7 * 5%) + (90.4 * 5%)] = 74.4

Indicator	Index Value	Weight	Indicator Score
CRT	71.2	60%	42.7
NRT	76.1	30%	22.8
Attendance	87.7	5%	4.4
Dropout	90.4	5%	4.5
			SPS = 74.4

School Performance Scores for 9-12

A School Performance Score (SPS) shall be calculated for each high school. This score shall range from 0-100 and beyond, with a score of 100 indicating that a school has reached the 10-Year Goal and a score of 150 indicating that a school has reached the 20-Year Goal. The lowest score that a given high school can receive for each individual indicator index and/or for the SPS as a whole is "0."

Every year of student data shall be used as part of a high school's SPS. The school's initial SPS shall be calculated using the most recent year's NRT and CRT test data and the prior year's attendance and dropout rates. Subsequent calculations of the SPS shall use the most recent two years' test data, attendance and dropout rates from the two years prior to the last year of test data used.

Formula for Calculating an SPS for 9-12 and Combination Schools

The SPS for a 9-12 school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is

$$SPS = (.60 * CRT \text{ Adjusted Achievement Index}) + (.30 * NRT \text{ Adjusted Achievement Index}) + (.05 * Dropout \text{ Index}) + (.05 * Attendance \text{ Index})$$

All intermediate results and the final result shall be rounded to the nearest tenth.
The following is an example of how this calculation shall be made:
[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0.

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			69.0

Transition Years [9-12]							
To accommodate the phase-in of the grades 10 and 11 GEE 21 criterion-referenced tests, the Department shall use the following indicators:							
Timelines/School Years			Indicators Included				
Cycle	Baseline SPS Data	SPS Data	Grade 9 NRT	Grade 10 CRT	Grade 11 CRT	Attendance	Dropout
1	2000-01	2002-03 ¹	✓	✓		✓*	✓*
2	2001-02 & 2002-03 (avg.)	2003-04 & 2004-05 (avg.)	✓	✓	✓	✓*	✓*
3	2003-04 & 2004-05 (avg.)	2005-06 & 2006-07 (avg.)	✓	✓	✓	✓*	✓*

*Indicates use of prior year data for these indexes.
¹The SPS at the beginning of cycle 2 shall be calculated using the average of the 2002 and 2003 NRT scores, the average of the 2002 and 2003 CRT scores, and the average of the 2001 and 2002 attendance and dropout data. The SPS for the beginning of cycle 2 shall be compared to the 2001 baseline SPS for determining growth.

Transition Years [Combination Schools]	
Combination Schools are schools that contain a 10 th and/or 11 th grade and that also contain a 4 th and/or 8 th grade. To accommodate the phase-in of Social Studies and Science components of the CRT tests for Secondary Accountability Cycles, the Department shall use the following LEAP Test components when calculating the SPS for combination schools.	
Cycle 1 Baseline SPS for Combination Schools	Cycle 2 SPS for Combination Schools
K-8 portion of school: 2 years averaged (2000 and 2001) of all CRT data	K-8 portion of school: 2 years averaged (2002 and 2003) of all CRT data.
9-12 portion of school: 1 year baseline data (2001) without grade 11 CRT	9-12 portion of school: 2 years averaged (2002 and 2003) of all CRT data.

Criterion-Referenced Tests (CRT) Index Calculations [9-12]	
A high school's CRT Index score equals the sum of the eligible student totals divided by the number of tests those students were eligible to take. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.	
Advanced	200 points
Mastery (Exceeding the Standard)	150 points
Basic (Meeting the Standard)	100 points
Approaching Basic (Approaching the Standard)	50 points
Unsatisfactory	0 points

Norm-Referenced Tests (NRT) Index Calculations [9-12]		
For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a high school's NRT Index score.		
NRT Goals and Equivalent Standard Scores for Grade 9		
Goal	Percentile Rank	Grade 9 Composite Standard Score
10-Year Goal	55 th	263
20-Year Goal	75 th	287

NRT Formulas Relating Student Standard Scores to NRT Index [9-12]	
If the 10-Year and 20-Year Goals are the 55 th and 75 th percentile ranks respectively and if the SS = a student's standard score, the index for a grade 9 student is calculated as follows:	
Index 9 th grade = (2.083 * SS) - 447.8	
SS = (Index 9 th grade + 447.8)/2.083	

Only with the exception of grade 8 Option II students, all Louisiana students in grades three through eleven will participate in only one of the following state assessments on an annual basis:
<ul style="list-style-type: none"> • LEAP 21 or, • GEE 21 or, • Iowa On-Level or, • LEAP Alternate Assessment B (LAA-B) or, • LEAP Alternate Assessment (LAA)

Formula for Calculating the NRT and CRT Adjusted Achievement Index for a High School

1. Sum the number of points earned by all students. For the NRT, there shall be one score for each student: the NRT Index calculated from the student's composite standard score. For the CRT, students shall be taking two tests at each grade.
2. Divide the sum by the total number of students eligible to be tested times the number of content area tests. This calculation provides the raw achievement index for the grade.
3. Multiply the raw index by the product of the non-dropout rates from the previous year. For that grade and for all the previous grades. (See Examples below.) This operation means that the grade 9 NRT Index shall be multiplied by the grade 9 non-dropout rate + .07, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates rate + .07, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates rate + .07. Any Option II student who passes a previously failed portion of the CRT earns 50 Incentive Points for his/her high school. Add any Option II Incentive points to the NRT value after multiplying to adjust for dropouts. This operation shall yield the Adjusted Achievement Index.
4. Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations.

The formula for calculating the NRT and CRT Adjusted Achievement Index for a High School is:

NRT Adjusted Achievement Index = Raw Achievement Index * (1-DO Gr 9 + .07)
 CRT Adjusted Achievement Index (Gr 10) = Raw Achievement Index * (1-DO Gr 9 + .07) * (1-DO Gr 10 + .07)
 CRT Adjusted Achievement Index (Gr 11) = Raw Achievement Index * (1-DO Gr 9 + .07) * (1-DO Gr 10 + .07) * (1-DO Gr 11 + .07)

Example 1 – Grade 9:

- Before beginning grade 9, a class has 50 students; by the end of September, 45 remain in the class. The grade 9 dropout rate is $(5/50) = .100$.
- The number of points earned on the NRT is 5000.
- The raw achievement index is $5000/45 = 111.1$.
- The adjusted achievement index is $111.1 \times (1 - .100 + .07) = 107.8$.

Example 2 – Grade 10:

- Another 5 students dropout before October of grade 10. The grade 10 dropout rate is $5/45 = .111$.
- The 40 students remaining in the class earn 10,000 points on the two CRT tests. The raw achievement index is $10,000/(40 * 2) = 125.0$.
- The adjusted achievement index is $125.0 \times (1 - .100 + .07) \times (1 - .111 + .07) = 116.3$.

Attendance Index Calculations for Grades 9-12

An Attendance Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes indices shall be calculated using the prior two years' average attendance rates as compared to the State's goals.

Attendance Goals

	10-Year Goal	20-Year Goal
Grades 9-12	93%	96%

Attendance Index Formula for Grades 9-12

If the 10-Year and 20-Year Goals are 93% and 96% average attendance respectively and if the ATT = attendance percentage using the definition of attendance established by the Department of Education, the attendance index is calculated as follows:

Indicator (ATT 9-12) = (16.667 * ATT) – 1450.0.

Example:

- If the average attendance percentage is 94.3%, the Attendance Index would be $(16.667 * 94.3) - 1450.0 = 121.7$.

Zero shall be the lowest Attendance Index score reported for accountability calculations.

Dropout Index Calculations for Grades 9-12

A Dropout Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indexes indices shall be calculated using the prior two years' average dropout rates as compared to the State's goals.

Dropout Goals

	10-Year Goal	20-Year Goal
Grades 9-12	7%	3%

Dropout Index Formula for Grades 9-12

Dropout Index = 187.5 – (12.5 X dropout rate)

Example:

If the dropout rate is 4.5%, the Dropout Index would be $187.5 - (12.5 * 4.5) = 131.3$.

Zero shall be the lowest Dropout Index score reported for accountability calculations.

The national definition of *dropout* shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

School Performance Scores for Combination Schools

Combination Schools are schools that contain a 10th and/or 11th grade and that also contain a 4th and/or 8th grade.

The formula for calculating an SPS for Combination Schools is defined in the High School calculations.

Formula for Calculating a CRT Index for a Combination School

1. Calculate the CRT Index score for the K-8 portion of the school as instructed above in the K-8 directions.
 2. Calculate the CRT Adjusted Index score for the 9-12 portion of the school as instructed above in the 9-12 directions.
 3. Multiply the K-8 CRT Index by the number of students eligible to take the K-8 CRT times 4 (number of subjects). Multiply the 9-12 CRT Adjusted Index by the number of tests 9-12 students were eligible to take.
 4. Sum the two products in step 3.
 5. Divide the sum in step 4 by the sum of tests all students (K-12) were eligible to take.
- $$[(K-8 \text{ CRT Index} * \text{number students eligible to test} * 4) + (9-12 \text{ CRT Adjusted Index} * \text{number of tests students were eligible to take})] / \text{Total of tests K-12 students were eligible to take.}$$

Formula for Calculating a NRT Index for a Combination School

1. Calculate the NRT Index score for the K-8 portion of the school as instructed above in the K-8 directions.
 2. Calculate the NRT Adjusted Index score for the 9-12 portion of the school as instructed above in the 9-12 directions.
 3. Multiply the K-8 NRT Index by the number of students eligible to take the K-8 NRT. Multiply the 9-12 NRT Adjusted Index by the number of 9-12 students eligible to take the NRT. Sum the two products. Divide the sum by the number of K-12 students eligible to take the NRT.
- $$[(K-8 \text{ NRT Index} * \text{number students eligible to test}) + (9-12 \text{ NRT Adjusted Index} * \text{number of students eligible to test})] / \text{Total K-12 students eligible to test.}$$

Formula for Calculating an Attendance Index for a Combination School

6. Calculate the Attendance Index for the K-8 portion of the school as instructed above in the K-8 directions.
 7. Calculate the Attendance Index for the 9-12 portion of the school as instructed above in the 9-12 directions.
 8. Multiply the K-8 Attendance Index by the K-8 enrollment total. Multiply the 9-12 Attendance Index by the 9-12 enrollment total. Sum the two products. Divide the sum by the number of K-12 students enrolled in the school.
- $$[(K-8 \text{ Attendance Index} * \text{number of K-8 students}) + (9-12 \text{ Attendance Index} * \text{number of 9-12 students})] / \text{Total K-12 enrollment.}$$

Formula for Calculating a Dropout Index for a Combination School

1. Calculate the Dropout Index for the K-8 portion of the school as instructed above in the K-8 directions.
 2. Calculate the Dropout Index for the 9-12 portion of the school as instructed above in the 9-12 directions.
 3. Multiply the K-8 Dropout Index by the 7-8 enrollment total. Multiply the 9-12 Dropout Index by the 9-12 enrollment total. Sum the two products. Divide the sum by the number of 7-12 students enrolled in the school.
- $$[(K-8 \text{ Dropout Index} * \text{number of 7-8 students}) + (9-12 \text{ Dropout Index} * \text{number of 9-12 students})] / \text{Total 7-12 enrollment.}$$

Corrective Actions

2.006.09 A school shall enter in Corrective Actions I if any of the following apply.

- It is Academically Below the applicable State Average and it did not make its Growth Target, or
- It is Academically Above the applicable State Average and has a Growth Label of School in Decline or No Growth.

A school that enters Corrective Actions shall receive additional support and assistance, with the expectation that extensive efforts shall be made by students, parents,

teachers, principals, administrators, and the school board to improve student achievement at the school. There shall be three levels of Corrective Actions.

All schools in Corrective Actions I shall provide pertinent information to the Louisiana Department of Education concerning steps they have taken to improve student performance in order to document activities related to Corrective Actions I and in light of recent proposed changes in federal programs. This information shall be required on an annual basis.

Requirements for Schools in Corrective Actions I

1. A Revised or New School Improvement Plan

All Louisiana schools were required to have a School Improvement Plan in place by May of 1998. Those schools placed in Corrective Actions I shall be required to review and either revise or rewrite completely their plan, with the assistance of a District Assistance Team, and submit it to the Division of School Standards, Accountability, and Assistance. The plan shall contain the following essential research-based components:

- a. a statement of the school's beliefs, vision, and mission;
- b. a comprehensive needs assessment that shall include the following quantitative and qualitative data:
 - student academic performances on standardized achievement tests (both CRT and NRT) and performance/authentic assessment-disaggregated by grade vs. content vs. exceptionality;
 - demographic indicators of the community and school to include socioeconomic factors;
 - school human and material resources summary that includes teacher demographic indicators and capital outlay factors;
 - interviews with stakeholders: principals, teachers, students, parents;
 - student and teacher focus groups;
 - questionnaires with stakeholders (principals, teachers, students, parents) measuring conceptual domains outlined in school effectiveness/reform research;
 - classroom observations;
- c. measurable objectives and benchmarks;
- d. effective research-based methods and strategies;
- e. parental and community involvement activities;
- f. a professional development component aligned with assessed needs;
- g. external technical support and assistance;
- h. evaluation strategies;
- i. coordination of resources and analysis of school budget (possible redirection of funds);
- j. an action plan with time lines and specific activities.

2. Assurance pages

Each school in Corrective Actions I shall be required to provide assurances that it worked with a District Assistance Team to develop its School Improvement Plan, and that the plan has the essential components listed above. Signatures of the team members shall also be required.

3. A quarterly Monitoring of the Implementation of the School Improvement Plan

District Assistance Teams shall assist schools in Corrective Actions I in monitoring the implementation of their School Improvement Plan. All schools in Corrective Actions I shall be required to submit to the Louisiana Department of Education a quarterly report on the implementation of their School Improvement Plan in paper and/or electronic format.

4. An Annual Evaluation of the Level of Implementation of the School Improvement Plan

This evaluation shall be required on an annual basis. The Louisiana Department of Education shall make every effort to see that the information is collected in a manner that shall be of assistance to the schools and that shall provide feedback to them as they strive to improve student achievement.

A school shall enter Corrective Actions Level II if:

- It is Academically Unacceptable.

A school shall remain in Corrective Actions Level II if:

- It is Academically Unacceptable, made its Growth Target, and it was in Corrective Actions II the previous cycle. A school in Corrective Actions Level II shall begin the remedies required at this level upon the initial identification of the school for Corrective Actions Level II.
- If a school's initial identification for Corrective Actions Level II occurs with the summer preliminary School Performance Score release, the school shall offer choice and/or state approved Supplemental Educational Services prior to the first day of school of that school year.
- If a school's initial identification for Corrective Actions Level II occurs with the fall final School Performance Score release, the school shall offer choice and/or state approved Supplemental Educational Services in January of that school year.
- If a school is wrongly identified through the summer preliminary School Performance Score release, the school shall:
 - Continue in their choice obligations for the remainder of that school year, but shall be released from these obligations for the following school year.
 - Continue in their state approved supplemental service obligations for the remainder of the semester, but shall be released from these obligations for the following semester.

Corrective Actions Level II: All schools in Corrective Actions II are labeled Academically Unacceptable. All schools in Corrective Actions II must adhere to the requirements of schools in Corrective Actions I; however, Corrective Actions II schools must submit to the Louisiana Department of Education a Monthly Monitoring of the Implementation of the School Improvement Plan. Beginning in 2003, upon initial identification for Corrective Actions II, schools shall offer choice according to the choice provisions in section 2.006.11 of this policy.

Corrective Actions Level II: A highly trained Distinguished Educator (DE) shall be assigned to a school by the State. The DE shall work in an advisory capacity to help the school improve student performance. The DE shall make a public report to the school board of recommendations for school improvement. Districts shall then publicly respond to these recommendations.

In the interim year of each accountability cycle, Corrective Actions Level II schools that do not attain at least 40% of their Growth by the first day of the school year if the initial identification occurs with the summer preliminary School Performance Score release or in January if the initial identification occurs with the fall final School Performance Score release.

A school shall enter Corrective Actions Level III if:

- It was in Corrective Actions Level II the previous cycle, and Academically Unacceptable, and it did not make its Growth Target.

A school in Corrective Actions Level III shall begin the remedies required at this level upon the initial identification of the school for Corrective Actions Level III.

- If a school's initial identification for Corrective Actions Level III occurs with the summer preliminary School Performance Score release, the school shall continue to offer choice and shall offer state approved Supplemental Educational Services prior to the first day of school of that school year.
- If a school's initial identification for Corrective Actions Level III occurs with the fall final School Performance Score release, the school shall offer choice and state approved supplemental services in January of that school year.
- If a school is wrongly identified through the summer preliminary School Performance Score release, the school shall:
 - Continue in their choice obligations for the remainder of that school year, but shall be released from these obligations for the following school year.

* Continue in their state approved Supplemental Educational Services obligations for the remainder of that semester, but shall be released from these obligations for the following semester .

Corrective Actions Level III: Beginning in 2003, upon initial identification for Corrective Actions Level III, identified schools shall offer choice according to the choice provisions in section 2.006.11 of this policy and shall notify the parents of all students in the school of their right to state approved Supplemental Educational Services. The DE shall continue to serve the school in an advisory capacity. A district must develop a Reconstitution Plan for the school at the beginning of the first year in this level and submit the plan to the SBESE for approval by February.

If a Corrective Actions Level III school has not achieved at least 40% of its Growth Target at the end of the first year and SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If the SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, the school shall lose its State approval and all State funds.

Any reconstituted School's SPS and Growth Target shall be re-calculated utilizing data from the end of its previous year. The SBESE shall monitor the implementation of the Reconstitution Plan.

Movement in Corrective Actions

All schools that:

- Have a SPS \geq 100.0 are exempt from Corrective Actions I, II, and III during the first ten years
- Are not Academically Unacceptable and meet or exceed their Growth Targets shall exit Corrective Actions I.
- Have a SPS \geq the applicable State Average but $<$ 100.0 must make some growth (0.1 pts) or enter/remain in Corrective Actions I.
- Are not Academically Unacceptable but have a SPS $<$ the applicable State Average must make their Growth Targets or enter/remain in Corrective Actions I.
- Are Academically Unacceptable shall enter in Corrective Actions Level II.
- Are Academically Unacceptable and make their Growth Targets, but remain Academically Unacceptable, shall remain in Corrective Actions II.
- Are Academically Unacceptable and did not make their Growth Targets, but remain Academically Unacceptable, shall enter Corrective Actions Level III.

Determination of Academically Unacceptable schools in 2003 shall be based on the higher of two School Performance Scores: one using an average of the 2001-02 and 2002-03 accountability data, and the other using the 2002-2003 accountability data only.

Corrective Actions Summary Chart

School Level Tasks

Level I

- 1) Utilize the State's diagnostic process or another process meeting State approval to identify needs; and
- 2) Work with District Assistance Team to develop/implement a consolidated improvement plan, including an integrated budget. The process must include
 - a) opportunities for significant parent and community involvement,
 - b) public hearings, and
 - c) at least two-thirds teacher approval.

Level II

- 1) Continue to adhere to the requirements of Corrective Actions Level I schools;
- 2) Work with advisory Distinguished Educator, teachers, parents, and others to implement revised School Improvement Plan; and
- 3) Distinguished Educator works with principals to develop capacity for change

Level III

- 1) Continue to adhere to the requirements of Corrective Actions Level I schools;
- 2) Distinguished Educator continues to assist with improvement efforts and work with the advisory District Assistance Team and other district personnel to design that school's Reconstitution Plan or No State Approval/No State Funding.
- 3) If the Reconstitution Plan is approved by the SBESE: a) implement Reconstitution Plan, and b) utilize data from the end of the previous year to re-calculate the School Performance Score goals and Growth Targets.
- 4) If Reconstitution Plan is not approved, no State approval/no State funding.

District Level Tasks

Level I

- 1) Create District Assistance Teams to assist schools;
- 2) Identify existing and additional assistance being provided by districts such as funding, policy changes, and greater flexibility;
- 3) Reassign or remove school personnel as necessary and as allowed by law; and
- 4) Ensure Academically Unacceptable schools receive at least their proportional share of applicable state, local, and federal funding.

Level II

- 1) Continue to help schools through the use of District Assistance Teams;
- 2) Hold public hearing and respond to Distinguished Educator's written recommendations;
- 3) Response in writing submitted to SBESE by local boards no later than 45 days subsequent to receiving the Distinguished Educator's report:
Failure to respond to these recommendations will result in the school receiving unapproved status and being ineligible to receive federal subgrantee assistance funds until such response is received;
- 4) Reassign or remove personnel as necessary and as allowed by law; and
- 5) Beginning in 2003, notify parents of their right to send their children to another public school at the initial identification of the school for Corrective Actions Level II (Ref. 2.006.11); and
- 6) Offer state approved Supplemental Educational Services by the first day of the school year if the initial identification occurs with the summer preliminary School Performance Score release or in January if the initial identification occurs with the fall final School Performance Score release to students in schools that do not meet 40% of their Growth Targets.

Level III

- 1) Continue to help schools through the use of District Assistance Teams;
- 2) Continue notifying parents of students attending Academically Unacceptable Schools of their right to send their children to other public schools within the LEA;
- 3) Continue to offer state approved Supplemental Educational Services.
- 4) Design a Reconstitution Plan and submit to the SBESE by February; and
- 5) At the end of year one, one of the following must occur: a) schools must make adequate growth of at least 40% of the Growth Target b) the district implements the Reconstitution Plan approved by the SBESE; and c) the SBESE shall grant non-school approval status; and

Reconstitution or No State Approval/Funding

- 1) If Reconstitution Plan is approved by the SBESE, provide implementation support.
- 2) If the Reconstitution Plan is not approved, no State approval/no State funding.

State Level Tasks

Level I

- 1) Provide diagnostic process for schools;
- 2) Provide training for District Assistance Teams;
- 3) For some Academically Unacceptable Schools only, the SBESE shall assign advisory Distinguished Educators to schools; and
- 4) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

Level II

- 1) Assign advisory Distinguished Educator to schools; and
- 2) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

Level III

- 1) Assign advisory Distinguished Educator to schools for one additional year to assist in the development and design of the Reconstitution Plan;
 - 2) At end of Year 1, the SBESE shall approve or disapprove Reconstitution Plans. If the SBESE approves the Reconstitution Plan, the Distinguished Educator is assigned an additional year to support and assist with monitoring the implementation of the Reconstitution Plan for schools that fail to make adequate growth;
 - 3) If a school achieves the required amount of growth during its first year in Corrective Action Level III and proceeds to a second year in Level III, the Distinguished Educator will be assigned to the school for that additional year to support and assist the school in its continued improvements efforts; and
 - 4) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans
- Reconstitution or No State Approval/No Funding
- 1) If Reconstitution Plan is approved by the SBESE,
 - a) monitor implementation of reconstitution plan; and
 - b) provide additional state improvement funds; and
 - 2) If Reconstitution Plan is not approved, no State approval/State funding

School Choice

2.006.11 Parents shall have the right to transfer their children to another public school within the LEA when the school in which their children are enrolled enters Corrective Actions II. Districts, upon initial identification of a school for Corrective Actions Level II, shall notify the parents of all students who are assigned to that school of their right to transfer their children to another public school within the LEA. Parent notification will take place prior to the first week of each school year, in time for alternative school assignments to be arranged. Once final School Performance Scores are issued, the Louisiana Department of Education will revise the list of schools identified for Corrective Actions Levels II and III to reflect any additions or deletions resulting from analysis of the final School Performance Scores. Districts, upon receipt of fall final School Performance Scores, will notify parents of the final scores in December and make mid-year choice available in January in any cases where initial identification occurred with the final fall School Performance Score release.

Transfers shall not be made to any school undergoing Corrective Actions Level II or Level III.

Upon parental request, districts shall transfer the child to the nearest acceptable school.

If no academically acceptable school in the district is available, the student may transfer to a neighboring district. Parents shall provide the transportation to the school. State dollars shall follow the child when such a transfer occurs.

Schools and districts may refuse to accept a student if there is insufficient space, if a desegregation order prevents such a transfer, or if the student has been subjected to disciplinary actions for behavioral problems.

An LEA must develop a policy for student transfers (School Choice Policy) for schools in Corrective Actions II and III. An LEA shall state its capacity for offering student transfers. The SBESE shall approve or disapprove an LEA's School Choice Policy.

An LEA shall declare Lack of Capacity when all of the attendance zones under its jurisdiction are unable to provide school choice to eligible students (i.e., desegregation order).

An LEA shall declare Limited Capacity when some students in some or all of the attendance zones under its jurisdiction may be provided school choice in an attendance zone (i.e., limited seating capacity in receiving schools).

An LEA declaring *Lack or Limited Capacity* shall request a waiver from the SBESE and shall submit the following with its waiver request:

- a description of the general transfer policy or desegregation order (See State's *Guidance on LEAs' Development of School Choice Policies for Public Schools in Louisiana*. Transfer policies must include:
 - 1) a method for determining transfer capacity or evidence of Lack of Capacity to transfer;
 - 2) transfer options for as many eligible students as possible in the Academically Unacceptable schools in Corrective Actions II or III to other Academically Acceptable schools;
 - 3) equal educational opportunities for all students eligible to transfer, including students with disabilities and Limited English Proficiency (LEP) and in compliance with all civil rights laws pertaining to eligible students;
 - 4) a method for selecting transfer students from the entire eligible student population in cases of *Limited Capacity* (i.e., lottery);
 - 5) a method for communicating to parents the option and wherewithal of School Choice;
 - 6) a method for maintaining a file for all communication involving all interested parties in School Choice;
 - 7) A method for providing transportation for transfer students; and
 - 8) A method for transferring student records, including assessment results and their interpretations.

If the SBESE determines that an LEA has demonstrated sufficient evidence of lack of or limited capacity to transfer, then the requesting LEA must submit the following information for the SBESE's approval:

- a description of the School/District Plan for those schools having to offer School Choice that addresses the following:
 - 1) Educator Quality
 - Principal Certification/Qualifications
 - Principal Leadership and Effectiveness
 - Teacher Qualifications/Certification
 - 2) Professional Development
 - To address teacher professional learning based on student data
 - To address uncertified/inexperienced teacher professional learning if certified/experienced teachers are unavailable for placement in the school
 - 3) Alignment of Curriculum, Instruction and Assessment with State Content Standards;
 - 4) Teacher/Pupil Ratio;
 - 5) Early Intervention/Remediation Programs;
 - 6) Time on Task/Extended Learning Opportunities;
 - 7) Parental Involvement; and
 - 8) Discipline/Safety/Health Issues;
 - 9) Renovation/Capital Improvement.

If the SBESE approves an LEA's School Choice Policy, the LEA must comply with the following conditions:

- 1) The LEA must submit a quarterly status report to the SBESE regarding the implementation and progress of the District's School Choice policy.
- 2) The LEA's School Choice Policy will be reviewed, re-evaluated, and subject to amendment or revision annually, all at the discretion of the SBESE.
- 3) The LEA must formally approve (and provide to the SBESE written proof thereof) the following:
 - a. the implementation of the School Choice Policy submitted to the SBESE; and
 - b. the assurance that as a part of its approval of the School Choice Policy the Superintendent (or interim Superintendent), or his/her designee, shall be the sole decision maker with regard to the assignment, removal, or replacement of all personnel involved, directly or indirectly, in the administration and implementation of the School Choice policy including personnel in the central office and relevant schools covered by the plan.
- 4) In the event that the LEA uses preliminary data supplied by the LDE or testing contractor and determines in good faith that a school is not required by state or federal law to provide choice to students, but final School Performance Scores (as determined by the LDE) would require the school provide choice, the LEA shall provide choice (in accordance with the provisions of the approved School Choice Plan) at the end of the school year in which the final SPS are determined by the LDE.

If the SBESE fails to approve an LEA's School Choice Plan, the implicated schools will lose their School Approval status.

Weegie Peabody
Executive Director

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RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School
Administrators C Unsafe School Choice Option Policy
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, Louisiana Handbook for School Administrators, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The Unsafe School Choice Option (USCO) [Section 9532 of the Elementary and Secondary Education Act (ESEA) of 1965,

as amended by the No Child Left Behind Act of 2001], requires that each state receiving funds under the ESEA establish and implement a statewide policy requiring students attending a persistently dangerous public school, or students who become victims of a violent criminal offense while in or on the grounds of a public school that they attend, be allowed to attend a safe public school.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:1812 (September 2003).

Louisiana's Unsafe School Choice Option Policy Students Who Are Victims of Crimes of Violence

A student at a public elementary school, middle school or high school who becomes a victim of a crime of violence, as defined by Louisiana Revised Statute 14:2, while on school property, on a school bus or at a school-sponsored event must be given the option to transfer to a public school within the school district in which the student's current school is located, which offers instruction at the student's grade level and which is not persistently dangerous, if there is such a school within that school district.

A student who is enrolled in an alternative school or a special school and who becomes a victim of a crime of violence, as defined by Louisiana Revised Statute 14:2, while on school property, on a school bus or at a school-sponsored event must be given the option to transfer to another such public school within the school district in which the student's current school is located, which offers instruction at the student's grade-level, for which the student meets the admission requirements and which is not persistently dangerous, if there is such a school within that school district.

However, a student who has been assigned to a particular school, such as an alternative school or a special school, by court order shall not have the option to transfer.

A student who has been the victim of a crime of violence and who must be given the option to transfer should generally be given the option to transfer within 10 calendar days from the date on which the crime of violence occurred.

Persistently Dangerous Schools

Students attending a persistently dangerous public elementary school, middle school or high school shall be given the option to transfer to a public school within the school district in which the student's current school is located, which offers instruction at the students' grade level and which is not persistently dangerous, if there is such a school within that school district.

A student who is enrolled in an alternative school or a special school which is persistently dangerous must be given the option to transfer to another such public school within the school district in which the student's school is located, which offers instruction at the student's grade-level, for which the student meets the admission requirements and which is not persistently dangerous, if there is such a school within that school district.

However, a student who has been assigned to a particular school, such as an alternative school or a special school, by court order shall not have the option to transfer.

The school district in which the persistently dangerous school is located must, in a timely manner, notify parents of each student attending the school that the school has been identified as persistently dangerous, offer the students the opportunity to transfer and complete the transfer. Although timely implementation of these steps depends on the specific

circumstances within the school district, students should generally be offered the option to transfer within 20 school days from the time the school district is notified that the school has been identified as persistently dangerous. Although the transfer may be temporary or permanent, the transfer must remain in effect for at least as long as the school is identified as persistently dangerous.

Schools must meet two of the following criteria for two consecutive school years to be identified as persistently dangerous. For purposes of these criteria, "enrolled student body" means the number of students enrolled in a school as of the October 1 student enrollment count, and "firearm" means a firearm as defined by the federal Gun-Free Schools Act.

1. 1 percent or more of the enrolled student body is expelled for possession of a firearm on school property, on a school bus, or for actual possession of a firearm at a school-sponsored event;

2. 4 percent or more of the enrolled student body has been expelled for a crime of violence as defined by Louisiana Revised Statute 14:2 occurring on school property, on a school bus or at a school-sponsored event;

3. 6 percent or more of the enrolled student body has been expelled pursuant to Louisiana Revised Statute 17:416 for the following types of misconduct in the aggregate occurring on school property, on a school bus or at a school-sponsored event:

- a. immoral or vicious practices;
- b. conduct or habits injurious to associates;
- c. possession of or use of any controlled dangerous substance, in any form, governed by the Uniform Controlled Dangerous Substances Law;
- d. possession of or use of any alcoholic beverage;
- e. cutting, defacing or injuring any part of a school building, any property belonging to the buildings or any school buses owned by, contracted to or jointly owned by any city or parish school board;
- f. possession of knives or other implements which can be used as weapons, the careless use of which might inflict harm or injury;
- g. throws missiles liable to injure others;
- h. instigating or participating in fights.

School districts with one or more schools meeting two of these three criteria during one school year must identify the problem, submit a corrective action plan to the Department of Education for approval and implement the corrective action. A school district should generally develop a corrective action plan within 20 school days from the time it is notified of the need for the corrective action plan.

School districts with one or more schools identified as persistently dangerous schools, must submit a new corrective action plan to the Department of Education for approval and must implement the new corrective action. A school district should generally develop a corrective action plan within 20 calendar days from the date the school district is notified of the need for the corrective action plan.

The Department of Education shall annually reassess persistently dangerous schools. If a school no longer meets

the criteria for a persistently dangerous school, taking into account the most recent completed school year and the school year immediately preceding the most recent completed school year, the school will not be deemed persistently dangerous.

Interdistrict Agreements

Nothing herein shall prohibit school districts from entering into agreements with one another allowing students who become the victims of crimes of violence while on school property, on a school bus, or at a school-sponsored event or who are attending persistently dangerous schools in one school district the option to transfer to a school, which is not persistently dangerous, in another school district.

However, a student who has been assigned to a particular school, such as an alternative school or a special school, by court order shall not have the option to transfer.

Weegie Peabody
Executive Director

0309#024

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Minerals Criteria Revision for Vermilion River,
Bayou Teche, Bayou Courtableau, and
West Atchafalaya Borrow Pit Canal
(LAC 33:IX.1123)(WQ048)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.1123 (Log #WQ048).

The Rule is intended to set site-specific chlorides (Cl), sulfates (SO₄), and total dissolved solids (TDS) criteria for Bayou Courtableau, West Atchafalaya Borrow Pit Canal, Bayou Teche, and the Vermilion River. Respectively, these are subsegments 060204, 060211, 060301, and two subsegments for the Vermilion River, 060801 and 060802. Designated uses will remain as listed in LAC 33:IX.1123.Table 3. General and numerical criteria not specifically excepted in LAC 33:IX.1123.Table 3 shall apply. This action is required to establish proper and protective minerals criteria for subsegments 060204, 060211, 060301, 060801, and 060802. A site-specific criteria

analysis was conducted in accordance with state and federal water quality regulations, policies, and guidance to develop appropriate site-specific criteria for these water bodies. Specifically, these water bodies are largely affected by fresh water diversions from the Atchafalaya River. The water chemistry in these systems is therefore more reflective of Atchafalaya River water. This Rule recognizes the influence of the diverted water.

Analyses of use attainability are conducted by the department to determine the uses and criteria an individual water body can attain. According to the regulations, a Use Attainability Analysis (UAA) is defined as "a structured scientific assessment of the factors (chemical, physical, biological, and economic) affecting the attainment of designated uses in a water body." (See 40 CFR 131.3(g) and LAC 33:IX.1105.) The UAA process is described in 40 CFR 131.10 and LAC 33:IX.1109.B.3. It entails the methodical collection of data that is then scientifically analyzed and summarized and used to establish site-specific uses and criteria. The basis and rationale for the Rule are to establish site-specific Cl, SO₄, and TDS criteria for Bayou Courtableau (060204), West Atchafalaya Borrow Pit Canal (060211), Bayou Teche (060301), and Vermilion River (060801 and 060802).

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 IX. Water Quality

Chapter 11. Surface Water Quality Standards §1123. Numerical Criteria and Designated Uses

A. - C.2. ...

3. Designated Uses. The following are the category definitions of Designated Uses that are used in Table 3 under the subheading "Designated Uses."

- A – Primary Contact Recreation
- B – Secondary Contact Recreation
- C – Propagation of Fish and Wildlife
- L – Limited Aquatic Life and Wildlife Use
- D – Drinking Water Supply
- E – Oyster Propagation
- F – Agriculture
- G – Outstanding Natural Resource Waters

Numbers in brackets, e.g. [1], refer to endnotes listed at the end of the table.

Table 3.									
Numerical Criteria and Designated Uses									
A - Primary Contact Recreation; B - Secondary Contact Recreation; C - Propagation of Fish and Wildlife; D - Drinking Water Supply; E - Oyster Propagation; F - Agriculture; G - Outstanding Natural Resource Waters; L - Limited Aquatic Life and Wildlife Use									
Code	Stream Description	Designated Uses	Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
ATCHAFALAYA RIVER BASIN (01)									

[See Prior Text In 010101 – 050901]									
VERMILION-TECHE RIVER BASIN (06)									

[See Prior Text In 060101 – 060203]									
060204	Bayou Courtableau - origin to West Atchafalaya Borrow Pit Canal	A B C	65	70	[22]	6.0-8.5	1	32	440

[See Prior Text In 060206 – 060210]									
060211	West Atchafalaya Borrow Pit Canal - from Bayou Courtableau to Henderson, La., includes Bayou Portage	A B C	65	70	5.0	6.0-8.5	1	32	440

[See Prior Text In 060212]									
060301	Bayou Teche – Headwaters at Bayou Courtableau to Keystone Locks and Dam	A B C	65	70	5.0	6.0-8.5	1	32	440

[See Prior Text In 060401 – 060703]									
060801	Vermilion River - Headwaters at Bayou Fusilier-Bourbeaux junction to New Flanders (Ambassador Caffery) Bridge, Hwy. 3073	A B C F	230	70	5.0	6.0-8.5	1	32	440
060802	Vermilion River - from New Flanders (Ambassador Caffery) Bridge, Hwy. 3073, to Intracoastal Waterway	A B C F	230	70	[6]	6.0-8.5	1	32	440

[See Prior Text In 060803 – 120806]									

ENDNOTES:

[1] – [22] ...

[23]. Designated Naturally Dystrophic Waters Segment. The following criteria apply: no more than 20% reduction in the total above-ground wetland productivity as measured by tree, shrub, and/or marsh grass productivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1123 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814 (September 2003).

James H. Brent, Ph.D.
Assistant Secretary

0309#005

RULE

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

Radiation Protection
(LAC 33:XV.212, 320, 545, 590, 2504, and 2506)(RP033)

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 Radiation Protection regulations,

LAC 33:XV.212, 320, 545, 590, 2504, and 2506 (Log #RP033).

The Rule adds notification requirements regarding modification of any license information, clarifies that a quarterly physical inventory is required on sealed sources and registered devices that are received or possessed under the license or registration, adds the use of collimators on x-ray devices, corrects the title of LAC 33:XV.212, clarifies the need to file a renewal application with payment of fees, and clarifies that the fee will also allow reciprocal recognition of a registration. The amendments will clarify requirements that are necessary to ensure the health and safety of the persons conducting work with radiation equipment and make the regulations consistent with media program needs. The basis and rationale for this Rule are to protect the health and safety of those persons working in the field of radiation.

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 XV. Radiation Protection

Chapter 2. Registration of Radiation Machines and Facilities

§212. Reciprocal Recognition of Out-of-State Radiation Machines

A. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000), LR 29:1815 (September 2003).

Chapter 3. Licensing of Radioactive Material

Subchapter B. Licenses

§320. Types of Licenses

A. Licenses for radioactive materials are of two types: general and specific.

1. General licenses provided in this Chapter are effective without the filing of application with the Office of Environmental Services, Permits Division or the issuance of licensing documents to the particular persons, although the filing of certain information with the Office of Environmental Services, Permits Division may be required by the particular general license. The general licensee is subject to all other applicable portions of these regulations and to any limitations of the general license.

2. Specific licenses require the submission of an application to the Office of Environmental Services, Permits Division and the issuance of a licensing document by the administrative authority. The licensee is subject to all applicable portions of these regulations as well as to any limitations specified in the licensing document. The licensee shall notify the Office of Environmental Services, Permits Division in writing before making any change that would render the information contained in the application for license no longer accurate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000), LR 29:1816 (September 2003).

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter A. Equipment Control

§545. Quarterly Inventory

A. Each licensee and registrant shall conduct a quarterly physical inventory to account for all sealed sources and licensed or registered devices received or possessed under his or her license or registration, including devices containing depleted uranium. The records of the inventories shall be maintained for inspection by the department for at least three consecutive years from the date of the inventory and shall include the quantities and kinds of radioactive material, the location of sealed sources and/or devices, the date of the inventory, the name of individual(s) performing the inventory, the manufacturer, the model number, and the serial number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:1233 (August 2001), LR 29:1816 (September 2003).

Subchapter C. Precautionary Procedures in Radiographic Operations

§590. Specific Requirements for Radiographic Personnel Performing Industrial Radiography

A. - B. ...

C. Collimators shall be used in industrial radiographic operations that use crank-out devices and/or xray devices, except when physically impossible.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended LR 23:1139 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 27:1237 (August 2001), LR 28:1952 (September 2002), LR 29:36 (January 2003), LR 29:1816 (September 2003).

Chapter 25. Fee Schedule

§2504. Application Fees

A. ...

B. Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. License renewal applications must be filed in accordance with LAC 33:XV.333.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:1816 (September 2003).

§2506. Reciprocal Agreements C Licenses and Registrants

A. Persons operating within Louisiana under the provisions of LAC 33:XV.212 or LAC 33:XV.390 shall submit to the Office of Environmental Services, Permits Division the annual fee of the applicable category before the first entry into the state. The fee will allow reciprocal recognition of the license or registration for one year from the date of receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2607 (November 2000), LR 29:1816 (September 2003).

James H. Brent, Ph.D.
Assistant Secretary

0309#008

RULE

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

Site-Specific Criteria Adjustment for Bayou
Chinchuba and Tchefuncte River Wetlands
(LAC 33:IX.1123)(WQ049)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.1123 (Log #WQ049).

The Rule is intended to set site-specific criteria for wetlands in the Bayou Chinchuba and Tchefuncte River watersheds. The included wetlands will receive secondarily treated effluent from the City of Mandeville. This Rule will result in the creation of two new subsegments: 040805 (Chinchuba Swamp Wetland) and 040806 (East Tchefuncte Marsh Wetland). Tree, shrub, and/or marsh grass productivity are determined to be the appropriate criteria. Designated uses are secondary contact recreation and fish and wildlife propagation. General and numerical criteria not specifically excepted in LAC 33:IX.1123.Table 3 shall apply. This action is required to establish protective site-specific criteria and designated uses for the affected Bayou Chinchuba and Tchefuncte River wetlands (subsegments 040805 and 040806) in Louisiana's water quality standards. A Use Attainability Analysis (UAA) was conducted in accordance with state and federal water quality regulations, policies, and guidance to develop site-specific criteria and designated uses for the wetland.

Analyses of use attainability are conducted by the department to determine the uses and criteria an individual water body can attain. According to the regulations, a UAA is defined as "a structured scientific assessment of the

factors (chemical, physical, biological, and economic) affecting the attainment of designated uses in a water body." [See 40 CFR 131.3(g) and LAC 33:IX.1105.] The UAA process is described in 40 CFR 131.10 and LAC 33:IX.1109.B.3. It entails the methodical collection of data that is then scientifically analyzed and summarized and used to establish site-specific uses and criteria. The basis and rationale for the Rule are to establish site-specific criteria and designated uses for the affected Bayou Chinchuba and Tchefuncte River wetlands (subsegments 040805 and 040806), developed as a result of the UAA conducted for the site.

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 IX. Water Quality

Chapter 11. Surface Water Quality Standards

§1123. Numerical Criteria and Designated Uses

A. - C.2. ...

3. Designated Uses. The following are the category definitions of Designated Uses that are used in Table 3 under the subheading "Designated Uses."

- A – Primary Contact Recreation
- B – Secondary Contact Recreation
- C – Propagation of Fish and Wildlife
- L – Limited Aquatic Life and Wildlife Use
- D – Drinking Water Supply
- E – Oyster Propagation
- F – Agriculture
- G – Outstanding Natural Resource Waters

Numbers in brackets, e.g. [1], refer to endnotes listed at the end of the table.

Table 3. Numerical Criteria and Designated Uses									
A - Primary Contact Recreation; B - Secondary Contact Recreation; C - Propagation of Fish and Wildlife; D - Drinking Water Supply; E - Oyster Propagation; F - Agriculture; G - Outstanding Natural Resource Waters; L - Limited Aquatic Life and Wildlife Use									
Code	Stream Description	Designated Uses	Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
*** [See Prior Text In 010101 - 031201]									
*** [See Prior Text In 040101 - 040804]									
040805	Chinchuba Swamp Wetland – forested wetland located 0.87 miles southwest of the City of Mandeville, southeast of the Sanctuary Ridge, and north of Lake Pontchartrain	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
040806	East Tchefuncte Marsh Wetland – fresh water and brackish marsh located just west of the City of Mandeville, bounded on the south by Lake Pontchartrain, the west by the Tchefuncte River, the north by Hwy 22, and the east by the Sanctuary Ridge	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
*** [See Prior Text In 040901 - 120806]									

ENDNOTES:

[1] - [22] ...

[23] . Designated Naturally Dystrophic Waters Segment. The following criteria apply: no more than 20% reduction in the total above-ground wetland productivity as measured by tree, shrub, and/or marsh grass productivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1123 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1817 (September 2003).

James H. Brent, Ph.D.
Assistant Secretary

0309#009

RULE

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

**Waste Tire Fee Reporting
(LAC 33:VII.10519)(SW036)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste regulations, LAC 33:VII.10519 (Log #SW036).

The Rule cleans up and clarifies existing language, including identification of classes of dealers affected by the Rule, requires the exclusive use of Form WT02, and clarifies the requirement for submittal of Form WT02 on or before the twentieth of every month, regardless of whether or not any fees have been collected. Review of the existing regulatory language revealed a possible lack of clarity regarding reporting requirements. The basis and rationale for this Rule are to clarify the existing waste tire fee reporting requirements.

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 VII. Solid Waste
Subpart 2. Recycling**

Chapter 105. Waste Tires

§10519. Standards and Responsibilities of Generators of Waste Tires

A. - C. ...

D. Each dealer of passenger/light truck tires, medium truck tires, or off-road tires shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the

department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance, Financial Services Division. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management and Finance, Financial Services Division), to the Office of Management and Finance, Financial Services Division, on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected. Each tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. These records shall be made available for inspection by the administrative authority at all reasonable hours.

E. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:1818 (September 2003).

James H. Brent, Ph.D.
Assistant Secretary

0309#007

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

**EPO Plan of Benefits CEmployer Responsibility
(LAC 32:V.417)**

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate Rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to employer responsibility with respect to re-employed retirees in order to avoid sanctions or penalties from the United States in connection with the administration of claims for Medicare covered retirees who return to active employment.

Accordingly, OGB has adopted the following Rule to become effective upon promulgation.

Title 32
EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits
Chapter 4. Uniform Provisions

§417. Employer Responsibility

A. It is the responsibility of the *participant employer* to submit enrollment and change forms and all other necessary documentation on behalf of its employees to the *program*. Employees of a *participant employer* will not by virtue of furnishing any documentation to the *program* on behalf of a *plan member*, be considered agents of the *program*, and no representation made by any such person at any time will change the provisions of this *plan*.

B. A *participant employer* shall immediately inform the OGB Program whenever a retiree with OGB coverage returns to full-time employment. The employee shall be placed in the *re-employed retiree* category for premium calculation. The *re-employed retiree* premium classification applies to retirees with Medicare and without Medicare. The premium rates applicable to the *re-employed retiree* premium classification shall be identical to the premium rates applicable to the classification for *retirees* without Medicare.

C. Any participant employer that receives a Medicare Secondary Payer (MSP) collection notice or demand letter shall deliver the MSP notice to the Office of Group Benefits, MSP Adjuster, within 15 days of receipt. If timely forwarded to OGB, then OGB will assume responsibility for any medical benefits, interest, fines or penalties due to Medicare for a *covered employee*. If not timely forwarded to OGB, then OGB will assume responsibility only for *covered plan document* medical benefits due to Medicare, for a *covered employee*. The *participant employer* will be responsible for any interest, fines or penalties due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1817 (October 1999), amended LR 29:1819 (September 2003).

A. Kip Wall
Chief Executive Officer

0309#050

RULE

Office of the Governor
Division of Administration
Office of Group Benefits

PPO Plan of Benefits Employer Responsibility
(LAC 32:III.417)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001,

vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate Rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to employer responsibility with respect to re-employed retirees in order to avoid sanctions or penalties from the United States in connection with the administration of claims for Medicare covered retirees who return to active employment.

Accordingly, OGB has adopted the following Rule to become effective upon promulgation.

Title 32
EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits
Chapter 4. Uniform Provisions

§417. Employer Responsibility

A. It is the responsibility of the *participant employer* to submit enrollment and change forms and all other necessary documentation on behalf of its employees to the *program*. Employees of a *participant employer* will not by virtue of furnishing any documentation to the *program* on behalf of a *plan member*, be considered agents of the *program*, and no representation made by any such person at any time will change the provisions of this *plan*.

B. A participant employer shall immediately inform the OGB Program whenever a *retiree* with OGB coverage returns to full-time employment. The employee shall be placed in the *re-employed retiree* category for premium calculation. The *re-employed retiree* premium classification applies to retirees with Medicare and without Medicare. The premium rates applicable to the *re-employed retiree* premium classification shall be identical to the premium rates applicable to the classification for *retirees* without Medicare.

C. Any *participant employer* that receives a Medicare Secondary Payer (MSP) collection notice or demand letter shall deliver the MSP notice to the Office of Group Benefits, MSP Adjuster, within 15 days of receipt. If timely forwarded to OGB, then OGB will assume responsibility for any medical benefits, interest, fines or penalties due to Medicare for a *covered employee*. If not timely forwarded to OGB, then OGB will assume responsibility only for *covered plan document* medical benefits due to Medicare, for a *covered employee*. The *participant employer* will be responsible for any interest, fines or penalties due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1837 (October 1999), amended LR 29:1819 (September 2003).

A. Kip Wall
Chief Executive Officer

0309#049

RULE

**Office of the Governor
Division of Administration
Racing Commission**

Worker's Compensation Insurance
(LAC 46:XLI.531)

The Louisiana State Racing Commission has amended LAC 46:XLI.531 Worker's Compensation Insurance as follows.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLI. Horseracing Occupations

**Chapter 5. Assistant Trainers and Other Employees
§531. Worker's Compensation Insurance**

A. In addition to all other requirements for a trainer's license, each applicant therefor must furnish an individual certificate of insurance issued in his or her name only, of an insurance company licensed and/or authorized to do business in the state of Louisiana, showing he or she has worker's compensation insurance covering his or her employees and which names the Louisiana State Racing Commission as a certificate holder for purposes of coverage and cancellation of policy. Any exceptions to the form and content of the certificate may be considered on timely request.

B. Engaging in the profession of training horses on the grounds of any association licensed by the Racing Commission without proper worker's compensation insurance may result in a fine of not less than \$500 and/or suspension or revocation of license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:150.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 4:274 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 29:1820 (September 2003).

Charles A. Gardiner III
Executive Director

0309#027

RULE

**Department of Health and Hospitals
Board of Nursing
and
Department of Public Safety and Corrections
Office of the Secretary**

Administration of Medications to Children
in Detention Facilities (LAC 22:I.509)

The Louisiana State Board of Nursing (herein referred to as the board) and the Department of Public Safety and Corrections (herein referred to as department), pursuant to the authority vested in the board by R.S. 37:918(K), and 15:911 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended Rules to provide for procedures and training that must be in place before any staff member other than any

registered nurse, licensed practical nurse or licensed medical physician can be required to administer medication to children in detention facilities and shelters; to provide for definitions; to provide for the establishment of guidelines for training and the administration of medication; to provide for the rights and responsibilities of employees assigned to detention facilities relative to the administration of medication; and to provide for related matters. The Rules are set forth below.

**Title 22
CORRECTIONS, CRIMINAL JUSTICE
AND LAW ENFORCEMENT
Part I. Corrections**

**Chapter 5. Administration of Medications to
Children in Detention Facilities**

**§509. Role of the Professional Staff in the
Administration of Medications**

A. Either a registered nurse with a current Louisiana license to practice in accordance with The Nurse Practice Act and the board's rules, specifically LAC 46:XLVII.3701-3703 and 3901-3915, or a physician shall be responsible for the delegation of medication administration by trained unlicensed detention center personnel. The duties of the professional staff regarding the administration of medication, include, but are not limited to the following:

1. the development of policies and procedures regarding administration of medication in detention centers, in consultation with the detention center's director;
2. supervision of the implementation of medication administration policies to ensure the safety, health, and welfare of the juveniles in collaboration with the director and appropriate staff;
3. verification that the following conditions have been met before requiring unlicensed trained personnel to administer a medication to a juvenile:
 - a. that the health status of the juvenile has been assessed to determine that the administration of medication can be safely delegated;
 - b. only oral, pre-measured aerosols for inhalation, topical medications, and emergency medications are administered by unlicensed trained personnel;
 - c. child specific training has been provided;
 - d. except in life-threatening situations, unlicensed trained employees are not allowed to administer injectable medications;
 - e. controlled substances are administered only after authorization, and with additional training, supervision and documentation;
4. developing and implementing procedures for:
 - a. handling, storing, and disposing of medication;
 - b. missing (stolen) medication;
5. training unlicensed personnel to administer medications. The six hours of general training include at minimum:
 - a. legal role differentiation in medication delivery;
 - b. classification of medications and general purposes of each;
 - c. proper procedures for administration of medication;
 - d. handling, storage, and disposal of medications;
 - e. appropriate and correct record keeping;

- f. appropriate actions when unusual circumstances occur;
- g. appropriate use of resources;
- 6. child specific training includes at minimum:
 - a. desired and adverse effects of the medication;
 - b. recognition and response to an emergency;
 - c. review of the individual's medication;
 - d. observation of the juvenile;
 - e. unique individual requirements for administration of medication;
- 7. additional training may be required as follows:
 - a. handling and administering controlled substances;
 - b. measuring growth, taking vital signs, and other specific procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and 15:911.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary and Department of Health and Hospitals, Board of Nursing, LR 28:1785 (August 2002), amended LR 29:1820 (September 2003).

Barbara Morvant, MN, RN
Executive Director
and
Richard L. Stalder
Secretary

0309#057

RULE

Department of Health and Hospitals Emergency Medical Services Certification Commission

EMS Certification
(LAC 46:XXXVIII.Chapters 1-7)

Under the authority of the Department of Health and Hospitals R.S 40:2017.10 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Emergency Medical Services, Certification Commission has adopted Rules to establish procedures to provide direction in the transaction of the business of administering and implementing the spirit and intent of the law governing the practice of emergency medical services professionals.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XXXVIII. Emergency Medical Services Professionals

Subpart 1. Rules of Procedure

Chapter 1. General

§101. Statement of Purpose

A. The Louisiana Emergency Medical Services Certification Commission is a legally created administrative commission acting within the governmental structure of the state and possessing legal power. To safeguard life and health of the citizens of Louisiana, the law governing the practice of Nationally Registered and State Certified Emergency Medical Services professionals, Louisiana Revised Statutes of 1950, R.S. 40:1232 et seq., as re-enacted and amended, delegates to this commission the

responsibility to establish and publish standards of out-of-hospital practice; to regulate the scope of practice of Emergency Medical Services professionals, to discipline and regulate the practice of Emergency Medical Services professionals and to establish standards for educational programs preparing individuals for out of hospital practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003).

Chapter 3. Registration and Certification

§301. State and National Certification

A. State certification by the Bureau of Emergency Medical Services is mandatory for practicing as a certified first responder.

B. National registration and state certification is mandatory for practicing as a certified emergency medical technician.

C. State certification as a certified Emergency Medical Services professional shall be issued only to an applicant who qualifies by examination or endorsement in accordance with R.S. 40:1231, et seq. All applicants shall meet the same standards.

D. The commission shall render an opinion to the Bureau of Emergency Medical Services on whether the applicant meets the requirements of certification in all questionable cases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003).

§303. Denial of Certification, Reinstatement, or the Right to Practice EMS as a Student

A. Applicants for certification, reinstatement, or the right to practice as an EMS student may be denied approval for certification, reinstatement, receipt of a temporary permit, eligibility for the National Registry exam, or entry or progress into any clinical or field internship aspects of an EMS course, if the applicant:

1. knowingly falsifies any documents submitted to the bureau, commission or the EMS educational facility; or
2. has pled guilty, nolo contendere, been convicted of, or committed a: "crime of violence" as defined in R.S. 14:2(13), or any of the following crimes:
 - a. first degree feticide;
 - b. second degree feticide;
 - c. aggravated assault with a firearm;
 - d. stalking;
 - e. false imprisonment (offender armed with a dangerous weapon);
 - f. incest;
 - g. aggravated incest;
 - h. molestation of a juvenile;
 - i. sexual battery of the infirm; or
 - j. crime which involves felony drug charges.

B. For purposes of this Section, a pardon, suspension of imposition of sentence, expungement, or pretrial diversion or similar programs shall not negate or diminish the requirements of this Section.

C. Applicants who are denied certification, reinstatement, or the right to practice EMS as a student shall

not be eligible to submit a new application, unless the ground for denial is falsification of records and until the following conditions are met.

1. A minimum of two years has passed since the denial was issued.

2. The applicant presents evidence that the cause for the denial no longer exists.

3. A hearing or conference is held before the commission to review the evidence, to afford the applicant the opportunity to prove that the cause for the denial no longer exists, and to provide an opportunity for the commission to evaluate changes in the person or conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003).

§305. Delay of Certification, Reinstatement, or the Right to Practice EMS as a Student

A. Applicants for certification, reinstatement, and for practice as a EMS student shall have approval delayed for certification, for reinstatement, to receive a temporary working permit, to be eligible for National Registry Exam, or to enter or progress into any clinical EMS course, if the applicant:

1. has any pending disciplinary action or any restrictions of any form by any licensing/certifying entity in any state; or

2. has a pending criminal charge that involves any violence or danger to another person, or involves a crime which constitutes a threat to patient care; or

3. has pled guilty, nolo contendere, been convicted of or committed a crime that reflects on the ability of the person to practice EMS safely, and the conditions of the court have not been met, or is currently serving a court ordered probation or parole. If the crime is a "crime of violence" as defined in R.S. 14:2(13) or any of the following crimes: first degree feticide, second degree feticide, aggravated assault with a firearm, stalking, false imprisonment-offender armed with a dangerous weapon, incest, aggravated incest, molestation of a juvenile, sexual battery of the infirm, or a crime that involves felony drug charges, the applicant shall be denied.

B. For purposes of this Section, a pardon, suspension of imposition of sentence, expungement, or pretrial diversion or similar programs shall not negate or diminish the requirements of this Section.

C. Applicants who are delayed certification, reinstatement, or the right to practice EMS, as a student shall not be eligible to submit a new application until the following conditions are met:

1. the applicant presents sufficient evidence that the cause for the delay no longer exists; and

2. a hearing or conference is held before the commission to review the evidence, to afford the applicant the opportunity to prove that the cause for the delay no longer exists, and to provide an opportunity for the commission to evaluate changes in the person or conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1822 (September 2003).

Chapter 5. Disciplinary Proceedings; Alternative to Disciplinary Proceedings

§501. Disciplinary Proceedings Before the Commission

A. The Emergency Medical Services Certification Commission has the responsibility to consider and determine the action necessary upon all charges of conduct which fail to conform to R.S. 40:1231 et seq., as re-enacted and amended, or to the rules and regulations promulgated to carry out the provisions of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1822 (September 2003).

§503. Proceedings against Certified EMS Professional or Certified EMS Professional Applicants

A. The commission may direct the Bureau of Emergency Medical Services to deny, revoke, suspend, probate, limit, reprimand, or restrict any certification to practice as a certified EMS professional or otherwise discipline an individual in accordance with R.S. 40:1232.6.

B. Every individual subjected to disciplinary proceedings shall be afforded an opportunity for a hearing before the commission or its duly appointed hearing officer or committee.

C. A complaint that an individual has engaged in, or is engaging in, any conduct proscribed by R.S. 40:1232.6, may be made by any person, staff, agency or the commission. Such complaints shall be in writing, and on a form prescribed by the commission or affixed to the form prescribed by the commission.

D. Grounds for disciplinary proceedings against a certified EMS professional are specified in R.S. 40:1232.6:

1. is guilty of selling or attempting to sell, falsely obtaining, or furnishing to a person a certified emergency medical technician or certified first responder certification document;

2. is guilty of a felony or is convicted of a crime or offense which reflects the inability to practice EMS with due regard for the health and safety of clients or patients or enters a plea of guilty or nolo contendere to a criminal charge regardless of final disposition of the criminal proceeding, including, but not limited to, expungement, non-adjudication or pardon;

3. is unfit or incompetent by reason of negligence, habit, or other cause;

4. is habitually intemperate in the use of or abuses alcohol or habit-forming drugs;

5. has demonstrated actual or potential inability to practice EMS with reasonable skill and safety to individuals because of use of alcohol or drugs; or has demonstrated inability to practice EMS with reasonable skill and safety to individuals because of illness or as a result of any mental or physical condition;

6. is mentally incompetent;

7. has had a certification to practice EMS or to practice as another health care provider denied, revoked, suspended, or otherwise restricted;

8. is guilty of moral turpitude;

9. has violated any provision of this Subpart;

10. is guilty of aiding or abetting another person in the violation of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1822 (September 2003).

§505. Proceedings Involving Students Enrolled in EMS Courses

A. The commission may direct the Bureau of Emergency Medical Services to deny, revoke, suspend, probate, limit, reprimand or restrict any student enrollment in EMS courses, or otherwise discipline a student enrolled in EMS courses or attempting to enroll in EMS courses as part of its duties and responsibilities in regulating the practice of EMS in Louisiana and in overseeing the administration of the curriculum and operation of EMS education programs in the state of Louisiana.

B. Every student enrolled or attempting to enroll in EMS courses subjected to the proceedings set forth above, shall be afforded an opportunity for a hearing before the commission or its duly appointed hearing officer.

C. Information obtained by the commission that a EMS student enrolled or attempting to enroll in EMS courses is or has engaged in any conduct prescribed by R.S. 40:1232.6., shall be received in a form prescribed by the commission. This information may be furnished by any person, staff, agency or by the commission.

D. Grounds for proceedings against a student enrolled or attempting to enroll in EMS courses are:

1. all of the grounds for disciplinary proceedings against certified EMS professional listed in Section D. of Proceedings Against Certified EMS Professional or Certified EMS Professional Applicants;

2. has been denied a request to enroll in EMS courses or has been denied a certification to practice in any health care field or had such privileges revoked, suspended or otherwise restricted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1823 (September 2003).

§507. Definition of Terms

A. The commission in the exercise of its disciplinary authority has adopted the following meaning for the following terms.

Aiding and Abetting Cto intentionally assist anyone by condoning, or to apply positive or negative force to assist anyone in violating the Emergency Medical Services Practice Act or the rules and regulations of the commission or bureau.

Deny Cto refuse for cause.

Habit Ca mode of behavior, which an individual acquires over a period of time.

Limit Cto confine within certain bounds.

Mentally Incompetent Ca court judgment of legal insanity or incompetence or a medical diagnosis indicating insanity or incompetence.

Moral Turpitude Can act, which is dishonest, or contrary to good morals.

Negligence Ca breach of duty of care owed to an individual.

Other Causes Cincludes, but is not limited to:

a. failure to practice EMS in accordance with the standards of EMS practice;

b. possessing a physical impairment or mental impairment, which interferes with the judgment, skills or abilities required for the practice of EMS;

c. failure to utilize appropriate judgment;

d. failure to exercise technical competence in carrying out EMS care;

e. violating the confidentiality of information or knowledge concerning the patient;

f. performing procedures beyond the authorized scope of EMS or any specialty thereof;

g. performing duties and assuming responsibilities within the scope of the definition of EMS practice when competency has not been achieved or maintained, or where competency has not been achieved or maintained in a particular specialty;

h. improper use of drugs, medical supplies or equipment, patient's records, or other items;

i. misappropriating items of an individual, agency, or entity;

j. falsifying records;

k. failure to act, or negligently or willfully committing any act that adversely affects the physical or psychosocial welfare of the patient;

l. delegating or assigning EMS care, functions, tasks, or responsibilities to others contrary to regulations or failing to adequately supervise EMS tasks assigned to others during the course of providing EMS care;

m. leaving a EMS assignment where there was a duty to act without properly notifying appropriate personnel;

n. failing to report to the Bureau of Emergency Medical Services, through the proper channels, facts known regarding the incompetent, unethical, or illegal practice of any EMS professional;

o. has violated a rule or an order adopted by the commission or the bureau, or a state or federal law relating to the practice of professional EMS, or a state or federal narcotics or controlled substance law;

p. inappropriate, incomplete or improper documentation;

q. use of or being under the influence of alcoholic beverages, illegal drugs or drugs which impair judgment while on duty;

r. failure to cooperate with the commission or bureau by:

i. not furnishing in writing a full and complete explanation covering a matter requested in writing by the commission or bureau; or

ii. not responding to subpoenas issued by the commission in connection with any investigation or hearing;

s. exceeds professional boundaries, including but not limited to sexual misconduct; and

t. use of any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

Probate Cto stay a sentence of certification suspension during good behavior and placing under supervision of Bureau for a period of time. Certification is marked "probated" and specific requirements are identified.

Professional Boundaries—the limits of the professional relationship that allow for a safe therapeutic connection between the professional and the patient.

Reprimand—written communication to the individual stating the commission's concerns, and public notification of the individual's name and reason for the reprimand.

Restrict—to limit or restrain EMS practice by settings, types of patients, or other means.

Reasonable Skill and Safety—practicing EMS in accordance with the standards of EMS practice.

Revoke—to annul or make void by calling back. Revocation of certification shall be indefinite as to the practice of EMS in Louisiana.

Sexual Misconduct—an extreme boundary violation which involves the use of power, influence and/or knowledge inherent in one's profession in order to obtain sexual gratification, romantic partners and/or sexual deviant outlets. Any behavior that is seductive, sexually demeaning, harassing or reasonably interpreted by a patient as sexually inappropriate, is a violation of the EMS professional's fiduciary responsibility to the patient.

Suspend—to hold certification to practice as a certified EMS professional in abeyance for a definite or an indefinite period of time.

Unfit or Incompetent—unsuitable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1823 (September 2003).

§509. Disciplinary Process and Procedures

A. The provisions of the Administrative Procedure Act shall govern proceedings on questions of violation of R.S. 40:1231 et seq., as re-enacted and amended.

1. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

2. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the individual did certain acts and, if he did, whether those acts violated the Emergency Medical Services Practice Act or rules and regulations of the commission or bureau; and to determine the appropriate disciplinary action.

3. Any disciplinary action shall also be forwarded to the National Registry of Emergency Medical Technicians (NREMT), as applicable, and any other certification agency and/or required reporting entity.

B. Investigation

1. The process of a disciplinary proceeding shall include certain steps and may include other steps as follows.

a. The bureau or commission receives information alleging that an individual has acted in violation of the Emergency Medical Services Practice Act. Communications from the informant shall be privileged and shall not be revealed to any person unless such documents will be offered for evidence in a formal hearing, or unless those documents are subpoenaed by a court, or requested by other regulatory or law enforcement agencies.

b. The information is investigated by the bureau's staff to determine if there is sufficient evidence to warrant disciplinary proceedings. Information received by the bureau

or commission shall not be considered a complaint until the individual furnishing that information provides the information in writing. The commission chair or designee may issue a subpoena prior to the filing of charges if, in the opinion of the chair, such a subpoena is necessary to investigate any potential violation or lack of compliance with R.S.40:1231 et seq., or the rules, regulations, or orders of the bureau or commission. The subpoena may be to compel the attendance of any person to appear for the purposes of giving sworn testimony and/or to compel the production of books, records, papers, or other objects.

2. An agreement worked out between the complainant and the individual does not preclude disciplinary action by the commission. The nature of the offense alleged and the evidence before the commission must be considered.

C. Informal Disposition of with No Disciplinary Action

1. Some allegations may be settled informally by the commission and the individual, without formal disciplinary action. The following types of informal dispositions may be utilized.

a. Disposition by Correspondence

i. For less serious allegations, the chair, or a designee of the commission, may write to the individual explaining the nature of the information received. The individual's subsequent response may satisfactorily explain that no violation of the Emergency Medical Services Practice Act, or rules, or order of the commission or bureau occurred, or that the matter does not rise to the level requiring formal disposition at this time, and the matter may be dropped. If the situation is not satisfactorily explained, it shall be investigated and disposed of through another informal means or brought before the commission for a formal hearing.

b. Informal Conference

i. The chair, or a designee of the chair, and another member of the commission or a bureau staff member may hold a conference with the individual, in lieu of, or in addition to correspondence, in cases of less serious allegations. If the respondent can satisfactorily explain that no violation of the Emergency Medical Services Practice Act, or rules, or order of the commission or bureau occurred, or that the matter does not rise to the level requiring formal disposition at this time, then the matter may be dismissed.

ii. The individual shall be given adequate notice of the fact that information brought out at the conference may later be used in a formal hearing.

iii. Referral to an alternative to the disciplinary process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1824 (September 2003).

§511. Formal Disciplinary Action

A. A decision to initiate formal disciplinary proceedings is made if one or more of the following conditions exist:

1. the complaint is sufficiently serious;
2. the individual fails to respond to the commission's correspondence concerning the complaint;
3. the individual's response to the commission's letter or investigative demand is not convincing that no action is necessary;

4. an informal approach is used, but fails to resolve all of the issues.

B. Informal Procedures

1. The matter may be resolved without a formal administrative hearing by either a voluntary surrender of certification, Consent Order, or Settlement Order. These actions shall constitute disciplinary action and shall be a public record of the commission. The commission shall publish the individual's name, a brief description of the violation, and the disciplinary action.

C. Voluntary Surrender of Certification. An individual who is under investigation for violation of the practice act or rules of the commission or bureau may voluntarily surrender his certification to the bureau. The voluntary surrender invalidates the certification at the time of its relinquishment. An individual practicing as a certified EMS professional during the period of voluntary certification surrender is considered an illegal practitioner and is subject to the penalties provided by this chapter and RS 40.1231 et seq.

1. Any certification surrender shall not be deemed to be an admission of the alleged facts of any pending investigation or complaint. The fact of certification surrender shall be deemed a disciplinary action and shall be reported and distributed in the same manner as final decisions of the commission.

2. Surrender or non-renewal of certification shall not preclude the commission from investigating or completing a disciplinary proceeding based upon the individual's conduct prior to or subsequent to the surrender of certification.

3. Individuals who surrender their certification are not eligible for reinstatement of certification for a minimum of two years and until meeting the requirements for reinstatement of certification as described in this chapter.

D. Consent Order

1. An order involving some type of disciplinary action may be made by the commission with the consent of the individual.

2. The chair or the Bureau of EMS Director is authorized to offer the individual the choice of a consent order in lieu of an administrative hearing.

3. A consent order signed by an individual is an irrevocable offer by the individual until approved, or rejected, by the commission chair or designee.

4. A consent order requires formal approval of a quorum of the commission. All actions of the bureau shall be reported to the commission at its next regularly scheduled meeting.

5. A consent order is not the result of the commission's deliberation; it is the commission's formal approval of an agreement reached between the commission and the individual. The order is issued by the commission to carry out the parties' agreement.

a. Should the commission require evidence before arriving at a decision, the individual shall be notified and given an opportunity for a hearing.

b. Should the commission revise the terms of the agreement, said revised agreement shall be presented for the individual's acceptance. The commission may formulate its order contingent upon the individual's acceptance.

c. The commission shall have the right to refer any case directly to an administrative hearing without first offering a consent agreement.

E. Settlement Order

1. Disciplinary Settlement Committee, consisting of the chair, or a designee of the chair, and another member of the commission or a bureau staff member, is delegated the authority to render a final decision regarding settlement of a contested administrative matter by offering a settlement order in lieu of an administrative hearing. The settlement order shall be deemed an order of the commission, effective immediately upon signature of all parties to the agreement.

a. The disciplinary settlement shall be submitted to the commission for review at the next regularly scheduled disciplinary hearing.

b. Should the Disciplinary Settlement Committee be unable to successfully resolve a case, or should the committee believe that the public would be better protected by a decision rendered by the entire commission, the matter will be forwarded to the commission for a formal hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1824 (September 2003).

§513. Formal Hearing

A. The commission has the authority, granted by R.S. 40:1232.3, to bring administrative proceedings to certified EMS professionals, applicants for certification, individuals seeking enrollment or progression in an approved EMS program, and individuals practicing EMS without certification. The commission and the individual are the parties to the proceeding. The individual has the right to appear and be heard, either in person or by counsel; the right of notice, a statement of what accusations have been made; the right to present evidence and to cross-examine; and the right to have witnesses subpoenaed.

B. Notice and Service

1. The chair or a designee fixes a time and place for a hearing.

2. At least 15 days prior to the date set for the hearing, a copy of the charges and a notice of the time and place of the hearing are sent by certified mail, return receipt requested, to the individual's address of record. Notice to an individual is effective and service is complete when sent by certified mail to the individual's address of record.

3. At least five working days prior to the scheduled hearing date, the individual shall respond in writing as to his intention to appear or not appear at the scheduled hearing. At least five working days prior to the scheduled hearing date, the individual shall also file with the commission a written response to the specific allegations contained in the notice of charges. Allegations not specifically answered shall be deemed admitted.

4. If the individual does not appear, in person or through counsel, after proper notice has been given, the individual has waived these rights and the commission may proceed with the hearing without the presence of the individual.

C. Motions for Continuance

1. The commission shall not postpone cases that have been scheduled for hearing absent good cause. A written motion by a certified EMS professional, applicant, or student for a continuance shall be filed with the commission five working days prior to the time set for the hearing, except for

extreme emergencies. The motion shall contain the reason for the request, which reason must be based upon good cause and have relevance for due process. Requests for continuances may be approved or denied by the chair or designee. No more than three requests for continuance shall be granted.

D. Subpoenas

1. The chair, or a designee of the commission, issues subpoenas for the commission for disciplinary proceedings, and when requested to do so, may issue subpoenas for the other party. Subpoenas include:

- a. a subpoena requiring a person to appear and give testimony;
- b. a subpoena duces tecum, which requires that a person produce books, records, correspondence, or other materials over which he has control.

E. Hearing

1. The hearing is held, at which time the commission's primary role is to hear evidence and argument, and to reach a decision. Any commission member, who because of bias or interest is unable to assure a fair hearing, shall be recused from that particular proceeding. The reasons for the recusal are made part of the record. Should the majority of the commission members be recused for a particular proceeding, the governor shall be requested to appoint a sufficient number of pro tem members to obtain a quorum for the proceeding.

2. The commission shall be represented by a Department of Health and Hospitals' attorney. Evidence is presented that disciplinary action should be taken against the individual. The individual may present evidence personally or through an attorney, and witnesses may testify on behalf of the individual.

3. Evidence includes the following:

- a. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by requesting party) and/or by sworn affidavits;
- b. documentary evidence, i.e., written or printed materials including public, business or institutional records, books and reports; such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference, if the incorporated materials are available for examination by the parties before being received into evidence;
- c. visual, physical and illustrative evidence;
- d. admissions, which are written or oral statements of a party made either before or during the hearing;
- e. facts officially noted into the record, usually readily determined facts making proof of such unnecessary.;
- f. All testimony is given under oath. If the witness objects to swearing, the word "affirm" may be substituted.

4. The chair of the commission presides and the customary order of proceedings at a hearing is as follows.

- a. The chair of the commission presents the case against the individual.
- b. The individual, or his attorney, makes an opening statement, explaining why he believes that the charges against him are not legally founded.
- c. The individual commission members ask relevant questions.

d. The individual, or his attorney, may make any statements or questions to the commission.

e. The chair of the commission makes the final statement.

f. The commission may impose reasonable time limits on all sides in a hearing, provided that limits will not unduly prejudice the rights of the parties.

g. The commission may exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record.

h. When a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

i. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time, according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during the course of the hearing may be made orally since they become part of the transcript of the proceeding.

5. The records of the hearing shall include:

- a. all papers filed and served in the proceeding;
- b. all documents and other materials accepted as evidence at the hearing;
- c. statements of matters officially noticed;
- d. notices required by the statutes or rules, including notice of the hearing;
- e. affidavits of service or receipts for mailing or process or other evidence of service;
- f. stipulations, settlement agreements or consent orders, if any;
- g. records of matters agreed upon at a pre-hearing conference;
- h. orders of the commission and its final decision;
- i. actions taken subsequent to the decision, including requests for reconsideration and rehearing;
- j. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record.

k. The record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript. A party who appeals a decision of the commission shall pay all of the costs incurred by the Department of Health and Hospitals for preparation of the original and any certified copy of the record of the proceeding that is required to be transmitted to the reviewing court.

6. The decision of the commission shall be reached according to the following process:

- a. determine the facts in the issue on the basis of the evidence submitted at the hearing;
- b. determine whether the facts in the case support the charges brought against the individual;
- c. determine whether charges brought are a violation of the Emergency Medical Services Practice Act or rules and regulations of the commission or the bureau.

7. The vote of the commission shall be recorded. Minority views may be made part of the record.

8. Sanctions against the individual who is party to the proceeding are based upon the findings of fact and

conclusions of law determined by the hearing. The party is notified by certified mail of the decision of the commission.

F. Disciplinary Sanctions

1. The type of disciplinary sanctions and length of time specified for the sanctions shall be determined on an individual basis, considering all facts pertinent to the case.

2. The commission sets forth guidelines with ranges of disciplinary sanctions from which disciplinary penalties may be imposed. These guidelines are intended to serve only as a guide for staff and commission members when considering penalties, which could be imposed for specific violations of the Emergency Medical Services Practice Act. Guidelines are in no way binding on the commission when dealing with disciplinary matters. The commission may order certification sanctions.

3. The disciplinary guidelines are based upon a single count violation. Multiple counts of violations of the same action, or other unrelated violations contained in the same complaint will be grounds for enhancement of penalties. Each day of a continuum of violations may be treated as a separate violation.

4. In determining sanctions, the staff shall consider aggravating or mitigating circumstances identified by the commission in addition to any other factors. The list of aggravating and mitigating circumstances in the guidelines is not to be considered an exclusive list of circumstances.

a. Aggravating circumstances may result in the commission issuing maximum sanctions, or they may justify enhancement of a penalty beyond the maximum guidelines.

b. Mitigating or extenuating circumstances may justify lessening of the sanctions below the minimum guidelines. Certification suspensions may be stayed with stipulated probations in some extenuating circumstances.

5. The Order may stipulate remedial education, specific evaluation and therapy, and other sanctions as deemed necessary and appropriate to the case.

G. Reconsideration or Rehearing

1. The commission shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the commission's decision has been appealed.

2. The commission may reconsider a matter which it has decided. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party files a petition requesting that the decision be reconsidered by the commission and specifies the particular grounds therefore.

3. A petition by a party for reconsideration or rehearing must be in proper form and filed within 10 days from the date of entry of the decision. A decision is deemed to be entered when it is signed by the chair or designee and sent by certified mail to the individual's address of record. The petition shall set forth the grounds for the rehearing, which include one or more of the following:

a. the commission's decision is clearly contrary to the law and the evidence;

b. there is newly discovered evidence, which was not available to the individual at the time of the hearing and which may be sufficient to reverse the commission's action;

c. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly;

d. it would be in the public interest to further consider the issues and the evidence;

e. upon the commission's receipt of a petition for rehearing or reconsideration, the commission may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the above stated reasons. An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

H. Emergency Action

1. If the commission finds that public health, safety, and welfare requires emergency action and a finding to that effect is incorporated in its order, summary suspension of a certification may be ordered by the chair or designee pending proceedings for revocation or other action. Such proceedings shall be promptly instituted and determined at the next regularly scheduled commission meeting.

I. Disciplinary Proceedings in another Licensing Jurisdiction

1. When a certified EMS professional has his certification revoked, suspended, denied or sanctioned in other ways for disciplinary reasons by the original certification/licensing jurisdiction or by a subsequent certification/licensing authority that certified EMS professional shall be notified that his Louisiana Certification is automatically suspended, except for the following:

a. nonpayment of fees;

b. a person in a recovery program for chemical dependency receives permission of the state of origin to transfer to another state;

c. the certified EMS professional is issued a reprimand and the certified EMS professional agrees to having his Louisiana Certification reprimanded identically to, or in excess of, the said jurisdiction's reprimand; and

d. the certification is encumbered with a reprimand with stipulations and the certified EMS professional agrees to having his Louisiana Certification probated with stipulations that are identical to, or exceed, the stipulations in said jurisdiction.

2. The certified EMS professional may have his certification reinstated provided that the certified EMS professional:

a. provides evidence of an unencumbered certification by the involved certification/licensing authority and all subsequent certification/licensing authorities; and

b. meets requirements for reinstatement of certification as described in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1825 (September 2003).

§515. Appeal from Commission Decision

A. Any person whose certification has been revoked, suspended, denied, or otherwise disciplined by the bureau shall have the right to have the proceedings of the commission reviewed by the court having jurisdiction over

the commission, provided that such appeal is made within 30 days after the date indicated on the registered mail receipt of the written notice of the commission's decision. The commission's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1827 (September 2003).

§517. Reinstatement of Certification

A. Application for reinstatement of a suspended or surrendered certification shall be in writing.

B. The application for reinstatement of a suspended certification does not require satisfaction of the requirements for initial certification. However, the requirements of LAC 46:XXXVIII shall be met.

C. Prior to reinstatement of a certification previously suspended (except for nonpayment of fees), a hearing or conference is held before the commission to afford the applicant with the opportunity to present evidence that the cause for the revocation or suspension no longer exists and to provide an opportunity for the commission to evaluate changes in the person or conditions. In certain situations, the certification may be reinstated by consent order or settlement order. The burden of proof is on the applicant to prove that conditions that led to the suspension no longer exist and/or no longer affect applicant's ability to practice safely. If reinstatement is granted, a period of probation with stipulations may be imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1828 (September 2003).

§519. Definition of Terms Applying to EMS Practice as used in this Chapter

Accountability Cbeing answerable for one's actions or inactions. The certified EMS professional answers to self, patient, agency, medical director, profession and society for the effectiveness and quality of EMS care rendered. It is the personal responsibility of each individual to maintain competency in practice. If the assigned EMS professional does not possess the specialized EMS knowledge, skills and abilities required to provide the required care, said professional shall notify the appropriate supervisory EMS personnel.

Additional Acts Cactivities beyond those taught in basic EMS education programs. Additional acts are authorized by the commission through rules and regulations or declaratory statements interpreting the legal definition of EMS. Certified EMS professional are accountable for attaining and maintaining competency when performing approved additional acts.

Assessment Cidentifying human responses, which indicate existing, or potential abnormal condition through the patient history, physical examination, and observation, in accordance with the standards of EMS of practice.

Assignment Cdesignating EMS activities to be performed by an individual consistent with his scope of practice.

Carrying Out the Medical Orders of a Physician Licensed in Louisiana

1. certified EMS professionals may, based on their individual judgment of each situation, accept verbal orders initiated by a licensed physician, provided the order is related to the said practitioner's scope of practice;

2. certified EMS professionals may execute standing orders of a licensed physician.

Collaborating Ca process involving two or more health care professionals working together, though not necessarily in each other's presence, each contributing one's respective area of expertise to provide more comprehensive care than one alone can offer.

Delegating EMS Interventions Ccommitting or entrusting the performance of selected EMS tasks by the certified EMS professional to other competent EMS personnel in selected situations. The certified EMS professional retains the accountability for the total EMS care of the individual.

EMS Services Cactivities designed to resolve, diminish, or prevent the needs that are inferred from the individual's problem; includes the planning, implementation and evaluation of said activities in accordance with the Standards of EMS practice.

Expanded Scope of Practice Cthose functions, procedures and activities which are currently not part of the approved National EMS curriculum, but have been approved by the EMS Certification Commission as appropriate for the various levels of EMS professionals.

Field Diagnosis Cprehospital evaluation of the patient's condition and its causes.

Maintaining EMS Care Rendered Directly or Indirectly Cpreserving the continuity of safe and effective EMS care, including the delegated EMS activities.

Managing and Supervising the Practice of EMS Cthose activities which serve to fulfill the accountability of the certified EMS professional for the total EMS care of the individual when tasks in the EMS care are delegated to other EMS personnel. These activities include:

1. judging the priority of EMS needs of the individual(s);

2. determining actions required to meet the needs;

3. assigning personnel, including self, qualified to implement the prescribed EMS care components of that care;

4. providing information needed by personnel for the implementation of the assigned EMS care and ascertaining the assimilation of same information;

5. directing the EMS care and evaluating the outcomes of that care;

6. determining and initiating changes in EMS care or in assignment of EMS personnel.

Medical Diagnosis Cthe conclusion reached in identification of the patient's disease, especially the art of distinguishing among several possibilities with the intent of prescribing relevant treatment.

Medical Interventions Call functions, activities, medications and medical treatments of therapeutic or corrective nature approved by the Bureau of EMS and the EMS Certification Commission.

Preventive Instruction Those EMS measures that provide health information and explanation to the public to reduce the incidence of death and injury.

Scope of Practice The range of duties and skills EMS professionals are expected to perform.

Specialized Knowledge and Skills Required for the practice of EMS means the current theory and practice taught in basic EMS education programs preparing persons for EMS professional certification as well as information in the biological, physical and behavioral sciences.

Specialty Care Transport Paramedic Those individuals who have met the requirements as approved by the EMS Certification Commission.

Student EMS Professional A person who is engaged in learning experiences in a program of study leading to candidacy for certification to practice as a certified EMS professional. The term applies only when the person is participating in an integral part of the program of study.

Teaching of EMS Instructing EMS professional students and providing continuing EMS education to certified EMS professionals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1828 (September 2003).

Chapter 7. Administrative Provisions

Subchapter A. Fees and Costs

Reserved.

Gene Salassi
Chairman

0309#034

RULE

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

Home and Community Based Services Waiver Program
Standards of Participation
(LAC 50:XXI.Chapter 1)

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

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XXI. Home and Community Services Waivers

Subpart 1. General Provisions

Chapter 1. Standards for Participation

§101. Provider Requirements

A. In order to be reimbursed by the Louisiana Medicaid Program, a service provider agency must comply with all of the requirements of this Part XXI.

B. General Provisions

1. For the purposes of this Part XXI, providers enrolled with the Department of Health and Hospitals

(DHH) as a Home and Community-Based Waiver (HCBW) service provider on the effective date of this rule shall have two years to comply with these standards, including attending the Bureau of Community Supports and Services (BCSS) provider orientation for HCBW prior to requesting a provider enrollment visit by the Bureau of Community Supports and Services (BCSS).

2. If a provider is not accessible in their DHH geographical region, individuals and/or families may seek a provider outside of the DHH region with prior approval of BCSS. This approval must be documented in the individual's approved comprehensive plan of care (CPOC) and Freedom of Choice Form (FOC).

3. Providers are responsible for submitting written notification by certified mail to BCSS and Medicaid of any changes in address and/or telephone numbers within 10 days of the change.

4. In addition to agency internal employer reporting requirements, any employee or consultant/contractor of the enrolled provider who witnesses, learns of, is informed of, or otherwise has reason to suspect that an incident of abuse, neglect, or exploitation has occurred must report such incident in accordance with BCSS critical incident reporting, child and/or adult protection laws, and fully cooperate with the investigation of the incident.

C. Physical Facilities and Equipment

1. The provider shall maintain an office site in each region of operation.

a. Each site must house the case records and billing information for all individuals served by that office.

b. Each regional site must maintain a toll-free telephone line with 24-hour accessibility and manned by an answering service. The toll-free number must be given to individuals at intake or at the first meeting.

c. The provider must have daytime office hours that conform to the usual and customary operating hours of the local business community.

d. The provider must maintain a current brochure that outlines provider services, address and telephone numbers for distribution to the public.

2. The provider must obtain and maintain computer equipment, internet accessibility, and software as specified below:

a. IBM-compatible PC with a Pentium Processor 4 or later version, and/or capable of using specific software required by BCSS:

b. 1.44 MB 3.5 inch disk drive;

c. 32 MB of RAM or more;

d. 25 MB free hard drive space or more;

e. color monitor;

f. printer;

g. modem (28.2k or faster);

h. CD-ROM;

i. Windows 95 operating system or later version;

j. internet account with e-mail and web-browser software.

D. Provider Training

1. New providers shall attend the BCSS provider orientation for HCBW providers and meet all required standards prior to being enrolled as a waiver service provider. BCSS provider orientation will be held in January and June.

2. All enrolled providers will be required to attend an annual BCSS training conducted to continue enrollment. Additional training may be required by BCSS if deemed necessary.

3. Those employees having direct contact with recipients must obtain no less than 16 hours of basic orientation in addition to any individualized, specialized training needed to work with a recipient on a daily basis prior to becoming solely responsible for implementing that recipient's support plan.

4. All provider training shall be competency-based (results driven).

5. Training shall include, but is not limited to, the following:

- a. abuse/neglect/incident reporting;
- b. staff ethic, including the strict prohibition against soliciting consumers from other provider agencies, respectful interactions with people being supported, and the use of People First Language;
- c. confidentiality, privacy rights, and HIPAA;
- d. human and civil rights;
- e. person centered planning;
- f. personal outcomes;
- g. consumer direction/self determination philosophy;
- h. infection control/universal precautions, first aid and emergency procedures;
- i. environmental emergency procedures;
- j. provider policies and procedures;
- k. documentation of services, progress notes, service logs, etc.

6. The provider shall have an employee designated as a training coordinator whose responsibilities include, but are not limited to, the following duties:

- a. staff training;
- b. staff development; and
- c. maintenance of training records.

E. Personnel and Human Resources

1. Program or Executive Director

a. The program director or executive director shall meet the following requirements:

i. be a registered nurse (RN) and have one year of verifiable experience in direct service work with persons with disabilities;

ii. have a bachelor's degree in a human services field (such as, but not limited to, hospital or nursing home administration, physical therapy, occupational therapy, speech therapy, social work or psychology) or is currently enrolled in an accredited college and pursuing a bachelor's degree in a human services field. The individual will have a period of three years to complete the course of study; and

iii. have a minimum of one year verifiable work experience, post degree or have one year of experience while working on the degree, in planning and providing direct support to:

- (a). persons with mental retardation or other developmental disabilities; or
- (b). disabled adults; or
- (c). elderly persons with chronic disabling illness; or

b. in the absence of having an employee that meets the qualifications in §101.E.1, the provider must have a

contract with a person so qualified to serve as program director to assure that services are delivered as described in the approved CPOC.

2. Direct Support Staff. Direct support personnel/staff shall possess validated direct care abilities, skills and knowledge to adequately provide the care and support required by a recipient receiving waiver support services.

a. Direct support staff shall be at least 18 years old and possess a high school diploma, GED, a trade school diploma in the area of human services, demonstrated competency, or have verifiable work experience in providing support to individuals with disabilities.

3. The provider shall develop and implement policies and procedures for the recruitment, hiring, and retaining of qualified, competent personnel including:

a. obtaining at least three references from previous employers and/or work supervisors;

b. strategies to recruit and employ staff representative of the cultural and ethnic groups supported;

c. conducting criminal background checks on all employees prior to allowing the employee to work directly with individuals receiving HCBW services;

d. strategies for retaining competent staff and staff development;

e. compliance with Fair Labor and Child Labor laws;

f. agency backup plans for staff coverage when direct care staff fail to report for duty as scheduled. The plan must include strategies to assure that backup direct support staff have been trained in the individualized, specialized care and support needed;

g. protocol outlining how the agency will have staff available during emergencies or unexpected changes in the recipient's schedule;

h. a staff evaluation process that addresses the quality of the staff's support to individuals served and includes consumer satisfaction information from the recipient/guardian or authorized representative;

i. policies outlining the chain of command and supervisory roles including:

i. protocol for staff supervision;

ii. protocol for investigation and resolution of complaints regarding the staff's performance.

4. The provider must have an approved Quality Assurance/Quality Improvement (QA/QI) plan. The QA/QI plan shall include the following:

a. a process for obtaining input from recipient/guardian/authorized representative and family members of those receiving waiver supports;

b. a process for identifying the risk factors that put the recipients at high risk and affect or may affect or may affect health, safety, and/or welfare of individuals being supported;

c. accepted methods for data collection, frequency of collection, source of data, identification of thresholds, analysis of data and identification of trends and patterns in service delivery:

i. the provider shall develop strategies to benchmark service improvement over time;

ii. the QA/QI program outcomes shall be reported to the program director for action as necessary for any identified systemic problems.

5. The QA/QI plan must be submitted to BCSS in accordance with the following time schedule.

a. The QA/QI plan is due 60 days after documented QA/QI training by BCSS and annually thereafter.

b. Self-evaluation of QA/QI plan is due six months after the approval by BCSS of the QA/QI plan.

c. A self evaluation of the QA/QI program is to be submitted annually thereafter to BCSS.

6. The provider shall develop and implement system accountability for billing in keeping with generally accepted accounting principles and provide annual cost reports as requested by BCSS for systems evaluation.

F. License Documentation

1. The provider must adhere to all licensure regulations. The provider shall maintain a current license for all applicable areas of service provision and shall provide BCSS with current documentation of licensing including all deficiencies, corrective action plans and follow-up licensing reviews.

2. Providers not adhering to licensing regulations and/or not attending scheduled re-enrollment will be denied new referrals by Freedom of Choice. If the provider does not comply with these requirements, steps will be taken to disenroll the agency as a Medicaid provider for HCBW.

3. Providers operating under a provisional license or under an extended license due to noncompliance with licensing regulations must demonstrate satisfactory progress toward correction of the deficient practices in order to maintain provider standing for continued enrollment as a waiver service provider. Providers possessing provisional licenses due to noncompliance shall be removed from the Freedom of Choice list until all deficiencies have been corrected and a full license has been obtained.

4. Staff transporting an individual receiving HCBW services shall have a valid (current) driver's license, current liability insurance, and the vehicle shall be in safe operating condition as determined by a current inspection sticker.

G. Fiscal Accountability

1. The new provider (applicant) shall establish a business plan which includes cash flow projections and which has been reviewed by a fiscal entity (e.g., a CPA) who attests to the adequacy of the plan for meeting the provider's monthly overhead and payroll requirements on an ongoing basis. A notarized letter from the fiscal entity will serve as evidence and shall be available for review upon request by BCSS.

2. Existing providers shall have an established relationship with a fiscal entity (i.e., a bank) to assure fiscal stability and documentation in the form of liquid assets or the ability to secure approval for a line of credit.

3. Requirements for average rates of pay and/or benefit packages for direct support staff will be responsive to the overall funding of the services to the program by the DHH.

H. Records and Documentation

1. The provider shall comply with the Health Insurance Portability and Accountability Act of 1996, (HIPAA) as defined by the Centers for Medicare and Medicaid Services.

2. A complete and separate record for each individual served shall be maintained, including:

a. planning meeting minutes;

b. CPOCs;

c. service logs;

d. billing records;

e. progress notes;

f. eligibility records; and

g. all other pertinent documents.

3. The provider shall provide all case records and billing documents to BCSS as required for monitoring activities and investigations upon request on site or within two hours if records are stored off site.

4. The provider will maintain the following documents and provide them to BCSS upon request:

a. copies of the current approved CPOC, the current service plan and all CPOC revisions in the individual's case record and in the individual's home. (Note: These documents must be current and available);

b. documentation of payroll and services delivered within a time period must agree. Documentation of services delivered within a pay period will be recorded in the individual's home record;

c. updated and implemented service plan to meet the service changes warranted by CPOC revisions within five calendar days of receiving a copy of the approved CPOC revision;

d. a copy of the behavior support plan, if one is required, in the recipient's home.

5. The provider shall maintain documentation to support that services were rendered as per the approved CPOC and service plan. The provider shall:

a. maintain documentation of the day-to-day activities of the recipient (service logs and progress notes);

b. maintain documentation detailing the recipient's progress towards his/her personal outcome;

c. maintain documentation of all interventions used to ensure the recipient's health, safety and welfare. (Note: interventions may include, but are not limited to, medical consultations, environmental and adaptive interventions, etc.)

6. The provider shall develop written policies and procedures relative to the protection of recipient's rights which include, but are not limited to:

a. human dignity/respectful communications;

b. person-centered planning/personal outcomes;

c. community/cultural access;

d. right to personally manage his/her financial affairs, unless legally determined otherwise or he/she gives informed consent;

e. right to refuse service/treatment;

f. civil rights (such as right to vote).

I. Discharges and Transfers

1. The provider's responsibilities for voluntary planned transfers or discharges from their agency shall include:

a. obtaining of a written request for transfer to another agency and the expected transfer date/time from the individual or his/her authorized representative;

b. notifying the recipient's case manager within 24 hours for planning to begin;

c. allowing the case manager no less than two weeks (14 calendar days) and up to 30 days (if needed) for planning the transfer, unless it is for an emergency placement;

d. participating in the planning meeting facilitated by the case manager who assures the availability of appropriate services through the receiving agency; and

e. with the written consent from the recipient, both the transferring and the receiving agencies shall share responsibilities for ensuring the exchange of medical and program information which shall include:

- i. current CPOC;
- ii. current service plan;
- iii. a summary of behavioral, social, health and nutritional status; and
- iv. any other pertinent information.

2. The provider must have written policies and procedures for the management of involuntary discharges/transfers from their agency.

a. Involuntary transfers/discharges from their services may occur for the following reasons:

- i. medical protection of the well being of the individual or others;
- ii. emergency situations (i.e., fire or weather related damage); or
- iii. any direct threat to the recipient's health, safety and/or welfare.

b. Involuntary transfers/discharges may occur when a provider identifies an inability to provide the services indicated in the recipient's CPOC, but only after documented reasonable accommodations have been tried and have failed.

c. Provider responsibilities include submission of a written report to the BCSS regional office, detailing the circumstances leading up to the decision for an involuntary transfer/discharge and provision of the documentation of the provider's efforts to resolve issues encountered in the provision of services.

d. All team conferences shall reflect a person-centered process and be conducted with the recipient, guardian or authorized representative, case manager and the appropriate provider personnel to develop or update the CPOC.

e. The recipient, guardian or authorized representative will be notified in writing at least 15 calendar days prior to the transfer or discharge from the provider agency. The individual's rights shall be assured throughout the process. The written notification shall include:

- i. the proposed date of transfer/discharge;
- ii. the reason for the action; and
- iii. the names of personnel available to assist the individual throughout the process.

f. The service provider shall provide the recipient, guardian, or authorized representative with information on how to request an appeal of the decision for involuntary discharge.

i. The recipient may request reconsideration through the service provider's grievance policy and procedures.

ii. The recipient may request an informal reconsideration hearing with BCSS and the discharging service provider.

iii. If the recipient is not satisfied with the results of the informal reconsideration hearing, an appeal

may be filed with the DHH Appeals Section by notifying the regional BCSS office or the DHH Bureau of Appeal.

J. Emergency Situations

1. Immediate jeopardy situations shall be handled immediately and the recipient's guardian or authorized representative, BCSS regional office, and the case manager must be notified immediately, no later than 48 hours after the provider's direct support staff and/or the provider's administrative staff learns of the immediate jeopardy situation.

a. The notification shall include:

- i. the anticipated action;
- ii. that the action will take place within 48 hours unless an emergency situation exists; and
- iii. the names of personnel available to assist the individual and/or their family through the process.

b. A critical incident report and investigation must begin as soon as possible after the individual is safe.

2. Critical incidents shall be reported to all appropriate law enforcement agencies as directed by state law and as directed in the Bureau's critical incident policy and to BCSS within two hours of the agency's Executive Director or his/her designated representative's first knowledge of the incident. If after business hours, a message shall be left on the BCSS toll-free line voice mail and a critical incident report must be sent via FAX on the next business day.

a. Critical incident updates shall be sent to BCSS within 72 hours and a final report to BCSS up to the 30 days from the incident.

b. The waiver service provider's responsibilities for critical incident reporting are:

- i. immediately assuring the recipient's health and safety;
- ii. reporting the incident to BCSS and the case manager;
- iii. conducting an internal investigation;
- iv. cooperating with all critical incident investigations;
- v. resolution of all critical incidents and complaints against the provider; and
- vi. implementing a plan of correction for problems identified in the course of critical incident investigations.

K. Recipient Provisions and Rights

1. The center-based respite provider may serve recipients residing in other regions other than the region in which it is located. The selection should be approved by BCSS and included in the recipient's CPOC.

2. An individual is linked to a provider for a period of six months at a time.

a. The recipient may not transfer to a different provider until after the six-month period without "Good Cause."

b. The provider shall not refuse to serve any individual who chooses their agency, unless there is documentation to support an inability to meet the individual's health, safety and welfare needs, or all previous efforts to provide services and supports have failed and there is no option but to refuse services. The BCSS must be notified of the circumstances.

c. Requirements in Paragraph 2.a-b above can only be waived by BCSS.

3. The BCSS toll-free help line number must be included in the contact packets left in the recipient's home.

4. The provider shall encourage and support the recipient in the development of the CPOC and provider service plan by:

a. obtaining the recipient's personal choices, vision, and preferences and incorporating them into the individual's person-centered CPOC;

b. assessing the recipient's:

i. skills;

ii. needed supports; and

iii. health, safety and welfare needs.

c. development of strategies to meet the recipient's service needs and timely development of the service plan to implement the strategies; and

d. the development of a process to monitor the ongoing implementation of the plan.

L. Case Management. The provider shall have a written working agreement with the case management agency serving the recipient. The agreement shall include:

1. written notification of the time frames for CPOC planning meetings;

2. the timely notification of the meeting dates and time to allow for provider participation;

3. how agencies will exchange information, such as notification of changes in the CPOC or in service delivery; and

4. assurance that the provider sends the appropriate provider representative to the planning meetings as invited by 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 Community Supports and Services, LR 29:1829 (September 2003).

§103. Agency Responsibilities

A. Both federal and state laws and regulations authorize the Department of Health and Hospitals to maintain the programmatic and fiscal integrity of the Medicaid Home and Community-Based Services Waiver Program. The Bureau of Community Supports and Services is charged with the responsibility to set the standards, monitor the outcomes and apply administrative sanctions for failures by service providers to meet the minimum standards for participation. All failures to meet minimum standards shall result in a range of required corrective actions including, but not limited to, removal from the Freedom of Choice listing, a citation of deficient practice, a request for a corrective action plan and/or administrative sanctions. Continued failure to meet minimum standards shall result in loss of referral of new HCBW recipients and/or continued enrollment as a home and community-based waiver service 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 Community Supports and Services, LR 29:1833 (September 2003).

David W. Hood
Secretary

0309#101

RULE

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

Medicaid Eligibility CTANF Elimination of Work Related Sanctions

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 provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing eliminates the consideration of Temporary Assistance to Needy Families work requirements in determining Medicaid eligibility.

Implementation of this Rule is subject to approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0309#100

RULE

Department of Social Services Office of Family Support

Child Care Assistance Program (CCAP) Conditions of Eligibility; Activity Hours; Payment (LAC 67:III.5103 and 5109)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 12, Child Care Assistance Program.

To ensure that funding is available to as many low-income families as possible, the agency has decreased the percentage of child care costs paid for by the agency and increased the number of required activity hours for parents receiving low-income child care. The agency has also amended §5109.B.1.c.ii to change "casehead" to "head of household" and §5109.D for technical reasons only.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance

Subchapter B. Child Care Assistance Program

§5103. Conditions of Eligibility

A. ...

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration, must meet the following eligibility criteria.

1. - 3. ...

4. Effective September 1, 2002, unless disabled as established by receipt of Social Security Administration disability benefits, Supplemental Security Income, Veteran's Administration disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his/her child(ren) as verified by a doctor's statement or by worker determination, the TEMP must be:

a. employed a minimum average of 25 hours per week effective April 1, 2003, and all countable work hours must be paid at least at the Federal minimum hourly wage; or

b. attending a job training or educational program that is legally authorized by the state for a minimum average of, effective April 1, 2003, 25 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or

c. engaged in some combination of employment which is paid at least at the Federal minimum hourly wage, or job training, or education as defined in §5103.B.4.b that averages, effective April 1, 2003, at least 25 hours per week;

d. exception: a household in which all of the members described in §5103.B.4 meet the disability criteria is not eligible for child care assistance unless one of those members meets, effective April 1, 2003, the required minimum average of 25 activity hours per week.

B.5. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1833 (September 2003).

§5109. Payment

A. The sliding fee scale used for non-FITAP recipients is subject to adjustment based on the state median income and poverty levels which are published annually. A non-FITAP household may pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "copayment." The sliding fee scale is based on a percentage of the state median income.

Sliding Fee Scale for Child Care Assistance Recipients 75 Percent of Projected Median Income

Number in Household	2	3	4	5	6	DSS %
Monthly Household Income	0-968	0-1219	0-1471	0-1723	0-1974	70%
	969-1535	1220-1908	1472-2281	1724-2654	1975-3027	50%
	1536-2101	1909-2596	2282-3090	2655-3585	3028-4079	30%
	above 2101	above 2596	above 3090	above 3585	above 4079	0%

Number in Household	7	8	9	10	11	DSS %
Monthly Household Income	0-2226	0-2478	0-2729	0-2981	0-3233	70%
	2227-3199	2479-3372	2730-3543	2982-3716	3234-3888	50%
	3200-4172	3373-4265	3544-4357	3717-4450	3889-4543	30%
	above 4172	above 4265	above 4357	above 4450	above 4543	0%

Number in Household	12	13	14	15	16	DSS %
Monthly Household Income	0-3484	0-3736	0-3988	0-4239	0-4491	70%
	3485-4060	3737-4232	3989-4405	4240-4577	4492-4749	50%
	4061-4636	4233-4728	4406-4821	4578-4914	4750-5006	30%
	above 4636	above 4728	above 4821	above 4914	above 5006	0%

Number in Household	17	18	19	20		DSS %
Monthly Household Income	0-743	0-4994	0-5246	0-5498		70%
	744-4921	4995-5093	5247-5266			50%
	4922-5099	5094-5192	5267-5285			30%
	above 5099	above 5192	above 5285			0%

NOTE: Effective April 1, 2003, the department's percentage of payments for low-income child care cases has been adjusted as reflected in the above tables.

B. - 1.c.i. ...

ii. the number of hours the head of household, the head of household's spouse, or the minor unmarried parent is working and/or attending a job training or educational program each week, plus on hour per day for travel to and from such activity. For households with more than one TEMP, the hours of the TEMP with the smallest number of activity hours are used.

B.2. - C. ...

D. Payment may be made to more than one provider for the same child if the combined payment does not exceed the maximum allowable per child.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 December 1999), LR 26:2828

Gwendolyn P. Hamilton
Secretary

0309#058

RULE

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

Boating Safety (LAC 76:XI.301)

The Wildlife and Fisheries Commission has enacted regulations governing the Rules of the Road for Boating Safety in the State of Louisiana (LAC 76:XI.301).

Title 76

WILDLIFE AND FISHERIES

Part XI. Boating

Chapter 3. Boating Safety

§301. Rules of the Road for Vessels

A. The following regulations shall dictate the operation of vessels upon the waters of the state and shall set forth a standard of operation. In construing and complying with these Rules, due regard shall be had to all dangers of navigation and collision and to any special circumstances, including the limitations of the vessels involved, which may make a departure from the Rules necessary to avoid immediate danger.

B. Any violation of the Rules of the Road as referred to in this Section shall be prima facie evidence of careless or reckless operation.

C. Boating accidents caused by deviation from the Rules of the Road shall be documented as such in accident reports.

D. The Rules of the Road for vessels upon the waters in the state shall be as follows.

1. Vessels passing head-on shall each keep to their respective right.

2. A vessel overtaking another vessel may do so on either side, but must grant the right of way to the vessel being overtaken.

3. When vessels are passing at right angles, the vessel on the left will yield right-of-way to vessel on the right.

4. Motorboats shall yield right-of-way to non-motor powered boats except as follows:

- a. when being overtaken by non-powered vessels;
- b. for deep draft vessels that have to remain in narrow channels;
- c. when vessel is towing another vessel.

5. Motorboats must maintain a direct course when passing sailboats.

6. A vessel approaching a landing dock or pier shall yield the right-of-way to any departing vessel.

7. A vessel departing shoreline or tributary shall yield right-of-way to through traffic and vessels approaching shoreline or tributary.

8. Vessels will not abruptly change course without first determining that it can be safely done without risk of collision with another vessel.

9. If an operator fails to fully comprehend the course of an approaching vessel he must slow down immediately to a speed barely sufficient for steerageway until the other vessel has passed.

10. Vessels yielding right-of-way shall reduce speed, stop, reverse, or alter course to avoid collision. Vessel with right-of-way shall hold course and speed. If there is danger of collision, all vessels will slow down, stop, or reverse until danger is averted.

11. Vessels will issue warning signals in fog or weather conditions that restrict visibility.

12. No mechanically propelled vessel shall be operated so as to traverse a course around any other vessel underway or any person swimming.

13. In a narrow channel, vessels will keep to the right of mid-channel.

14. Vessels approaching or passing another vessel shall be operated in such manner and at such a rate of speed as will not create a hazardous wash or wake.

15. No vessel shall obstruct or interfere with take-off, landing, or taxiing of aircraft.

16. All vessels shall be operated at reasonable speeds for given conditions and situations and must be under the complete control of the operator at all times.

17. No person shall, under any circumstances, operate a vessel in excess of an established speed or wake zone.

18. No vessel or person shall obstruct or block a navigation channel, entrance to channel, mooring slip, landing dock, launching ramp, pier or tributary.

19. Vessels shall keep at least 100 feet clearance of displayed diver's flag.

20. Operator shall maintain a proper lookout.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:851.27.A.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 29:1835 (September 2003).

Terry D. Denmon
Chairman

0309#026

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Overtime

The State Civil Service Commission will hold a public hearing on Wednesday, October 8, 2003, to consider the adoption of Chapter 21 Rules, proposed amendments to Rules 6.28 and 11.28, and proposed repeal of Rules 6.18, 6.19, 6.20, 6.21, 6.22, 6.23, 6.24, 6.25, 6.26, 6.27, 11.3.1 and 11.29.

The public hearing will begin at 9 a.m. in the Louisiana Purchase Room, Suite 1-100, First Floor, Claiborne Building, 1201 North Third Street, Baton Rouge, LA.

The adoption of Chapter 21 is being proposed to consolidate Rules governing overtime work and compensation, which had previously been found in Chapters 6 and 11. Related Rule changes are also proposed. Explanations for the major changes in Chapter 21 follow the proposed Rules in that Chapter. Related Rule changes, including proposed amendments and the repeal and re-enactment of several Rules will follow this section.

Consideration will be given to the following.

Adopt Chapter 21 in its entirety

Chapter 21. Overtime and Overtime Compensation

21.1 Authority to Require Performance of Overtime

An employee in the classified service may be required by his appointing authority to work overtime.

21.2 Determination of Exempt/Non-exempt Status of Positions

Agencies shall determine the exempt or non-exempt status of all positions, in accordance with the Fair Labor Standards Act (FLSA).

21.3 Authority for Compensation

(a) All non-exempt employees shall be compensated for overtime in accordance with the FLSA for overtime conditions that are covered by the FLSA, and shall be compensated in accordance with Civil Service Rules for State Overtime, which is defined in Rule 21.7.

(b) All exempt employees shall be compensated in accordance with Civil Service Rules for State Overtime, which is defined in Rule 21.7.

21.4 Methods of Compensation for Overtime

(a) Overtime compensation may be granted in the form of cash payment or compensatory leave earned; cash shall be paid when required under the FLSA or by these Rules.

(b) Employees who are employed on an intermittent schedule shall not earn compensatory leave, but shall be paid cash.

21.5 Basis for the Calculation of Hourly Rate of Pay for Overtime

(a) The hourly rate of pay for State Overtime earned at the hour-for-hour rate shall be calculated using the employee's base pay plus base supplement.

(b) The hourly rate of pay for State Overtime earned at the time and one-half rate may be calculated in accordance with the FLSA or in accordance with subsection (a) of this Rule.

(c) The hourly rate of pay for all FLSA overtime shall be calculated in accordance with the FLSA.

21.6 Compensatory Leave—Crediting and Usage

(a) Compensatory leave credited to an employee may be used by the employee, with the approval of the appointing authority.

(b) An employee who has been credited with compensatory leave may be required, by the appointing authority, to take all or part of such leave at any time.

21.7 Definition of State Overtime

When an employee is not eligible for overtime under the provisions of the FLSA, State Overtime shall be granted as follows:

(a) For purposes of calculating hours worked for state overtime, a day off from work due to paid leave taken or a holiday observed is considered to be a day worked.

(b) State overtime is work performed by an employee at the direction of the appointing authority or his designee:

1. in excess of the employee's regularly scheduled workday;

2. in excess of the employee's regularly scheduled work period;

3. on a holiday, including designated holidays;

4. during official closures;

5. while performing civilian duty, under the administrative supervision of one other than his appointing authority, during an officially declared national, regional or local emergency.

21.8 Compensation Rate—Non-Exempt Employees

(a) All FLSA overtime shall be compensated at the time and one-half rate.

(b) State Overtime shall be compensated at the straight (hour-for-hour) rate, unless an exception has been granted by the commission, or unless the time and one-half rate is allowed under subsection (c) and (d) of this Rule.

(c) State Overtime performed during official closures due to emergency situations may be compensated at the time and one-half rate.

(d) State Overtime performed on a holiday may be compensated at the time and one-half rate.

21.9 Compensation Rate—Exempt Employees

The appointing authority shall compensate exempt employees in accordance with one of the following options:

(a) no overtime compensation;

(b) compensation at the straight (hour-for-hour) rate;

(c) overtime performed during official closures due to emergency situations may be compensated at the time and one-half rate.

(d) compensation at the time and one-half rate may be granted to exempt employees upon commission approval.

21.10 Caps and Required Payment for Overtime Earned at the Time and One-half Rate

(a) Employees who accrue compensatory leave at the time and one-half rate shall accumulate no more of such compensatory leave than allowed under the Fair Labor Standards Act.

(b) Once the maximum balance of compensatory leave earned at the time and one-half rate is reached, any additional overtime work in excess of the employee's established FLSA work period must be paid to a non-exempt employee in cash at the time and one-half rate.

21.11 Caps, Required Payment, and Cancellation of Overtime Earned at the Hour-for-hour Rate

(a) Compensatory leave earned hour-for-hour may be accrued in excess of 360 hours, but not more than a total of 360 such hours shall be carried forward from one calendar year to the next. However, an appointing authority may request an exception to this subsection to maintain essential services necessary to preserve the life, health, or welfare of the public. This exception may ask that up to a total of 540 such hours be carried forward to the next calendar year. Such a request is subject to approval by the commission.

(b) For non-exempt employees whose hour-for-hour compensatory leave balance exceeds the cap required or granted by exception under subsection (a) of this Rule, payment shall be made within 90 days after January 1 of each year for the excess compensatory leave. Payment shall be made at the employee's hourly rate of pay as calculated in accordance with Rule 21.5(a).

(c) For exempt employees whose hour-for-hour compensatory leave balance exceeds the cap required or granted by exception under subsection (a) of this Rule, payment may be made within 90 days after January 1 of each year for the excess compensatory leave. If payment is made, the employee's hourly rate of pay shall be calculated in accordance with Rule 21.5(a). Any excess leave not paid, shall be cancelled.

21.12 Payment or Cancellation of Compensatory Leave upon Separation or Transfer

(a) Time and One-half Compensatory Leave

Upon separation or transfer from a department, all compensatory leave earned at the time and one-half rate and credited to an employee shall be paid according to the method of calculation of hourly rate contained in the Fair Labor Standards Act, including those payments made under this Rule to exempt employees.

(b) Hour-for-hour Compensatory Leave

1. All unused compensatory leave earned hour-for-hour by exempt employees may be paid upon separation or transfer from the department in which he earned it at the final regular rate received by the employee, calculated in accordance with 21.5(a).

2. All unused compensatory leave earned hour-for-hour by exempt employees, if not paid to the employee upon separation or transfer, shall be cancelled upon separation or transfer from the department in which he earned it. Such leave shall not be recredited to him upon his reemployment in that or any other department.

3. Upon separation or transfer, unused compensatory leave earned hour-for-hour by non-exempt employees shall be paid in accordance with the following schedule, at the final regular rate received by the employee, calculated in

accordance with 21.5(a). All additional such unused leave may be paid or cancelled and shall not be recredited to him upon his reemployment in that or any other department.

450 hours must be paid within 60 days after January 1, 2004.

All hours must be paid within 60 days after January 1, 2005.

21.13 Exceptions to the Overtime Rules

The commission may grant exceptions to these Rules.

21.14 Director's Authority to Require Certain Positions to be Compensated as FLSA Non-exempt.

Without regard to the agency-determined FLSA exempt or non-exempt status of positions, the Director may require one or more agencies to compensate identified positions as if they were non-exempt for the purposes of overtime compensation under the FLSA or these Rules.

Explanation/Summary of Changes

The adoption of Chapter 21 of the Civil Service Rules has been proposed for several reasons. In the past the answers to overtime questions and issues could be found in either Chapters 6 or 11. Civil Service has combined the appropriate parts from each chapter in order for Human Resource professionals to find what they need regarding overtime issues as easily and quickly as possible in one chapter.

Civil Service has addressed and defined only what is required by the state of Louisiana for overtime issues. The Rules do not explain what is required by FLSA, therefore, any guidelines as to what jobs are to be considered exempt or non-exempt have been removed as well as any reference to GS or MS level. The determination as to whether a position is considered exempt or non-exempt according to FLSA standards must be made by the agency.

Amend Rule 6.28(b)

6.28 Compensation for On-Call Duty/Shift Work

Subject to the provisions of Rule 6.29,

(a) ...

(b) On-call compensation is for hours worked in excess of regularly scheduled hours of duty, when the worker is available for call back to his/her duty station, work-ready, within a specified period of time, at the direction of his/her appointing authority. On-call compensation is in addition to the employee's regular pay and is not to be included in terminal leave payments allowed under other Sections of the Rules. On-call compensation shall not be granted to an employee for his/her regularly scheduled hours of duty. Further, when an employee is called back he/she shall be considered in duty status and eligible for overtime compensation, according to Chapter 21 of these Rules.

(c) ...

Explanation

This Rule is being amended to cross-reference the chapter on Overtime and Overtime Compensation.

Amend Rule 11.28

11.28 Holidays

(a) An employee, who is required by his appointing authority to work on his official holiday, shall be entitled to compensatory leave or overtime pay benefits as authorized in Chapter 21 of these Rules.

(b) When a holiday falls on an employee's regular day off, and the appointing authority requires the employee to work on his designated holiday and the actual holiday, the

appointing authority shall select only one of the two days as the employee's official holiday for overtime compensation as provided by the Rules contained in Chapter 21. The other day is to be compensated as regular overtime work.

(c) ...

Explanation

This Rule is being amended to change the reference from Rule 6.23 to the Rules contained in Chapter 21.

Rules Proposed to be Repealed and Re-enacted

Because Chapter 21 is proposed to replace the existing overtime and compensatory leave Rules in Chapters 6 and 11, the following chart shows the Rules being abolished with a reference to the specific Rule(s) in Chapter 21 that will replace them.

Repealed	Re-enacted as
6.18	21.3 and 21.7
6.19	21.4 and 21.7
6.20	21.7 through 21.9
6.21	21.7 through 21.9
6.22	21.7 through 21.9
6.23	21.7 through 21.9
6.24	21.3
6.25	21.10 and 21.11
6.26	21.2
6.27	21.12
6.27b4	21.7
6.27e	21.7
11.3.1	21.1
11.29a	21.6
11.29b	21.4b
11.29c	21.6

Explanation

The repeal of these Rules is proposed in order to eliminate duplication. Consolidation of these Rules in a separate Chapter will help to simplify and clarify these Rules.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of Civil Service at Post Office Box 94111, Baton Rouge, LA 70804-9111. If any accommodations are needed, please notify us prior to the meeting.

Allen H. Reynolds
Director

0309#055

NOTICE OF INTENT

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

Scholarship/Grant Programs
(LAC 28:IV. 301, 507, 509, 701, 703, 705, 803, 805, 1701, 1703, 1705, 1903, 2103, and 2105)

The Louisiana Student Financial Assistance commission (LASFAC) announces its intention to amend its Scholarship/Grant Rules (R.S. 17:3021-3025, 3041.10-15, 17:3042.1, and 17:3048.1).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 28

EDUCATION

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

Chapter 3. Definitions

§301. Definitions

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

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. - f. ...

g. For students with the TOPS Opportunity, Performance, and Honors Award enrolled in a Louisiana professional school, the amount shall be equal to the tuition charged or the tuition charged a student pursuing a baccalaureate degree at the highest cost public school, whichever is less or the Weighted Average *Award Amount*, depending upon whether the Louisiana professional school is a public or private school.

h. For students with the TOPS Opportunity, Performance and Honors Award enrolled in a Louisiana graduate degree program, the amount shall be equal to the tuition or the tuition charged for a student while pursuing a baccalaureate degree at the highest cost public school in the state, whichever is less.

Court Ordered Custodian Can adult appointed by a court of competent jurisdiction to have custody and care of a minor, and who demonstrates the requirement to provide the primary support for such minor.

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

Eligible Noncitizen Can individual who can provide documentation from the Bureau of Citizenship and Immigration Services (BCIS) that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident, including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the United States must provide documentation from the BCIS to verify permanent residency. For 1997, 1998 and 1999 high school graduates, an *eligible noncitizen* shall be treated as meeting the citizenship requirements for an award under this Part.

Full-Time Student C

a. - d. ...

e. a student enrolled in two or more institutions of higher education when such multiple enrollment is necessary for the student to gain access to the courses required for completion of the degree in the chosen discipline and where

the total number of hours earned at all institutions during the academic year is the equivalent of carrying a full-time academic workload as determined by the institution which will award the degree;

f. correspondence courses may not be used to establish full time status;

g. ...

Honors Curriculum Courses Any course designated by the respective school district as advanced placement, honors or gifted.

* * *

Louisiana Resident

a. any independent student or any *dependent student* with at least one parent or *court ordered custodian* who has resided in the state for a minimum of 24 consecutive months immediately preceding the month of high school graduation or the month of May in the Academic Year (High School) that a student completes a home study program or some other period of residency which is required to qualify the person for a specific program administered by the LASFAC. To qualify for a program under Part IV of these Rules, in addition to the certification of residency found on the application form, the administering agency may require an independent student applicant or the parent(s) or *court ordered custodian* of a *dependent student* applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the administering agency. Such affidavits must be completed in their entirety by the independent student applicant or by at least one parent or *court ordered custodian* of the *dependent student* applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the administering agency:

i. if registered to vote, a Louisiana voters registration card; and

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

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

iv. if earning a reportable income, a Louisiana tax return;

b. any member of the Armed Forces on active duty whose official state of legal residence is Louisiana as demonstrated by the member's DD Form 2058 validated by the member's military personnel officer or other documentary proof and who has filed a Louisiana tax return for the most recent two years in compliance with Clause a.iv, above;

c. any member of the Armed Forces who is stationed in Louisiana under permanent change of station orders and who, not later than 180 days after reporting to such station, changes his military DD Form 2058 to reflect Louisiana as his state of legal residence, and complies with all Louisiana income tax laws and regulations while stationed in Louisiana. A copy of the Permanent Change of Station (PCS) Orders and a DD Form 2058 validated by the member's military personnel officer and showing Louisiana as the member's state of legal residence must be submitted to the Louisiana Office of Student Financial Assistance (LOSFA) at the time the service member's dependent applies

for TOPS. The DD Form 2058 must reflect that it was filed within 180 days after the member reported to duty at a duty station in Louisiana;

d. - d.iii. ...

e. effective for high school graduates beginning with Academic Year (High School) 2002-2003, any independent or *dependent student* who actually resides in Louisiana during his last two full years of high school. In order to qualify pursuant to this subsection, the student's high school transcript must reflect that the student earned credit for the last four semesters of high school immediately prior to graduation and graduated from an approved Louisiana high school;

f. effective for high school graduates beginning with Academic Year (High School) 2000-2001, any *dependent student* who actually resided in Louisiana during his last two full years of high school and whose parent is a member of the United States Armed Forces living in Louisiana under permanent change of station orders, but who does not claim Louisiana as his official state of legal residence. In order to qualify pursuant to this subsection, the student's high school transcript must reflect that the student earned credit for the last four semesters of high school immediately prior to graduation and graduated from an approved Louisiana high school;

g. effective for high school graduates beginning with Academic Year (High School) 2001-2002, any *dependent student* who was continuously enrolled in a Louisiana public high school or nonpublic high school that is approved by BESE during his last two full years of high school whose parent or *court ordered custodian*:

i. is a resident of a state that adjoins Louisiana; and

ii. actually resides in a municipality having geographical boundaries that include a portion of Louisiana; and

iii. has filed a Louisiana state income tax return and has complied with state income tax laws and regulations; or

iv. is assessed ad valorem taxes on property owned in Louisiana.

In order to qualify pursuant to this subsection, the student's high school transcript must reflect that the student earned credit for the last four semesters of high school immediately prior to graduation and graduated from an approved Louisiana high school.

* * *

Orphan Ca person who does not live with either parent because the parent(s) is/are dead or has/have abandoned him or the parental rights of the parent(s) has/have been severed by competent authority.

* * *

Returning Student Ca student who graduated from high school beginning with Academic Year (High School) 2001-2002, met all the requirements for a TOPS Award and was notified of his TOPS eligibility by LOSFA, but who enrolled for the first time as a full time student no later than the deadline established in §703.A.4 in an out-of-state postsecondary institution accredited by a regional accrediting organization recognized by the United States Department of Education and, thereafter, returns to Louisiana and enrolls as a full time student in an Eligible College or University.

* * *

TOPS Cumulative High School Grade Point Average C

a. effective for high school graduates beginning with Academic Year (High School) 2002-2003, the grade point average calculated by LOSFA including only the grades achieved in those courses that were used to satisfy core curriculum requirements. In the event a student has received credit for more than 16.5 hours of courses that are included in the core curriculum, the *TOPS Cumulative High School Grade Point Average* shall be calculated by using the course in each core curriculum category for which the student received the highest grade. For example, if a student has taken more than one Advanced Mathematics course, the Cumulative Grade Point Average shall be determined by using only the course in which the student has received the highest grade;

b. effective for high school graduates beginning with Academic Year (High School) 2002-2003, the grade point average for students qualifying for a Performance Award using a minimum ACT score of 24 and a minimum grade point average of 3.00 must include at least 10 Units of Honors Curriculum Courses (See § 703.A.5.f.ii.);

c. effective for high school graduates beginning with Academic Year (High School) 2007-2008, the grade point average shall be calculated on 17.5 hours of courses that are included in the core curriculum;

d. For those high schools that utilize other than a 4.00 scale, all grade values shall be converted to a 4.00 scale utilizing the following formula:

$$\frac{\text{QualityPointsAwardedfortheCourse}}{\text{MaximumPointsPossiblefortheCourse}} = \frac{X(\text{ConvertedQualityPoints})}{4.00(\text{MaximumScale})}$$

For example, if a school awards a maximum of 5 points for honors courses, the school must use the following formula to convert an honors course grade of "C":

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

By cross multiplying,

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

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

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 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, 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), LR 27:1842, 1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 29:

Chapter 5. Application; Application Deadlines and Proof of Compliance

§507. Final Deadline for Submitting Documentation of Eligibility

A. - B. ...

C.1. Returning Students, who graduated high school prior to or during the 2002-2003 Academic Year (High School) must apply for reinstatement no later than May 1, 2004.

2. Returning Students who graduate during the 2003-2004 Academic Year (High School) or later must apply for reinstatement no later than May 1 of the Academic Year (College) the student seeks reinstatement. For example, a student who graduates in May 2004 and seeks to return to an Eligible College or University for the spring semester of 2005 must submit his application for reinstatement no later than May 1, 2005.

D.1. A student who successfully completed an undergraduate degree prior to or during the 2001-2002 Academic Year (College) and wishes to receive his remaining award eligibility to attend a graduate or professional school must provide the documentation and certifications required to establish student eligibility no later than May 1, 2004.

2. A student who successfully completes an undergraduate degree during the 2002-2003 Academic Year (College) or later and wishes to receive his remaining award eligibility to attend a graduate or professional school must provide the documentation and certifications required to establish student eligibility no later than May 1 of the Academic Year (College) the student seeks to receive his remaining award eligibility. For example, to receive the remaining award for the 2003-2004 Academic Year (College), the student must submit the required documents no later than May 1, 2004.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001) amended LR 28:447 (March 2002), LR 29:

§509. ACT Testing Deadline

A. - B. ...

C. Final ACT Testing Deadline for Reduced Awards

1.a. Beginning with awards made to applicants graduating in Academic Year (High School) 2000 through 2003, if an applicant does not achieve a qualifying score on the ACT or on the SAT for the TOPS Opportunity Award by the April national ACT test date in the year of the applicant's high school graduation, then the applicant's first qualifying score for any TOPS Award obtained on an authorized testing date after the April national ACT test date in the year of the applicant's high school graduation but prior to July 1 of the year of such graduation will be accepted. However, when granting an award to an applicant whose qualifying test score is obtained on an authorized testing date after the date of the applicant's high school graduation but prior to July 1 of the year of such graduation, the applicant's period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other

than semesters or quarters. Except for an applicant who has qualified for a TOPS-Tech Award on or prior to the April national ACT test date, an applicant will not be allowed to use a test score obtained after the April national ACT test date to upgrade a TOPS Award.

b. Beginning with awards made to applicants graduating in Academic Year (High School) 2004, if an applicant does not achieve a qualifying score on the ACT or on the SAT for the TOPS Opportunity Award by the April national ACT test date in the year of the applicant's high school graduation, then the applicant's first qualifying score for any TOPS Award obtained on an authorized testing date after the April national ACT test date in the year of the applicant's high school graduation but prior to July 1 of the year of such graduation will be accepted. However, when granting an award to an applicant whose qualifying test score is obtained on an authorized testing date after the April national ACT test date in the year of the applicant's high school graduation but prior to July 1 of the year of such graduation, the applicant's period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters. Except for an applicant who has qualified for a TOPS-Tech Award on or prior to the April national ACT test date, an applicant will not be allowed to use a test score obtained after the April national ACT test date to upgrade a TOPS Award.

c. For the purpose of the Subsection, the "April national ACT test date" shall be defined as the month of April.

2. Students who fail to achieve an ACT or SAT qualifying score prior to July 1 of the year of high school graduation shall not be considered for an award.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 26:1995, amended LR 26:2000 (September 2000), amended LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1847 (November 2001), repromulgated LR 27:1847 (November 2001), LR 29:

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

§701. General Provisions

A. - E.11.c. ...

12. A student who successfully completes an undergraduate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in graduate or professional school at an Eligible College or University no later than the fall semester following the student's completion of an undergraduate degree and has met the requirements for continued eligibility set forth in §705.A.6. The remaining eligibility may not be used to pursue a second undergraduate degree.

F. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999) LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26: 1995, 2000 (September 2000). Repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002), LR 29, LR 29:880 (June 2003), LR 29:

§703. Establishing Eligibility

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

1.a. for students graduating in Academic Year (High School) 2001-2002 and prior, be a United States citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U. S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided and canceled if such proof is not provided by May 1 of the following Academic Year (College). Students cancelled solely due to their failure to become a United States citizen within one year after the date of application shall be reinstated to their award if they are a United States citizen or a permanent resident as defined by the Bureau of Citizenship and Immigration Services and were eligible to apply for United States citizenship when cancelled and have met the requirements for maintaining eligibility for the award.

b. for students graduating in Academic Year (High School) 2002-2003 and thereafter, be a United States citizen or be a permanent resident as defined by the Bureau of Citizenship and Immigration Services and be eligible to apply for United States citizenship;

2 - 4. ...

5.a. graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3; and

i.(a). for students graduating in Academic Year (High School) 2006-2007 and prior, 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
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): Computer /Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (1/2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (1/2 credit) Digital Graphics and Animation (1/2 credit) Multimedia Productions (1 credit) Web Mastering (1/2 credit) Independent Study in Technology Applications (1 credit)

(b). 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;

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
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 1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one and one-half units of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE). BESE has approved the following courses as computer related for purposes of satisfying the 1 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Computer/Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (1/2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (1/2 credit) Digital Graphics & Animation (1/2 credit) Multimedia Productions (1 credit) Web Mastering (1/2 credit) Independent Study in Technology Applications (1 credit)

b. - e. ...

f.i. for students graduating in Academic Years (High School) 2000-2001 and 2001-2002, successfully complete a minimum of 10 units in honors courses graded on a 5.00 scale and graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3 and have completed the core curriculum defined in §703.A.5.a.i;

ii. for students graduating Academic Year (High School) 2002-2003 through 2005-2006, successfully complete a minimum of 10 units in Honors Curriculum Courses used to satisfy the core curriculum requirement and graded on a 4.00 or higher scale and graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3, and have completed the core curriculum defined in §703.A.5.a.i; and

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

a. if qualifying under the terms of §703.A.5.a or b;
i. the state's reported prior year ACT composite average, rounded, but never less than 20 for the Opportunity Award; or

ii. a 23 for the Performance Award; or
iii. a 27 for the Honors Award; or

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

i. the state's reported prior year average plus three 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. if qualifying under §703.A.5.e, which is limited to the Opportunity Award only, the state's reported prior year average plus 3 points, rounded, but never less than 23;

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

7. - 8. ...

B. Students qualifying:

1. under §703.A.5.a and b, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

- a. a 2.50 for the Opportunity Award; or
- b. a 3.50 for the Performance or Honors Awards;

2. under §703.A.5.f and graduating in Academic Year (High School) 2000-2001 through 2005-2006, must have attained a TOPS Cumulative High School Grade Point Average, based on a 4.00 maximum scale, of at least a 3.00 for the Performance Award.

C. - G.2. ...

H. Returning Students

1. A Returning Student, as defined in §301, is eligible for a TOPS Award if:

a. he submits a request for reinstatement that includes:

- i. the name of the Louisiana school in which he has enrolled or will enroll; and
 - ii. his official transcripts from all out-of-state colleges and universities attended; and
- b. he met all the requirements to maintain his award that would have been applicable had the student enrolled in an Eligible College or University during the time the student was enrolled in an out-of state college or university; and

c. he enrolled in an Eligible College or University no later than the next semester or term, excluding summer sessions and intersessions, immediately following the last semester he was enrolled in the out-of state college or university.

2. A Returning Student who fails to enroll by the deadline established in §703.A.4 or to maintain full time enrollment or to earn 24 hours during an Academic Year (College) while enrolled in an out-of-state college or university, shall not be eligible for a TOPS Award unless granted an exception in accordance with §2103.

3. The period of eligibility of a Returning Student shall be reduced by each semester or term the student was enrolled in an out-of state college or university.

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

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

§705. Maintaining Eligibility

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

1. have received less than four years or eight semesters of TOPS Award funds, except as provided in §701.E.1.b, §701.E.2.b and §701.E.3.b; and

2 - 4. ...

5. continue to enroll and accept the TOPS award as a full-time undergraduate student, professional or graduate student in an Eligible College or University defined in §301, and maintain an enrolled status throughout the academic term, unless granted an exception for cause by LASFAC; and

6. minimum academic progress:

a. in an academic undergraduate program at an Eligible College or University, by the end of each Academic Year (College), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter in the Academic Year (College). These hours shall include remedial course work required by the institution, but shall not include hours earned during Qualified Summer Sessions, summer sessions nor intersessions nor by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

b. ...

c. in an academic graduate or professional program at an Eligible College or University, by the end of each Academic Year (College), earn at least the total college credit hours required by the college or university for full time enrollment for each semester or quarter as determined by totaling the earned hours reported by the institution for each semester or quarter in the Academic Year (College). These hours shall not include hours earned during Qualified Summer Sessions, summer sessions nor intersessions nor by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; and

7. ...

8. maintain at an Eligible College or University, by the end of the spring semester, quarter, or term, a cumulative college grade point average (GPA) on a 4.00 maximum scale of at least:

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

b. ...

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

d. the minimum grade necessary to maintain good standing, if enrolled in a graduate or professional program; and

9. ...

10. has not been enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree for more than two years.

B. Students failing to meet the requirements listed in §705.A.7 or §705.A.8.a, b, or c may have their tuition awards reinstated upon regaining Steady Academic Progress (See §301.) and/or attainment of the required GPA, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. Students who fail to meet the continuation requirements of 705.A.8.c, but who meet the continuation requirements of §705.A.8.a or b., shall no

longer be eligible for the stipend authorized for the Performance and Honors Awards, but shall continue to receive the award amount for the Opportunity Award. If the two year period is interrupted due to a student's active duty in the United States Armed Forces, the two year period will be extended for a length of time equal to the student's active duty service, not to exceed four years.

C. In the event the administering agency determines that an ineligible student has received an award as the result of an administrative error or erroneous information provided by the student or the student's parent(s) or Court Ordered Custodian or incorrect certification from the student's high school, the student's eligibility for the award shall be terminated and no further awards shall be made to the ineligible student. If an ineligible student has received an award due to an administrative error or incorrect certification, the administering agency will not pursue recoupment from the student of funds that were awarded. If an erroneous award has been made and the administering agency determines that the award was made based upon incorrect information submitted by the student or the student's parent(s) or Court Ordered Custodian, the administering agency may seek reimbursement from the student, the student's parent(s) or Court Ordered Custodian, and if it is further determined that the award was made due to an intentional misrepresentation by the student, the student's parent(s) or Court Ordered Custodian, then the administering agency shall refer the case to the Attorney General for investigation and prosecution. If a student or the student's parent(s) or Court Ordered Custodian is suspected of having intentionally misrepresented the facts which were provided to the administering agency and used by it to determine the eligibility of the student for the program and the administering agency has referred the case to the Attorney General for investigation, then the student shall remain ineligible for future award consideration pending an outcome of said investigation which is favorable to the student.

D. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999); LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26, 1996, 2001 (September 2000), LR 27:1853 (November 2001), LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

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

1.a. for students graduating in Academic Year (High School) 2001-2002 and prior, be a United States citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U. S.

citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided and canceled if such proof is not provided. Students cancelled solely due to their failure to become a United States citizen within one year after the date of application shall be reinstated to their award if they are a United States citizen or a permanent resident as defined by the Bureau of Citizenship and Immigration Services and were eligible to apply for United States citizenship when cancelled and have met the requirements for maintaining eligibility for the award;

b. for students graduating in Academic Year (High School) 2002-2003 and thereafter, be a United States citizen or be a permanent resident as defined by the Bureau of Citizenship and Immigration Services and be eligible to apply for United States citizenship;

2. - 10. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65, 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), LR 27:1854 (November 2001), LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 29:

§805. Maintaining Eligibility

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

1. have received the TECH-TECH Award for not more than two years, except as provided by §805.C, or unless reduced as required by §503.D;

2. - 7. ...

8. 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; and

9. - 10. ...

B. Students failing to meet the requirements listed in §805.A.7 and 8 may have their tuition awards reinstated upon achieving Steady Academic Progress, as defined in §301, and the attainment of the required grade point average, if the period of ineligibility did not persist for more than one year from the date of loss of eligibility. If the one year period is interrupted due to a student's active duty in the United States Armed Forces, the one year period will be extended for a length of time equal to the student's active duty service, not to exceed four years.

C. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1998, 2002 (September 2000), LR 27:1856 (November 2001), LR 28:774

(April 2002), LR 28:2332 (November 2002), LR 29, LR 29:880 (June 2003), LR 29:

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

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

A. - A.3.d. ...

4. Out-of-State High Schools

a. All other public or non-public high schools located in one of the United States or territories of the United States, other than Louisiana, which have been approved by the state or territory's chief school officer as listed in the Louisiana Department of Education Bulletin 1462, or by the public body which is that state's or territory's equivalent of the Louisiana Board of Elementary and Secondary Education (BESE), or which high school has been approved by the Southern Association of Colleges and Schools' Commission on Secondary and Middle Schools and can demonstrate that it meets the standards adopted by BESE for approval of nonpublic schools of Louisiana as set forth in §1701.A.2, above or, for students graduating during the 2002-2003 school year and thereafter, which high school has been approved by a regional accrediting organization recognized by the United States Department of Education and can demonstrate that it meets the standards adopted by BESE for approval of nonpublic schools of Louisiana as set forth in §1701.A.2, above, and those high schools located in foreign countries which have been authorized or approved by a Department in the Executive Branch of the United States government to teach the dependents of members of the U.S. Armed Forces stationed abroad;

A.4.b. - B. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25:849 (May 1999), LR26:68 (January 2000), LR 26:1997 (September 2000), LR 27:1862 (November 2001), LR 29:

§1703. High School's Certification of Student Achievement

A. - B.1.b. ...

2.a. Through the 2002 Academic Year (High School), the certification form shall contain, but is not limited to, the following reportable data elements:

- i. student's name, address, phone number and social security number;
- ii. month and year of high school graduation;
- iii. final cumulative high school grade point average for all courses attempted, converted to a maximum 4.00 scale, if applicable (Note: Beginning with students graduating in 2002-2003, the cumulative high school grade point average will be calculated by using only grades obtained in completing the core curriculum.); and
- iv. through the graduating class of the Academic Year (High School) 2002-2003, number of core units earned and the number of core units unavailable to the student at the school attended;. After the graduating class of the Academic Year (High School) 2002-2003, core unit requirements may not be waived.

b. Commencing with the 2003 Academic Year (High School), certification shall contain, but is not limited to, the following reportable data elements:

- i. student's name and Social Security number;
- ii. month and year of high school graduation;
- iii. the course code for each course completed;
- iv. the grade for each course completed;
- v. designation of each Honors Curriculum Course;
- vi. the grading scale for each course reported;
- vii. list the high school attended for each course reported; and
- viii through the graduating class of the Academic Year (High School) 2002-2003, number of core units earned and the number of core units unavailable to the student at the school attended. After the graduating class of the Academic Year (High School) 2002-2003, core unit requirements may not be waived.

B.3. - D.3. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:1998 (September 2000), LR 26:2269 (October 2000), LR 27:1863 (November 2001), LR 29:880 (June 2003), LR 23:

§1705. Notification of Certified Students

A. Through the 2002 Academic Year (High School), if the certifying authority elects to notify students of their certification, then the following disclaimer shall be included in any communication to the student: "Although you have been certified as academically eligible for a Tuition Opportunity Program for Students (TOPS) Award, you must satisfy all of the following conditions to redeem a scholarship under this program:

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

B. Commencing with the 2003 Academic Year (High School), if the certifying authority elects to notify students of their potential eligibility for an award, then the following disclaimer shall be included in any communication to the student: "Although it appears that you have satisfied the academic requirements for a Tuition Opportunity Program for Students (TOPS) Award based on this school's review of the core curriculum courses you have completed and calculation of your TOPS Cumulative High School Grade Point Average, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. "the Louisiana Student Financial Assistance Commission (LASFAC) must determine that you have in fact completed the TOPS core curriculum courses;

2. "LASFAC must determine that your TOPS Cumulative High School Grade Point Average based on the TOPS core curriculum meets the statutory requirements;

3. "you must be a Louisiana resident as defined by LASFAC;

4. "you must be accepted for enrollment by an eligible Louisiana postsecondary institution and be registered as a full-time undergraduate student no later than the next semester following the first anniversary of your graduation from high school;

5. "you must apply for federal student aid, if eligible for such aid, by the deadline required for consideration for consideration for state and; and

6. "you must have met all academic and nonacademic requirements and be officially notified of your award by LASFAC."

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:644 (April 1998) and amended LR 24:1913 (October 1998), repromulgated LR 27:1864 (November 2001), amended LR 29:126 (February 2003), LR 29:882 (June 2003), LR 29:

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1903. Responsibilities of Postsecondary Institutions

A. - B.5. ...

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

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

b. Louisiana Technical College campuses may bill for an amount up to the tuition for that institution, as defined in §301;

c. LAICU member colleges and universities may bill for students enrolled in academic programs an amount up to the Weighted Average Award Amount, as defined in §301;

d. LAICU member colleges and universities may bill for students enrolled in nonacademic programs an amount up to the Average Award Amount (TOPS-Tech), as defined in §301;

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

f. for students enrolled in a public professional school, institutions may bill LASFAC an amount equal to the tuition charged or the tuition charged a student pursuing a baccalaureate degree at the highest cost public school, whichever is less;

g. for students enrolled in a LAICU professional school, institutions may charge the Weighted Average Award Amount;

h. for students enrolled in graduate school, institutions may bill LASFAC an amount equal to the tuition or the tuition charged for a student while pursuing a baccalaureate degree at the highest cost public school in the state, whichever is less.

7. ...

8. before applying a TOPS award to pay a student's tuition, institutions shall first apply the student's "out-of-pocket" payments, including student loans, toward tuition charges. In those cases when a student's tuition as defined in 26 U.S.C. 25A is paid from a source other than the TOPS award, the institution shall apply the TOPS award toward payment of expenses other than tuition which are described in the term "cost of attendance" as that term is defined in 20 U.S.C. 1087 11, as amended, for the purpose of qualifying the student or his parent or Court Ordered Custodian for the federal income tax credits provided for under 26 U.S.C. 25A;

C. - G ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25: 1459 (August 1999), LR 26:1998, 2002 (September 2000), LR 27:1864 (November 2001), LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 29:

Chapter 21. Miscellaneous Provisions and Exceptions §2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - C.3. ...

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

1. The student should complete and submit an application for an exception, with documentary evidence, to the Office as soon as possible after the occurrence of the event or circumstance that supports the request. Through the 2000-2001 academic year, the student must submit application for an exception no later than May 30 of the academic year the student requests reinstatement. Commencing with the 2001-2002 academic year, the student must submit the application for exception no later than six months after the date of the notice of cancellation, except that a Returning Student must submit the application for exception no later than six months after the date of the notice of ineligibility due to failure to meet the continuing eligibility requirements of §705. The deadline for filing the exception shall be prominently displayed on the notice of cancellation. If the applicant for an exception is a Dependent Student, a parent or Court Ordered Custodian of the Dependent Student may submit the application for exception on behalf of the applicant.

2. - 3. ...

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared ineligible for TOPS, TOPS-Tech, TOPS Teacher or the Rockefeller State Wildlife Scholarship because of failure to meet the initial or continuous enrollment requirements may request reinstatement in that program based on one or more of the following exceptions:

1. - 3. ...

4. Temporary Disability

a. Definition. The student/recipient is recovering from an accident, injury, illness or required surgery, or the student/recipient is providing continuous care to his/her spouse, dependent, parent, stepparent, or custodian due to an accident, illness, injury or required surgery.

- b. ...
- c. Maximum Length of Exception
 - i. Up to four consecutive semesters (six consecutive quarters) for recipient;
 - ii. up to a maximum of two consecutive semesters (three consecutive quarters) for care of a disabled dependent, spouse, parent, or custodian.

5. - 7.c. ...

8. Death of Immediate Family Member

a. Definition. The student's spouse, parent, stepparent, custodian, dependent, sister or brother, step sibling, or grandparent dies.

8.b. - 10. ...

11. Exceptional Circumstances

a. Definition. The student/recipient has exceptional circumstances, other than those listed in §2103.E.1-10, which are beyond his immediate control and which necessitate full or partial withdrawal from, or non-enrollment in an eligible postsecondary institution.

i. The following situations are not exceptional circumstances:

(a). - (h). ...

(i). An involuntary drop, suspension, or withdrawal from enrollment because of academics, scholastics, or failure to attend classes or to comply with institutional regulations.

(j). A suspension or expulsion for misconduct.

(k). An inability to register because of failure to satisfy financial obligations.

E.11.a.ii - F. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), LR 27:1866, 1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330, 2333 (November 2002), LR 29:126 (February 2003), LR 29:

§2105. Repayment Obligation, Deferment and Cancellation

A. - B.3.c. ...

4. Temporary Disability

a. Definition. The recipient is recovering from an accident, injury, illness or required surgery, or the recipient is providing continuous care to his/her spouse, dependent, parent, stepparent, or custodian due to an accident, illness, injury or required surgery.

b. - b.iii. ...

c. Maximum Length of Deferment. Up to two years for recipient; up to a maximum of one year for care of a disabled dependent, spouse, parent, or custodian.

C. ...

D. Procedure for Requesting a Deferment

1. The recipient should complete and submit an application for a deferment, with documentary evidence, to the Office as soon as possible after the occurrence of the event or circumstance that supports the request. The recipient must submit the application for deferment no later than three months after the date of the notice of repayment. The deadline for filing the request shall be prominently displayed on the notice of repayment. If the applicant for a

deferment is a Dependent Student, a parent or Court Ordered Custodian of the Dependent Student may submit the application for exception on behalf of the applicant.

E. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001), LR 28:775 (April 2002), LR 28:2331 (November 2002), LR 29:

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)

These Rules are required to implement Acts 63, 81, 214, 220, 401, 1121, 1235 and 1237 of the 2003 Regular Session of the Louisiana Legislature, which modify the Tuition Opportunity Program for Students (TOPS). The total known state costs associated with these Acts are approximately \$220,000 in Fiscal Year 2002-2003, rising to an estimated \$541,000 in Fiscal Year 2005-2006. There are other anticipated costs associated with these Acts, which are unknown.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from these Rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The affected Acts make various changes to aspects of the TOPS program that affect both existing and future TOPS recipients. To the extent that these acts may make additional students eligible for TOPS Awards, such students will benefit from payment of some or a portion of their college tuition.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this Rule.

George Badge Eldredge
General Counsel
0309#066

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Tuition Trust Authority
Office of Student Financial Assistance**

Student Tuition and Revenue
Trust (START Saving) Program
(LAC 28:VI.107, 301, 303, 305,
307, 309, 311, 313, and 315)

The Louisiana Tuition Trust Authority announces its intention to amend its START Savings program Rules (R.S. 17:309 et seq.).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28
EDUCATION**

**Part VI. Student Financial AssistanceC Higher
Education SavingsC Tuition Trust Authority**

Chapter 1. General Provisions

§107. Applicable Definitions

* * *

*Beneficiary*Cthe person named in the education savings account owner's agreement or the person named by the Authority when authorized to make such a designation by an account owner as classified under §303.A.5, as the individual entitled to apply the account balance, or portions thereof, toward payment of their Qualified Higher Education Expenses.

*Beneficiary's Family*Cfor purposes of §303.A.5, the beneficiary's family must be one of the following persons:

a. the beneficiary's parent(s) or court ordered custodian; or

b. a person who claims the beneficiary as a dependent on his or her federal income tax return for the previous year; or

c. a person who certifies that the beneficiary lives with him, that he provides more than 50 percent of the beneficiary's support for the previous year and that he was not required to file an income tax return for the previous year.

* * *

*Trade Date*Cthe date that a deposit to an investment option that includes variable earnings is assigned a value in units or the date a disbursement or refund from an investment option that includes variable earnings is assigned a value.

* * *

*Variable Earning*Cthat portion of funds in an education savings account invested in equities.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997). Amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 29:

Chapter 3. Education Savings Account

§301. Education Savings Accounts

A. An education savings account is established on behalf of a designated beneficiary to provide the funding necessary for the beneficiary to acquire an undergraduate certificate, associate degree, undergraduate degree, graduate degree or professional degree. Education savings accounts may offer investment options that provide either fixed earnings or variable earnings.

1. The account owner classified under §303.A.1, 2, 3 and 4 shall designate the beneficiary in the owner's agreement.

2. The account owner classified under §303.A.5 may designate the beneficiary in the owner's agreement, provided the beneficiary is not a member of the account owner's family, or authorize the LATTA to select a beneficiary for the account.

3. A beneficiary selected by the LATTA must meet the following criteria:

a. the beneficiary is a Louisiana resident;

b. the federal adjusted income of the beneficiary's family is less than \$30,000 or the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

c. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or the Office of Student Financial Assistance;

d. demonstrate superior early academic preparation in the third grade by achieving a score on the Iowa Tests of Basic Skills, Stanford 9 Test or TerraNova Test that is in the top two quartiles; and

e. the guidelines provided by the account owner, if any; provided such guidelines are lawful.

4. Procedure for Selection (To be added at a later date.)

B. - C.1. ...

2. The account owner shall designate a beneficiary, except as provided in Paragraph A.2 above.

3. ...

4. Transfer of account ownership is not permitted, except in the case of accounts classified under §303.A.1-4 in the event of the death of an account owner, who is a natural person or the dissolution of the account owner, who is a legal entity.

a. The account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, may designate a person who will become the substitute account owner in the event of the original account owner's death.

b. Eligibility for earnings enhancements will be based on the substitute account owner's classification at the time of the original account owner's death.

c. In the event of the death of an account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, and who has not named a substitute account owner, the account shall be terminated and the account shall be refunded to the beneficiary, if designated to receive the refund by the account owner, or the account owner's estate.

d. In the event of the dissolution of an account owner who is a legal entity classified as an account owner under §303.A.3 or 4, the beneficiary shall become the substitute account owner. If the account owner, who is a legal entity classified as an account owner under §303.A.3 or 4, is dissolved, the beneficiary designated to receive the refund has died, and there is no substitute beneficiary named, the refund shall be made to the beneficiary's estate.

e. In the event of the death or dissolution of an other person classified as an account owner under §303.A.5, the beneficiary shall become the substitute account owner, provided that, in the case of an account classified under §303.A.5, all the rights and restrictions provided in law and these Rules regarding account owners classified under §303.A.5, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc., shall be applicable to the beneficiary that becomes the owner of an account established under §303.A.5. If an account owner

classified under §303.A.5 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible educational institution by age 25, and no substitute beneficiary has been designated by the account owner, the Authority shall designate a new beneficiary who must meet the requirements of §301.A.3 and §303.A.5.

5. Only the account owner or the beneficiary may be designated to receive refunds from the account owned by an account owner who is a natural person other than a natural person classified as an account owner under §303.A.5. In the event of the death of the account owner when the account owner is designated to receive the refund and there is no substitute account owner named, the refund shall be made to the account owner's estate.

D. - D.6. ...

7. That an account whose owner is a legal entity or is classified under §303.A.5 cannot be terminated and the funds deposited in the account will not be refunded to the account owner.

8. That an account owner who is a legal entity or is classified under §303.A.5, can change the beneficiary of an account to one or more persons who are not members of the family of the beneficiary in accordance with §313.A.4.c, however, in such case:

a. ...

b. the earnings enhancements and interest thereon will not be transferred to the new beneficiary. (Note that the deposit(s) will be eligible for earnings enhancement for the year of the deposit.);

c. the provisions of §301.A.2 shall apply to account owners classified in accordance with §305.A.5.

9. That in the event an account owner who is a legal entity classified as an account owner under §303.A.3 or 4 is dissolved, the beneficiary will become the owner of the account.

10. That in the event an other person classified as an account owner under §303.A.5 dies or is dissolved, the beneficiary will become the account owner, provided that, all the restriction provided in law and these Rules regarding account owners classified under §303.A.5, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc. shall be applicable to the beneficiary that becomes the owner of an account established under §303.A.5. If an account owner classified under §303.A.5 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible college or university by age 25, and no substitute beneficiary has been designated by the account owner, the Authority is authorized designate a new beneficiary who must meet the requirements of §301.A.3 and §303.A.5.

E. - G ...

H. Providing Personal Information

1. The account owner is required to disclose personal information in the owner's agreement, including:

a. in the case of an account owner classified under §303.A.5:

i. the social security number of the beneficiary's family and authorization from that person for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purpose of verifying federal adjusted gross income; and

ii. if applicable, proof that the beneficiary is a ward of the court; or

iii. if applicable, proof the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.).

2. By signing the owner's agreement, the account owner who is classified under §303.A.1 or 2 (does not include legal entities or other persons classified as account owners under §303.A.5) provides written authorization for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purposes of verifying federal adjusted gross income.

3. By signing the owner's agreement:

a. the account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, certifies that:

a.i. - b.vi. ...

c. the natural person classified as an account owner under §303.A.5 certifies that:

i. the beneficiary is a Louisiana Resident;

ii. the federal adjusted income of the beneficiary's family is less than \$30,000 or the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

iii. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the Authority or the Office of Student Financial Assistance;

iv. the account owner acknowledges and agrees that once funds are deposited in a START account, neither the deposits nor the interest earned thereon can be refunded to the account owner; and

v. the information provided in the application is true and correct.

H.4 - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997). Amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002), LR 29:

§303. Account Owner Classifications

A. - A.4. ...

5. any other person or any government entity, and at the time of the initiation of the agreement:

a. the beneficiary is a resident of the state;

b. the federal adjusted income of the beneficiary's family is less than \$30,000 or the beneficiary must be eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

c. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the Authority or the Office of Student Financial Assistance;

d. the deposits to the account are an irrevocable donation by the owner.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 27: 1879

(November 2001), LR 28:779 (April 2002), LR 28:2334 (November 2002), LR 29:

§305. Deposits to Education Savings Accounts

A. - C. ...

D. Investment Options

1. The State Treasurer shall select fixed earnings and variable earnings investment options.

2. The Authority shall furnish each account owner with information that discloses each of the investment options offered by the program.

3. The account owner shall select one or more of the investment options in completing the owner's agreement. If more than one option is selected, the account owner shall indicate the percentage of each deposit for each investment option and the percentages must total 100 percent.

4. Investment options and the percentage of each deposit to an option can be changed no more than once in any 12 month period.

5. Once a selection is made, all deposits shall be directed to the investment options selected and in the percentages designated.

E. Deposits

1. Deposits for investment options that are limited to fixed earnings will be considered to have been deposited on the date of receipt

2. Deposits for investment options that include variable earnings will be assigned a trade date based on the method of deposit and the date of receipt.

a. Deposits by check will be assigned a trade date five days after the business day during which they were received.

b. Deposits made by electronic funds transfer will be assigned a trade date of one business day after the business day during which they were received.

3. Deposits received on weekends and holidays will be considered received on the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 29:

§307. Allocation of Earnings Enhancements

A. Earnings enhancements are state-appropriated funds allocated to an education savings account, on behalf of the beneficiary named in the account.

1.a. The earnings enhancements for account owners who are classified under §303.A.1 and 2 are calculated based upon the account owner's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for an earnings enhancement and the account owner's total annual deposits of principal.

b. The earnings enhancements for account owners who are classified under §303.A.5 are calculated based:

i. upon the beneficiary's family's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for an earnings enhancement and the account owner's total annual deposits of principal; or

ii. if the beneficiary is a ward of the court, using the highest earnings enhancement available and the account owner's total annual deposits of principal.

2. ...

B. Providing Proof of Annual Federal Adjusted Gross Income

1.a. For account owners who are classified under §303.A.1 or 2 (does not include Legal Entities nor other persons classified as account owners under §303.A.5), the account owner's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for an earnings enhancement is used in computing the annual earnings enhancement allocation.

b. For account owners who are classified under §303.A.5, the beneficiary's family's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for an earnings enhancement is used in computing the annual earnings enhancement or proof that the beneficiary is a ward of the court.

2.a. To be eligible in any given year for a Earnings Enhancement in accordance with §307.D., the account owner of an Education Savings Account classified under §303.A.1, 2 or 3 must:

i. authorize the LATTA to access the account owner's state tax return filed with the Louisiana Department of Revenue for the purpose of obtaining the account owner's federal adjusted gross income; or

ii provide the LATTA a copy of the account owner's federal or state income tax return filed for the year immediately preceding the year in which the beneficiary of the account is being considered for an earnings enhancement.

b. To be eligible in any given year for a earnings enhancement in accordance with §307.D., the account owner of an education savings account classified under §303.A.5 must:

i. provide authorization from the beneficiary's family for the LATTA to access the beneficiary's family's state tax return filed with the Louisiana Department of Revenue for the purpose of obtaining the federal adjusted gross income of the beneficiary's family; or

ii provide the LATTA a copy of the beneficiary's family's federal or state income tax return filed for the year immediately preceding the year in which the beneficiary of the account is being considered for an earnings enhancement; or

iii. provide documentation establishing that the beneficiary is a ward of the court.

3.a. In completing the owner's agreement, account owner's who are classified under §303.A.1 or 2 (does not include legal entities or other persons classified as account owners under §303.A.5), authorize the LATTA to access their records with the Louisiana Department of Revenue for the purpose of verifying the account owners' federal adjusted gross income. In the event the account owner does not file tax information with the Louisiana Department of Revenue, they must provide the LATTA with:

i a copy of the form filed with the Internal Revenue Service; or

ii a statement as to why no income tax filing was required of the account owner.

b. In completing the owner's agreement, account owners who are classified under §303.A.5, provide

authorization from the beneficiary's family for the LATTA to access their records with the Louisiana Department of Revenue for the purpose of verifying the beneficiary's family's federal adjusted gross income. In the event the beneficiary's family does not file tax information with the Louisiana Department of Revenue, the beneficiary's family must provide:

- i a copy of the form filed with the Internal Revenue Service; or
- ii a statement that the beneficiary lives with them, that they provide more than 50 percent of the beneficiary's support and an explanation as to the beneficiary's family was not required to file an income tax return; or
- iii. provide documentation establishing that the beneficiary is a ward of the court.

B.4. - C.2. ...

D. Earnings Enhancement Rates. The earnings enhancement rates applicable to an education savings account under §303.A.1, 2 and 5 are determined by the federal adjusted gross income of the account owner or the beneficiary's family, as applicable, according to the following schedule.

Reported Federal Adjusted Gross Income	Earnings Enhancement Rate*
0 to \$29,999	14 percent
\$30,000 to \$44,999	12 percent
\$45,000 to \$59,999	9 percent
\$60,000 to \$74,999	6 percent
\$75,000 to \$99,999	4 percent
\$100,000 and above	2 percent

*Rates may be reduced pro rata, to limit Earnings Enhancements to amounts appropriated by the Legislature.

E. - F. ...

G Restrictions on allocation of earnings enhancements to education savings accounts. The allocation of earnings enhancements is limited to education savings Accounts which:

- 1. are not fully funded accounts (See §107); and
- 2. have an account owner who falls under one of the classifications described in §303.A.1, 2, 3 or 5.

H. - J.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001) LR 27:1222 (August 2001), LR 27:1180 (November 2001), LR 28:779 (April 2002), LR 29:

§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

A. Request for Disbursement

- 1. For each term the account owner intends to fund the beneficiary's qualified higher education expenses, the account owner shall submit a request for disbursement.
- 2. The request for disbursement must include:
 - a. the START Account number;
 - b. the account owner's name, address, Social Security Number and signature (may be electronic);

c. the beneficiary's name, address, and Social Security Number;

d. the amount to be disbursed and to whom; and

e. the name and address of the eligible education institution.

3. The account owner may select the investment options from which the disbursement shall be made; provided that if no selection is made, the disbursement shall be made proportionally from each investment option in the account.

4. If there is more than one account with the same beneficiary, each account owner requesting a disbursement must complete a request for disbursement and the disbursements shall be made from each account, in turn, in the order the disbursement requests were received.

5. Disbursements from all accounts with the same beneficiary shall not exceed the qualified higher education expenses of the beneficiary for the school attended.

6. Disbursements may be made to the eligible education institution, account owner and/or beneficiary; however, for each disbursement, as a minimum, that portion of the disbursement representing earning enhancements and the interest thereon must be sent to the eligible educational institution in which the student is enrolled or intends to enroll.

7. Disbursements from investment options with variable earnings will be assigned a trade date of one business day after the business day of receipt.

B. Rate of Expenditure

1. As authorized by the account owner, the amount to be disbursed from an account shall be drawn from deposits (including earnings on deposits) and earnings enhancements (including earnings on earnings enhancements) in the same ratio as these funds bear to the total value of the account as of the date of the disbursement.

2. For an educational term, the account owner may not withdraw an amount in excess of the beneficiary's qualified higher education expenses for that term or the value of the account, whichever is less.

C. Payments to Eligible Educational Institutions

1. Upon the beneficiary's enrollment and the institution's receipt of a START disbursement, the institution may credit the student's account. Should the amount received exceed the amount owed to the institution, the institution shall disburse the balance to the beneficiary, unless the beneficiary directs otherwise.

D. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997). Amended LR 24:1272 (July 1998), LR 26:2265 (October 2000), LR 27:1881 (November 2001), LR 29:

§311. Termination and Refund of an Education Savings Account

A. ...

B. Account Terminations

1. The account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, may terminate an account at any time.

2. - 5. ...

6. The account owner who is a legal entity or is classified under §303.A.5, may not terminate an account, however, the account owner who is a legal entity or is classified under §303.A.5 may designate a substitute beneficiary in accordance with §313.A.4.b.

C. Refunds

1. A partial refund of an account may only be made as described in §311.F.3.

2. ...

3. No refunds shall be made to an account owner who is a legal entity classified under §303.A.3 or 4. If an account owned by a legal entity classified as an account owner under §303.A.3 or 4 is terminated by LATTA or by the account owner in accordance with §311.E or F, the refund will be made to the beneficiary or to the beneficiary's estate if no substitute beneficiary has been designated by the account owner.

4. No refunds shall be paid to account owner classified under §303.A.5. If such an account is terminated by LATTA in accordance with §311.E, the beneficiary shall become the owner of the account, provided that, all the rights and restrictions provided in law and these Rules regarding account owners classified under §303.A.5, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc. shall be applicable to the beneficiary that becomes the owner of such an account. If an account owner classified under §303.A.5 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible college or university by age 25, and no substitute beneficiary has been designated by the account owner, the Authority shall designate a new beneficiary who must meet the requirements of §301.A.3 and §303.A.5.

5. Refunds from investment options with variable earnings will be assigned a trade date of one business day after the business day of receipt.

D. Designation of a Refund Recipient

1. In the owner's agreement, the account owner who is a natural person, except one who is classified under §303.A.5, may designate the beneficiary to receive refunds from the account.

2. Refunds of interest earnings will be reported as income to the individual receiving the refund for both federal and state tax purposes.

3. In the event the beneficiary receives any refund of principal and earnings from the account, the tax consequence must be determined by the recipient.

4. The beneficiary of an account owned by a legal entity classified as an account owner under §303.A.3 or 4 is automatically designated as the refund recipient.

5. Funds in an account classified under §303.A.5 shall not be refunded.

E. Involuntary Termination of an Account with Penalty

1. The LATTA may terminate an owner's agreement if it finds that the account owner or beneficiary provided False or Misleading Information (see §107).

2. If the LATTA terminates an owner's agreement under this Section, all interest earnings on principal deposits may be withheld and forfeited, with only principal being refunded.

3. An individual who obtains program benefits by providing false or misleading information will be prosecuted to the full extent of the law.

F. Voluntary Termination of an Account

1. Refunds shall be equal to the redemption value of the education savings account at the time of the refund, and shall be made to the person designated in the owner's agreement or by Rule.

2. The person receiving the refund shall be responsible for any state or federal income tax that may be payable due to the refund.

3. Except for accounts classified in accordance with §305.A.5, accounts may be terminated and fully refunded or partially refunded at the request of the account owner for the following reasons:

a. the death of the beneficiary in which case the refund shall be equal to the redemption value of the account and shall be made to:

i. the account owner, if the account owner is a natural person; or

ii. the beneficiary's estate, if the account owner is a legal entity;

b. the disability of the beneficiary, in which case the refund shall be equal to the redemption value of the account and shall be made to:

i. the account owner or the beneficiary, as designated in the owner's agreement, if the Account owner is a natural person; or

ii. the beneficiary, if the account owner is a legal entity;

c. the beneficiary receives a scholarship, waiver of Tuition, or similar subvention that the LATTA determines cannot be converted into money by the beneficiary, to the extent the amount of the refund does not exceed the amount of the scholarship, waiver of tuition, or similar subvention awarded to the beneficiary. In such case, the refund shall be equal to the scholarship, waiver of Tuition, or similar subvention that the LATTA determines cannot be converted into money by the beneficiary of the account, or the redemption value, whichever is less, and shall be made to:

i. the account owner or the beneficiary, as designated in the owner's agreement, if the Account owner is a natural person; or

ii. the beneficiary, if the account owner is a legal entity.

4. Refunds made under this §311.F.3 are currently exempt from additional federal taxes.

G Effective Date of Account Termination. Account termination shall be effective at midnight on the business day on which the request for account termination and all supporting documents are received. Accounts will be credited with interest earned on principal deposits through the effective date of the closure of the account.

H. Refund Payments. Payment of refunds for voluntary termination under §311.F or partial refunds of accounts pursuant to §311.F.3 shall be made within 30 days of the date on which the account was terminated. The termination refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the last calendar year. Interest earned in excess of \$3 during the calendar year of termination will be refunded on or about the forty-fifth day after the start of the next calendar year. Interest earned of \$3 or less during the calendar year of termination will be

forfeited to the Louisiana Education and Tuition Savings Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 29:

§313. Substitution, Assignment, and Transfer

A. - A.3. ...

4. If the substitute beneficiary is not a member of the family of the previous beneficiary:

a. and the account owner is a natural person classified under §303.A.1-4, the account must be refunded to the account owner and a new account must be opened;

b. and the account owner is a legal entity classified under §303.A. 3 or 4, a new account shall be opened in the name of the new beneficiary; and

i. - ii. ...

c. and the account owner is classified under §303.A. 5, a new account shall be opened in the name of the new beneficiary only if the beneficiary meets all the requirements of §303.A. 5; and

i. these transfers may be treated as refunds under federal and state tax laws in which case the account owner will be subject to any associated tax consequences; and

ii. the earnings enhancements and interest thereon will not be transferred to the new beneficiary; (Note that the deposit(s) will be eligible for earnings enhancement for the year of the deposit.)

iii. the provisions of §301.A.2 shall apply to account owners classified in accordance with §305.A.5.

B. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), repromulgated LR 26:2266 (October 2000), amended LR 27:1883 (November 2001), LR 28:780 (April 2002), LR 29:

§315. Miscellaneous Provisions

A. - H. ...

I. No Investment Direction. No account owner or beneficiary of an education savings account may direct the investment of funds credited to an account, except to make an annual election among investment options that offer fixed earnings, variable earnings or both. Deposits will be invested on behalf of the START Savings Program by the State Treasurer.

J. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23: 718 (June 1997), amended LR 24:1274 (July 1998), amended LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Student Tuition and Revenue Trust (START Saving) Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These Rules are required to implement Act 221 of the 2003 Regular Session of the Louisiana Legislature, which modify the Student Tuition Assistance and Revenue Trust (START) Program. This Act added new provisions under the categories of account owners and increased the State match percentage rate for contributions made by such owners. As such, the Act will likely increase statutorily dedicated expenditures from the Louisiana Student Tuition Assistance and Revenue Trust (START) Program's Savings Enhancement Fund by unknown amounts in future years.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from these Rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Needy children will benefit from irrevocable donations to START accounts that will be matched by a state earnings enhancement. Account owners will be allowed to select investment option that may include equities. Investment in equities offers the potential for higher returns, and includes greater risk of loss.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this Rule.

George Badge Eldredge
General Counsel
0309#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Cooling Water Intake Structures for New Facilities
(LAC 33:IX.2522, 2523, and 2524) (WQ051*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.2522, 2523, and 2524 (Log #WQ051*).

This proposed Rule is identical to federal regulations found in 40 CFR 125.83; 125.84(b)(4)(ii)-(iii), (b)(5)(ii), (c)(3)(ii)-(iii), and (d)(1); and 125.85(a)(2)-(3), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. 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 amendment deletes the definition of Minimum Ambient Source Water Surface Elevation and provides owners and operators of new facilities with clarified and additional requirements for addressing various stressors and other adverse impacts on species passing through the hydraulic zone of influence of cooling water intake structures. The amendments are required to maintain currency with federal regulations for state program authorization. The basis and rationale for this Rule are to mirror the federal regulations, to ensure the application of relevant information, and to protect species integrity.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality

Chapter 23. The LPDES Program
Subchapter M. Criteria Applicable to Cooling Water Intake Structures Under Section 316(b) of the Act

§2522. What Special Definitions Apply to this Subchapter?

<i>Minimum Ambient Source Water Surface Elevation</i>	<i>Crepealed.</i>		
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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1768 (August 2002), amended LR 29:

§2523. As an Owner or Operator of a New Facility, What Must I Do to Comply with this Subchapter?

- A. - B.4.a. ...
- b. based on information submitted by any fishery management agency(ies) or other relevant information, there are migratory and/or sport or commercial species of impingement concern to the state administrative authority that pass through the hydraulic zone of influence of the cooling water intake structure; or
 - c. it is determined by the state administrative authority, based on information submitted by any fishery management agency(ies) or other relevant information, that the proposed facility, after meeting the technology-based performance requirements in Paragraphs B.1, 2, and 3 of this Section, would still contribute unacceptable stress to the protected species, critical habitat of those species, or species of concern.
5. - 5.a. ...
- b. based on information submitted by any fishery management agency(ies) or other relevant information, there are, or would be, undesirable cumulative stressors affecting entrainable life stages of species of concern to the state administrative authority, and it is determined by the state administrative authority that the proposed facility, after meeting the technology-based performance requirements in Paragraphs B.1, 2, and 3 of this Section, would still

contribute unacceptable stress to the protected species, critical habitat of those species, or species of concern.

B.6. - C.3.a. ...

- b. based on information submitted by any fishery management agency(ies) or other relevant information, there are migratory and/or sport or commercial species of impingement concern to the state administrative authority that pass through the hydraulic zone of influence of the cooling water intake structure; or

- c. it is determined by the state administrative authority, based on information submitted by any fishery management agency(ies) or other relevant information, that the proposed facility, after meeting the technology-based performance requirements in Paragraphs C.1 and 2 of this Section, would still contribute unacceptable stress to the protected species, critical habitat of those species, or species of concern.

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

- a. Except as specified in Subparagraph D.1.b of this Section, this demonstration must include a showing that the impacts to fish and shellfish, including important forage and predator species, within the watershed will be comparable to those that would result if you were to implement the requirements of Paragraphs B.1 and 2 of this Section. This showing may include consideration of impacts other than impingement mortality and entrainment, including measures that will result in increases in fish and shellfish, but it must demonstrate comparable performance for species that the state administrative authority, in consultation with national, state, or tribal fishery management agencies with responsibility for fisheries potentially affected by your cooling water intake structure, identifies as species of concern. In identifying such species, the state administrative authority may consider information provided by any fishery management agency(ies) along with data and information from other sources.

D.1.b. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1769 (August 2002), amended LR 29:

§2524. May Alternative Requirements Be Authorized?

A. - A.1. ...

- 2. the state administrative authority determines that data specific to the facility indicate that compliance with the requirement at issue would result in compliance costs wholly out of proportion to those EPA considered in establishing the requirement at issue or would result in significant adverse impacts on local air quality, significant adverse impacts on local water resources other than impingement or entrainment, or significant adverse impacts on local energy markets;

- 3. the alternative requirement requested is no less stringent than justified by the wholly out of proportion cost or the significant adverse impacts on local air quality, significant adverse impacts on local water resources other than impingement or entrainment, or significant adverse impacts on local energy markets; and

A.4. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1771 (August 2002), amended LR 29:

A public hearing will be held on October 27, 2003, at 1:30 p.m. in the Galvez Building, Room C111, 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 Lynn Wilbanks 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 WQ051*. Such comments must be received no later than October 27, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to lynnw@ldeq.org. 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 WQ051*.

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; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0309#017

NOTICE OF INTENT

Office of the Governor Division of Administration Board of Cosmetology

Deadline Extension for Applying for Special Permits
(LAC 46:XXXI.321, 701, 1103,
1105, 1109, 1111, 1705, 1709)

The Louisiana State Board of Cosmetology, under authority of the Louisiana Cosmetology Act, R.S. 37:561-607, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby intends to amend certain Rules with regard to licensing of cosmetologists.

The revision is necessitated to correct certain clerical errors and to extend the deadlines for applying for special permits for alternative hair care and shampoo assistant under the grandfather provisions.

There should be no adverse fiscal impact on the state as a result of these revisions. The Louisiana State Board of Cosmetology operates solely on self-generated funds. Further, the proposed Rules have no known impact on family formation, stability or autonomy as described in R.S. 49:972.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXI. Cosmetologists

Chapter 3. Schools and Students

§321. Responsibilities of Students

A. Students. Students shall not be allowed to perform any professional cosmetology work for which the student does not possess a license, prior to completion of the curriculum, passing the examination administered by the board and receipt of an initial license. Any student found to be in violation of this Rule will forfeit all hours completed in beauty school, and any school knowingly permitting a serious violation of this Section shall be subject to suspension or revocation of its license.

B. Services. Students attending beauty school shall not provide cosmetology services, whether for a fee or not, in any licensed beauty salon or shop or in any premises that is not licensed unless the student possesses a license to perform such services. This regulation applies even though the student's immediate family or the student has an ownership interest in the beauty shop/salon in question. Any student found to be in violation of this Rule will be in jeopardy of losing a portion of their hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003), amended LR 29:

Chapter 7. Safety and Sanitation Requirements

§701. Sanitation Requirements for Cosmetology Salons and Cosmetology Schools

A. - M. ...

N. Tools and Implements. All tools and implements that come in direct contact with a client shall be sterilized, sanitized or disposed of after each use.

O. - P. ...

Q. Blood Spill Kits. Blood spill kits must be available in every salon and in every school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003), amended LR 29:

Chapter 11. Special and Temporary Permits

§1103. Special Permit for Microdermabrasion

A. - B. ...

C. Proof Required. For the purpose of this Section, evidence of practicing esthetics shall be demonstrated by presenting the following:

1. copies of W-2's or 1099's and a sworn statement by the issuer indicating that the individual worked the equivalent of 25 hours per week for at least 48 weeks during a period of one year performing esthetic services; or

C.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003), amended LR 29:

§1105. Special Permit for Alternative Hair Design

A. ...

B. Grandfathering. Notwithstanding the provisions of Subsection A, any person who applies for a special permit to practice alternative hair design on or before March 30, 2004 who satisfactorily demonstrates two years of experience in the practice of alternative hair design shall be issued a permit without the necessity of taking the alternative hair design exam.

C. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003), amended LR 29:

§1109. Special Permit for Shampoo Assistants

A. Shampoo Assistants. Beginning January 1, 2003, a special permit authorizing the performance of shampooing shall be issued to any person who:

1. applies on or before March 30, 2004 and presents evidence to the board of six months of continuous employment as an assistant to a licensed cosmetologist prior to January 1, 2003; or

2. - B. ...

C. Cosmetologists. No person holding a current cosmetology license shall be required to obtain a special permit to shampoo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003), amended LR 29:

§1111. Special Permit for Make-Up Application

A. ...

B. Cosmetologists and Estheticians. No person holding a current cosmetology or esthetics license shall be required to obtain a special permit to apply cosmetic preparations or make-up.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003), amended LR 29:

Chapter 17. Miscellaneous Provisions

§1705. Destruction of Premises

A. Inspection. When any school or salon is made unusable by virtue of storm, fire, flood or any other act of God or by virtue of expropriation proceedings, the premises selected to permanently replace such facility will be inspected without an inspection fee, provided that such facility is replaced within six months of its destruction.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:334 (March 2003), amended LR 29:

§1709. Picture Identification

A. All licensees and permittees shall have in their possession a picture identification at any time at which a service is being performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:334 (March 2003), amended LR 29:

Family Impact Statement

In compliance with R.S. 49:972, the Louisiana State Board of Cosmetology has considered the impact of the proposed Rules on family formation, stability, and autonomy and has concluded that the proposed Rules have no known effect on the stability of the family, the authority or rights of parents regarding the education or supervision of their children, the functioning of the family, family earnings or family budget, the behavior or personal responsibility of children or the ability of the family or a local government to perform the functions contained in the proposed Rules.

Interested parties are invited to submit written comments regarding the proposed Rules through Friday, October 3, 2003 at 4:30 p.m., to Saraphia T. Wilson, Executive Director, Louisiana State Board of Cosmetology, 11622 Sunbelt Court, Baton Rouge, LA 70809.

Saraphia T. Wilson
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Deadline Extension for Applying for Special Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated cost or savings incurred by the agency or any other governmental unit through the adoption of this Rule package.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of the new Rules has no effect on the revenues for existing function.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These Rule changes will provide a positive impact on the cosmetology industry by extending the grandfathering deadline, allowing more individuals to qualify for the permit immediately without the additional time and cost of training.

There is no significant change in costs to the facilities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The extended deadline for special permits for alternative hair care and shampoo assistant will have a positive effect on the competition and employment in the cosmetology industry by allowing additional qualified individuals to receive permits immediately and without the additional cost of attending a school.

Saraphia T. Wilson
Executive Director
0309#038

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Electrolysis Examiners

Electrologists Instructors Requirements
(LAC 46:XXXV.103, 105, 301, 503, 701, 707, 905,
909, 1301, 1303, 1305, 1307, 1309, 1313, and 1503)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 37:3051-3077, the Board of Electrolysis Examiners (hereinafter referred to as "Board") proposes to amend the operating Rules and Regulations as follows.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXV. Electrologists

Chapter 1. General Provisions

§103. General Definitions

A. ...

Apprentice Can individual engaged in learning the theory and practice of electrology in an electrologist apprenticeship program.

Board State Board of Electrolysis Examiners.

Electrologist Any person who for compensation practices electrolysis for the permanent removal of hair, except a physician licensed to practice medicine who performs electrolysis in his practice or a person who engages, on behalf of a manufacturer or distributor, solely in demonstrating the use of any machine or other article for the purpose of sale, without charge to the person who is the subject of the demonstration.

Electrologist Apprenticeship Program Can establishment which teaches or offers to teach the theory and practice of electrology and which teaches or offers to teach instructors the theory and practice of teaching electrology, without financial remuneration from the apprentice or the student instructor.

Electrologist Technician Can individual who for compensation practices electrolysis for the permanent removal of hair under the direct supervision of a licensed electrologist and who has completed a two hundred-hour course of instruction at an approved electrology school or electrologist apprenticeship program.

Electrology Cthe art and practice of removing hair from the normal skin of the body by the application of an electric current to the hair papilla by means of a needle or needles so as to cause growth inactivity of the hair papilla and thus permanently remove hair.

Electrolysis Cthe process by which hair is removed from the normal skin by the application of an electric current to the hair root by means of a needle or needles being inserted into the hair follicle, whether the process employs direct electric current or short wave alternating electric current.

School, School of Electrology, or Electrology School Can establishment which teaches or offers to teach students the theory and practice of electrology and which teaches or offers to teach student instructors the theory and practice of teaching electrology, for financial remuneration from the student, student instructor, or both.

Student Can individual engaged in learning the theory and practice of electrology at a school of electrology.

Student Instructor Can individual learning the theory and practice of teaching electrology in an electrology school or an electrologist apprenticeship program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:329 (April 1984), amended LR 11:534 (May 1985), repromulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), amended LR 27:193 (February 2001), LR 29:

§105. Exceptions and Rights

A. - B. ...

C. A health history shall be completed on each patient prior to any treatment. No patient with a history of diabetes and no cardiac patient with a pacemaker shall be treated without the consent of a physician. Persons suspected of having a communicable disease shall not be treated without first having been examined by a physician. No electrologist, electrologist technician, instructor, apprentice, or student shall knowingly treat a person who is infected with impetigo, any contagious disease, skin malignancy, or any disease dangerous to the public.

D. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:330 (April 1984), amended LR 11:534 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), LR 27:193 (February 2001), LR 29:

Chapter 3. Board Composition, Conflict Provision and Reimbursement

§301. Composition

A. The State Board of Electrolysis Examiners is created within the Department of Health and Hospitals. It shall be composed of five members, all to be appointed by the governor to serve at his pleasure. Four members shall be licensed electrologists who have been engaged in the practice of electrology for at least the five years prior to their appointment. Of these four, two members shall be appointed from a list of four names submitted to the governor by the Louisiana Electrologist Association and two members shall be appointed from a list of four names submitted to the governor by Regional Electrologists Association of Louisiana. One member shall be appointed from a list of three physicians licensed to practice in this state and recommended by the Louisiana State Medical Society. If the governor determines that the nominees of the Louisiana Electrologist Association, the Regional Electrologists Association of Louisiana, or of the Louisiana State Medical Society are not suitable, he may decline to appoint from the list submitted and shall call upon the associations or the society to nominate an additional list of persons. He may repeat such call until a list containing a qualified person or persons meeting his approval is submitted. If the Louisiana State Medical Society does not submit a list of physicians to the governor within 30 days of any such request, the governor may appoint an additional nominee of either the

Louisiana Electrologist Association or the Regional Electrologists Association of Louisiana in lieu of the licensed physician. Members serving on the board shall remain in office until their successors are appointed and take office. Members of the board shall be residents of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:330 (April 1984), amended LR 11:535 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), LR 29:

Chapter 5. Organization of Board, Quorum, Meetings, Records

§503. Meetings

A. The board shall hold regular meetings at least four times each year for the purpose of examining applicants and any other time the board or its chairman deems necessary, at a time and place designated by the chairman. Special meetings may be called by the chairman upon giving at least 72 hours notice thereof by registered or certified mail to the post office address of each member of the board and of persons who previously have indicated that they have business before the board. Any board member who misses three consecutive meetings without just cause may be removed from the board by an affirmative vote of three board members, and replaced by the governor on the board's initiation. All meetings of the board shall be conducted in accordance with *Roberts Rules of Order*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:330 (April 1984), repromulgated LR 11:535 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 29:

Chapter 7. General Powers and Duties of the Board

§701. Issuance of Licenses

A. The board shall be the sole and exclusive authority in the state to issue licenses to practice electrolysis and to administer the provisions of R.S. 37:3051 et seq. The board shall have authority to examine for, grant, deny, approve, revoke, suspend and renew the licenses of electrologists and shall review applications for licenses of electrologists at least four times each calendar year. It may conduct hearings on charges for the revocation or suspension of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:330 (April 1984), repromulgated LR 11:535 (May 1985), repromulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), LR 29:

§707. Licenses to Apprenticeship Programs

A. ...

B. No apprenticeship program approved by the board may receive monetary compensation from an apprentice or student instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, 19:1144 (September 1993), LR 29:

Chapter 9. Licensure of Electrologists and Instructors

§905. Licensure of Instructor

A. - C.1. ...

2. has successfully completed the curriculum for instructor training in electrolysis in an instructor training program that maintains the standards established and approved by the board and is part of either an approved school of electrology or an approved apprenticeship program. Such curriculum shall be under the supervision of a licensed instructor of electrology, shall include a course of study and practice over a period of not less than four months and shall include 125 hours of teaching skills, 75 hours of facilitating/managing skills, and 150 hours of clinic-supervised practice teaching;

3. successfully achieves a minimum test score on an examination administered and approved by the board. The examination shall be given four times each calendar year at such time and place and under such supervision as the board determines and specifically at such other times as in the opinion of the board the number of applicants warrants. The board shall designate the date, time, and place of examination and give public notice thereof and, in addition, shall notify each person who has made application for examination to the board.

D. Within 10 days after each examination, the official in charge shall deliver the question and answer papers to the board. The board shall examine and rate the answers and shall transmit an official report to each applicant for license stating the rating of the candidate in each subject and whether or not the board approves the candidate for a license. If a candidate fails one or more parts of an examination, the candidate may take the parts which he has failed in a subsequent examination upon payment of a fifteen-dollar examination fee. If after two attempts the examination is not satisfactorily completed, the candidate thereafter shall be required to repeat and take the entire examination within one year of the date of the original examination.

E. An instructor training program may grant credit for the 125 hours of teaching skills and 75 hours of facilitating/managing skills to an individual who possesses a valid teaching certificate.

F. The board may provide by rule for granting credit for all or part of the 125 hours of teaching skills, the 75 hours of facilitating/managing skills, or any combination thereof for college-level courses in teaching skills and facilitating/managing skills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:331 (April 1984), repromulgated LR 11:536 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 27:194 (February 2001), LR 29:

§909. Examination Schedule

A. The examination shall be given at least four times each year at a time and place as is determined by the board. Should the number of applicants warrant, additional examinations may be scheduled at the discretion of the chairman and public notice shall be given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:331 (April 1984), repromulgated LR 11:536 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), LR 29:

Chapter 13. Schools, Offices, Apprenticeship Programs; Apprenticeship Program Practitioners Premises

§1301. Requirements for Licensure of Schools of Electrolysis

A. - A.2. ...

3. a surety bond approved by the board in the amount of \$1,000 per student, or a sum amount not to exceed \$10,000 per school in favor of the state of Louisiana.

B. - E. ...

F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:331 (April 1984), repromulgated LR 11:536 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), LR 29:

§1303. Sanitary Requirements for Schools, Apprenticeship Programs, and Electrology Offices

A. - C. ...

D. Vinyl, latex, or any other protective medical examination gloves shall be used while attending electrology procedures. Hands shall be thoroughly washed with soap and water after removal of gloves. Unused gloves shall be used for each patient procedure and discarded after each use or if practitioner leaves patient's side or touches anything.

E. - K. ...

L. No electrologist, electrologist technician, instructor, apprentice or student in an apprenticeship program or school shall knowingly treat a person who is infected with impetigo, any contagious disease, skin malignancy, or any disease dangerous to the public.

M. No electrologist, electrologist technician, instructor, apprentice or student in an apprenticeship program or school shall treat a diabetic person without written authorization of the patient's treating physician.

N. All electrologists, electrologist technicians, instructors, apprentices and students, must place probe in holder of epilator when not in use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:331 (April 1984), amended LR 11:536 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 27:194 (February 2001), LR 29:

§1305. Additional Requirements for Schools

A. ...

B. Every school shall furnish to each student upon enrollment a true signed copy of the school contract and a copy of the school manual text covering the complete school curriculum as approved by the board.

C. ...

1. the name, address, date of enrollment, telephone number and specification of day or evening class of each student, recorded on the board's record of enrollment form;

2. ...

3. a signed copy of the student's permission to receive electrolysis treatment, and any restrictions thereof.

D. Every school shall provide each student with adequate storage space for the student's clothes and effects.

E. - K. ...

L. Repealed.

M. - N. ...

O. Repealed.

P. Repealed.

Q. - T. ...

U. Repealed.

V. A professional lamp will be focused on the treatment area at all times.

W. Repealed.

X. ...

Y. Smoking is prohibited by electrologists, electrologist technicians, instructors, students, lecturers or patients during treatment.

Z. All electrologists, electrologist technicians, instructors, and students shall wear appropriate clothing, with clean fingernails, clean stockings and clean uniform, or clean smock or clean laboratory jackets.

AA. - FF.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:332 (April 1984), amended LR 11:537 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 29:

§1307. Additional Requirements for Offices

A. Every electrology office shall have a separate entrance away from residential rooms.

B. Separate toilet facilities must be made available without entering residential rooms.

C. Separate facilities for hand washing shall be provided separate from residential rooms.

D. - I.5. ...

J. Smoking is prohibited by electrologists, electrologist technicians, instructors, apprentices, students, lecturers or patients during treatment.

K. All electrologists, electrologist technicians, instructors, apprentices, and students shall wear appropriate clothing, with clean fingernails, and clean uniform, smock, or laboratory jacket.

L. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:333 (April 1984), repromulgated LR 11:537 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 29:

§1309. Regulations for Apprenticeship Programs

A. - B.3. ...

a. the owner shall provide proof of a surety bond approved by the board in the amount of \$1,000 per student, or a sum not to exceed \$10,000 per apprenticeship program in favor of the State of Louisiana

B.3.b. - C.7. ...

D. Each supervisor of an electrologist apprentice shall furnish the apprentice with a signed copy of the contract and a copy of the text to be used.

E. ...

1. the name, current address, date of enrollment, telephone number, and specification day or evening class of each apprentice recorded on the board's record of enrollment form;

2. ...

3. Repealed.

E.4. - K. ...

L. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:333 (April 1984), amended LR 11:538 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 29:

§1313. Additional Requirements for Apprenticeship Programs

A. ...

B. Every apprenticeship program shall furnish to each apprentice upon enrollment a true signed copy of the apprentice contract and a copy of the apprenticeship program manual text covering the complete apprenticeship program.

C. ...

1. the name, current address, date of enrollment, telephone number, and specifications of day or evening classes of each apprentice, as recorded on the board's record of enrollment form;

2. ...

3. Repealed.

4. ...

D. Every apprenticeship program shall provide each apprentice with adequate storage space for the apprentice's clothes and effects.

E. - K. ...

L. Repealed.

M. - R. ...

S. Separate toilet facilities must be made without entering residential rooms.

T. Separate facilities for handwashing shall be provided on the premises of the office separate from residential facilities.

U. Every office of electrolysis shall comply with Louisiana statutes and ordinances and be subject to Public Health and Safety standards for treating patients.

V. - Z. ...

AA. Smoking is prohibited by electrologists, electrologist technicians, instructors, apprentices, students, lecturers, or patients during treatment.

BB. All electrologists, electrologist technicians, instructors, apprentices, and students shall wear appropriate clothing, with clean fingernails, clean stockings and clean uniform, or clean smock or clean laboratory jackets.

CC. - DD.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:333 (April 1984), amended LR 11:538 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 29:

Chapter 15. License

§1503. Renewal of License

A. - B.2. ...

C. Failure to Register

1. When any electrologist, instructor, electrolysis school, or electrologist apprenticeship program licensed hereunder fails to register and pay the annual registration fee within 30 days after the registration fee becomes due, the license or certificate of such person, school, or electrologist apprenticeship program shall be revoked automatically at the expiration of 30 days after the registration was required, without further notice or hearing. However, any person, school, or electrologist apprenticeship program whose license or certificate is automatically revoked as provided herein may, within three years of the date of revocation, make application in writing to the board for the reinstatement of such license or certificate and, upon good cause being shown, the board in its discretion may reinstate such license or certificate upon payment of all past due renewal fees and the payment of an additional sum of \$50. The board may require as a condition of reinstatement that the person complete all or some of the past continuing education requirements within 12 months of reinstatement of the license.

2. Any person, electrolysis school, or electrologist apprenticeship program who fails within three years after revocation of a license or certificate to make written application to the board for reinstatement must reapply to the board and pay all fees required under the provisions of the rules and regulations adopted pursuant thereto. Any electrologist, instructor, or electrologist technician who fails within three years after revocation to make written application for reinstatement must successfully complete a written and practical examination prior to reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:335 (April 1984), repromulgated LR 11:540 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 27:196 (February 2001), LR 29:

Family Impact Statement

1. Estimated Effect on the Stability of the Family. There is no estimated effect on the stability of the Family.

2. Estimated Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. There is no estimated effect on the authority and rights of parents regarding the education and supervision of their children.

3. Estimated Effect on the Functioning of the Family. There is no estimated effect on the functioning of the family.

4. Estimated Effect on Family Earnings and Family Budget. There is no estimated effect on family earnings and family budget.

5. Estimated Effect on the Behavior and Personal Responsibility of Children. There is no estimated effect on the behavior and personal responsibility of children.

6. Estimated Effect on the Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. There is no estimated effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested parties may submit written comments on this proposed rule through June 30, 2003, to Cheri Miller, Board of Electrolysis Examiners, P.O. Box 67, DeRidder, LA 70634-0067.

Cheri L. Miller
Chairperson

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Electrologists Instructors Requirements**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that there will not be any programmatic impact to the board as a result of these Rules. It is anticipated that the board will expend \$864 for FY03 for promulgation of the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the proposed Rule will have no impact on the revenue of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of proposed Rule will not have a material impact on affected persons. The proposed changes are procedural in nature, and are intended to revise teaching requirements for electrologists instructor's.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition and employment and employment.

Cheri L. Miller
Chairperson
0309#118

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners for
Licensed Professional Counselors**

Licensure of Licensed Professional Counselors
and Licensed Marriage and Family Therapists
(LAC 46:LX.Chapters 1-47)

The Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1122, and in accordance with the Administrative Procedure Act, R.S.

49:950 et seq., hereby intends to repeal and adopt certain Rules with regard to licensing of licensed professional counselors and licensed marriage and family therapists.

The Rule is necessary in part, to continue the licensing "grandfathering" process within the deadlines specified by the Legislature. Earlier implementation of that process, mandated by Act 1195 of 2001, expired January 1, 2003. Act 1139 of 2003 "reopened" the grandfathering process, retroactive to January 1, 2003, and that Act becomes effective August 15, 2003. This Emergency Rule is therefore necessary to continue the "grandfathering" licensure of marriage and family therapists, ("LMFT's") in accordance with the expressed legislative extent to regulate such practice.

This Rule is further necessary to comply with Senate Concurrent Resolution 104 of the 2003 Louisiana Legislature, which suspended portions of certain state laws relative to licensure, continuing education, and payment of licensing fees by individuals on "active military service."

Sections 103 and 105 change the composition by the board from 9 to 10 members, by adding one additional member recommended by the Louisiana Association of Marriage and Family Therapy, and provides procedures for the filling of vacancies on the board by the governor.

Section 109 changes the minimum quorum required for board action from 5 to 6 members.

Section 901 is revised to equalize fees for LPC's and LMFTS is required by Act 1139 of 2003, and adds provisions for deferred of licensing and continuing education requirement to persons on "active military status" required by Senate Concurrent Resolution 104 of 2003.

Section 2705 changes the composition of the Marriage and Family Therapy Advisory Committees by requiring all three members to likewise be members of the board, clarifies provisions re: appointment by the governor, and equalizes terms of all Advisory Committee Members.

Sections 2911 and 3105 change existing Rules by requiring supervisors of LMFT candidates to be registered.

Section 3303 clarifies existing definitions by deleting the term "licensed" from the term "Licensed Marriage and Family Therapist Intern."

Sections 3307, 3309, 3311, and 3315 extend the "grandfathering" process for existing Marriage and Family Therapists to bring this practice into compliance with Act 1139 of 2003.

Section 3501 clarifies provisions relative to license renewal and specifies that renewals must be postmarked by December 31 in the year of renewal.

Section 3503 strengthens requirements for "qualified presenters" of continuing education for LMFT's by requiring approval of such presenters by the LMFT Advisory Committee.

Section 4720 clarifies the Statement of Practice for LMFT's and MFT interns in the sections dealing with duties and expectations of clients, and amends the LMFT Code of Ethics to strengthen provisions relative to LMFT's privileged communications and disclosures of potential rights and benefits of therapy to clients.

There will be no adverse fiscal impact on the state as a result of this Rule, inasmuch as the LPC Board operates solely on self-generated funds. Individuals wishing to be licensed through the "grandfathering" process will enjoy an

economic advantage by not having to comply with more stringent licensing qualifications.

Further, licensees in the "active military service" will have certain licensure and financial burdens deferred until they cease active duty.

The full text of this proposed Rule may be viewed in the Emergency Rule Section of this *Louisiana Register*.

Interested parties may submit written comments to Gary S. Grand, Board Chair, LPC Board of Examiners, 8631 Summa Avenue, Baton Rouge, LA 70809. Written comments will be accepted through October 10, 2003.

A public hearing will be held on October 28, 2003, 5:00 PM at McNeese State University, Business Conference Center, 4505 Ryan Street, Lake Charles LA.

Gary S. Grand
Board Chair

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Licensure of Licensed Professional
Counselors and Licensed Marriage
and Family Therapists**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be a one-time implementation cost in FY 03-04 of \$4,475 that includes the cost of promulgating the Rules (\$2,000), legal fees (\$425), postage (\$510), forms (\$40), licenses (\$1,000), and staff time (\$400). The cost will be absorbed within the budget of the Licensed Professional Counselors (LPC) Board. There will be no impact to other state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed Rule will increase the revenues of the LPC Board in FY 03/04 by \$63,000 (300 applicants will be grandfathered as LMFTs at \$200 each and 30 new interns at \$100 each); in FY 04/05 by \$5,000 (20 new applicants will be licensed at \$200 each and 10 new interns at \$100); and in FY 05/06 by \$42,500 (250 LMFTs will renew their license at \$150 each, 20 new applicants will apply at \$200 each, and 10 new interns will apply at \$100 each). There will be no impact to other state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed Rule, in compliance with Act 1139 of the 2003 Regular Session, extends the grandfathering period for LMFTs from January 1, 2003 to June 30, 2004.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed Rule will allow those who qualify for the grandfathering license process an economic advantage by not having to comply with more stringent licensing qualifications that become effective on July 1, 2004. Additionally, licensees in the active military service will have certain licensure and financial burdens deferred until they cease active duty relative to the provisions of Senate Concurrent Resolution 104 of the 2003 Regular Session.

Lin Falcon
Executive Secretary
0309#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners for Sanitarians**

**Rules Restructure and Continuing Education Requirements
(LAC 46:LXXI.Chapters 1-23)**

In accordance with the specific rulemaking authority granted under R.S. 37:2105(C) by Act 807 of the 2001 Regular Session, the Board of Examiners for Sanitarians is proposing to enact minimum continuing education requirements for renewal of a sanitarian's license. Under the general rulemaking authority granted under R.S. 37:2104, the board also proposes to enact and/or amend certain sections of LAC 46:LXXI for the efficient operation of the board. Finally, the board proposes to restructure LAC 46:LXXI for topical arrangement purposes. The table below shows the former and the proposed placement of each Chapter, Section, Subsection, and/or Paragraph, etc., that was moved.

Former Placement	(New) Proposed Placement
N/A	LAC 46:LXXI.Chapter 1
LAC 46:LXXI.Chapter 1	LAC 46:LXXI.Chapter 3
LAC 46:LXXI.105.C	LAC 46:LXXI.305.C
LAC 46:LXXI.105.D (1st sentence)	LAC 46:LXXI.1301.C
LAC 46:LXXI.105.D (2nd sentence)	LAC 46:LXXI.501.B
LAC 46:LXXI.Chapter 3	LAC 46:LXXI.Chapter 5
LAC 46:LXXI.Chapter 5	LAC 46:LXXI.Chapter 9
LAC 46:LXXI.501.A	LAC 46:LXXI.901.B
LAC 46:LXXI.501.B	LAC 46:LXXI.901.C
LAC 46:LXXI.501.C	LAC 46:LXXI.901.D
LAC 46:LXXI.501.D	LAC 46:LXXI.901.E
LAC 46:LXXI.Chapter 7	LAC 46:LXXI.Chapter 11
LAC 46:LXXI.701.A	LAC 46:LXXI.1101.D
LAC 46:LXXI.703.B	LAC 46:LXXI.1101.A.1
LAC 46:LXXI.Chapter 9	LAC 46:LXXI.Chapter 7
LAC 46:LXXI.Chapter 11	LAC 46:LXXI.Chapter 13
LAC 46:LXXI.1101.C (1st sentence)	LAC 46:LXXI.901.A
LAC 46:LXXI.1101.C (2nd sentence)	LAC 46:LXXI.501.A (2nd sentence)
LAC 46:LXXI.1301	LAC 46:LXXI.1501
LAC 46:LXXI.1303	LAC 46:LXXI.1703
LAC 46:LXXI.1501.A	LAC 46:LXXI.1901.A
LAC 46:LXXI.1501.B	LAC 46:LXXI.1901.B
LAC 46:LXXI.1501.C.1-8	LAC 46:LXXI.305.D.1-8
LAC 46:LXXI.1501.D	LAC 46:LXXI.305.D.9
LAC 46:LXXI.1501.E	LAC 46:LXXI.305.D.10
N/A	LAC 46:LXXI.305.D.11
N/A	LAC 46:LXXI.Chapter 21
N/A	LAC 46:LXXI.Chapter 23

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXI. Sanitarians

Chapter 1. Definitions

§101. Definitions

A. Unless otherwise specifically provided herein, the following words and terms used in this Part are defined for the purposes thereof as follows.

Active Registered Sanitarian Any registered sanitarian who is actively carrying out inspectional, educational, and investigational duties in the field of environmental sanitation, or who actively serves as a consultant, supervisor, or administrator of programs and personnel involving such duties.

Board the Louisiana State Board of Examiners for Sanitarians as created by R.S. 37:2102.

Contact Hour One clock hour of continuing education in an approved educational experience approved by the board.

Inactive Registered Sanitarian A sanitarian who at one time was an active registered sanitarian but now no longer possesses a valid sanitarian license and pays no fees to the board. For example, a sanitarian who is retired or otherwise not working as an active registered sanitarian.

Provisional License Status A type of warning license issued by the board for disciplinary reasons which requires a cure to return to full licensure status. An example for the cause of issuance include, but is not limited to, failure to obtain the minimum required continuing education contact hours required by the board.

Registered Sanitarian A sanitarian that possesses a valid sanitarian license issued by the board under the provisions of Chapter 23 of Title 37 of the Louisiana Revised Statutes and this Part and whose name is listed on a register maintained by the board.

Sanitarian A person who carries out inspectional, educational, and investigational duties in the field of environmental sanitation, or who serves as a consultant, supervisor, or administrator of programs and personnel involving such duties.

Temporary Sanitarian Any person who has applied for and received an educational review by the board and has been issued a temporary sanitarian permit pending:

- a. the taking and successful completion of a written and oral examination to be administered by the board;
- b. the successful completion of a training course in sanitation; and
- c. a minimum of one year of field experience under the supervision of a registered sanitarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners for Sanitarians, LR 11:1144 (December 1985), amended and repromulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

Chapter 3. General Provisions

§301. Meetings of the Board

A. Regular business meetings of the board shall be held at the place so designated by the chairman.

B. There shall be a minimum of two regular meetings of the board each calendar year with one meeting in the spring and one in the fall.

C. The fall meeting shall be the annual meeting.

D. Special meetings may be called by the chairman whenever, in his opinion, such a meeting is necessary for the efficient operation of the board.

E. At least 10 days notice shall be given each member of the board prior to the date of the meeting, except in emergencies.

F. Four members of the board shall constitute a quorum.
AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners for Sanitarians, LR 11:1144 (December 1985), amended by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§303. Officers of the Board

A. The officers of the board shall be elected at each annual meeting.

B. The term of the officers shall be for one year.

C. Officers may be reelected for additional terms.

D. The officers shall consist of a chairman, vice-chairman, and secretary.

E. The secretary shall serve as treasurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners for Sanitarians, LR 11:1144 (December 1985), amended by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§305. Duties of the Officers

A. The chairman shall preside at all meetings. He shall appoint all committees and perform all other duties pertaining to his office.

B. The vice-chairman shall preside in the absence of the chairman.

C. In the absence of the chairman and vice-chairman, the secretary shall preside.

D. The secretary shall:

1. keep all records of the meetings and shall submit copies of the minutes of such meetings to each board member within 30 days of the meeting;

2. maintain a correct register of all sanitarians who are duly licensed and registered with the board;

3. purchase all necessary supplies and perform all other duties necessary for the efficient operation of his office;

4. maintain a depository account in the name of the Louisiana State Board of Examiners for Sanitarians, and deposit therein all monies paid into the board, keeping a correct record of such funds in ledgers and journals furnished by the board;

5. pay all bills authorized and/or contracted for, by the board, keeping proper and correct record of all such disbursements. These records shall be subject to auditing by the state auditor;

6. issue temporary licenses pending the conducting of examinations to applicants who appear to have the necessary qualifications;

7. send copies of the minutes of each meeting to each registered sanitarian, within 60 days of the date of the meeting;

8. send copies of tentative agenda to all board members at least 10 days prior to each regular meeting;

9. select a depository for the deposit of funds received by the board;

10. ensure that checks for the disbursements of all such funds be signed by the vice-chairman and countersigned by the secretary;

11. submit photocopies of the checkbook register at all regularly scheduled board meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§307. Amendments to the Bylaws

A. Bylaws may be amended at any regular or special meeting, by a majority vote of the members provided that each member of the board be notified of the proposed amendment at least 10 days prior to the effective date of the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

Chapter 5. Application

§501. Submitting Application for Examination

A. Any person aspiring to become a licensed sanitarian in the state of Louisiana, must submit an application, applicable fee and official transcript to the board. Applications are available from the regional sanitarian of the Office of Public Health or the board.

B. An applicant must notify the board of his place of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104, R.S. 37:2105, R.S. 37:2106, R.S. 37:2107, R.S. 37:2109.1, and R.S. 37:2111.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners for Sanitarians, LR 11:1145 (December 1985), amended by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§503. Deposit of Examination Fee

A. The board shall require from each applicant the appropriate transcript review fee.

B. The transcript review fee shall be retained by the board even though the applicant is found not to be qualified for a temporary sanitarian permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104, R.S. 37:2107, and R.S. 37:2109.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

Chapter 7. Temporary Permits

§701. Qualifications

A. Pursuant to R.S. 37:2106, the board shall issue temporary permits to sanitarians who qualify under the requirements of R.S. 37:2111. However, nothing therein shall be construed as to prohibit the board from issuing a temporary permit based upon educational requirements only if the applicant is otherwise required to obtain a minimum of one year of field experience, including the successful completion of a training course in sanitation, within one year of temporary permit issuance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104, R.S. 37:2106, R.S. 37:2110, and R.S. 37:2111.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners for Sanitarians, LR 11:1145 (December 1985), amended by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§703. Effective Period

A. Each temporary permit issued shall be valid for a period not to exceed one year for non-practicing sanitarians. For non-practicing sanitarians, a temporary permit may be renewed upon receipt of a written request and applicable fee payment.

B. For practicing sanitarians, a temporary permit may be renewed upon receipt of a written request and applicable fee; however, if the applicant was required to obtain a minimum of one year of field experience, including the successful completion of a CDC training course in sanitation, within the first year of the initial temporary permit issuance, issuance of any subsequent temporary permits shall be prohibited until these requirements have been met.

C. Practicing sanitarians shall be required to complete all requirements for the license (as per §1101.A of this Part) within 18 months from date of employment.

D. For practicing sanitarians who have obtained a minimum of one year of field experience, including the successful completion of a CDC training course in sanitation, yet fails to pass the written and/or oral examination administered by the board within 18 months from date of employment, his/her temporary permit to work as a sanitarian may be renewed for a total of only three times. Said applicant will be given the opportunity to pass the examination at the subsequent two examination periods as set by the board. The temporary permit shall automatically become null and void if the applicant fails the board administered examination three times. Since the applicant will no longer hold a temporary permit, he/she will not be allowed to continue to perform the duties of a sanitarian. The applicant will not be eligible to receive another temporary permit or take another board administered examination for a minimum of 12 consecutive months following the date of the last examination taken by the applicant.

E. Once an applicant has met all the requirements and is issued a license to practice as a registered sanitarian, any temporary permit previously held by him/her automatically becomes null and void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104, R.S. 37:2106, R.S. 37:2110, and R.S. 37:2111.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners for Sanitarians, LR 11:1145 (December 1985), amended and repromulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§705. Temporary Permit Fees

A. The board shall assess and collect a fee for an education/transcript review, including issuance of a temporary permit upon the board finding the applicant meets the required qualifications.

B. The board shall assess and collect a fee for renewal of temporary permit.

C. The board shall assess and collect a fee for reinstatement of delinquent temporary renewal.

D. The board shall assess and collect a penalty for late payment of renewal of temporary permit fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104, R.S. 37:2109.1, and R.S. 37:2111.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners for Sanitarians, LR 11:1145 (December 1985), amended by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

Chapter 9. Examinations

§901. Examinations

A. All prospective examinees must successfully complete a Centers for Disease Control's homestudy

sanitation course approved by the board which constitutes a prerequisite to the examination.

B. The board shall:

1. examine all qualified applicants for a license to practice as a sanitarian, the examination to consist of a written and oral examination;

2. prepare such examinations and select or appoint individuals to conduct the examinations, provided that at least two sanitarian members of the board shall be present to assist in the conduct of the examination.

C. The board may:

1. waive the written examination of sanitarians holding sanitarians licenses under the laws of other states, provided a written examination has been taken in that state by the applicants, and also providing that applicants meet qualification requirements of Chapter 19 of this Part;

2. waive the written examination of persons who have successfully passed federal or national sanitarian examinations, approved by the board.

D. The waiver of written examinations as provided in §901.C of this Part does not exempt the applicant from taking the oral examination or from the payment of the examination fee.

E. The examination shall be offered at least twice a year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104, R.S. 37:2105, R.S. 37:2106 and R.S. 37:2109.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners for Sanitarians, LR 11:1146 (December 1985), amended by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

Chapter 11. Licenses

§1101. Requirements

A. To obtain a license, the temporary permit holder shall, within 18 months of the date of employment, have successfully completed:

1. one year of field experience in environmental health acceptable to the board;

2. a Centers for Disease Control (CDC) course in sanitation approved by the board; and

3. a written and oral sanitarian examination administered by the board.

B. The field experience required under §901.A.1 of this Part shall be performed only under the supervision and direction of licensed sanitarians.

C. For the written and oral examinations required under §901.A.3 of the Part, the applicant must make a minimum score of 70 on each to pass.

D. When an applicant has successfully met all of the requirements of Section 1101.A, he shall be issued a license to practice as a sanitarian in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104, R.S. 37:2105, R.S. 37:2106, R.S. 37:2107, and R.S. 37:2110.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners for Sanitarians, LR 11:1146 (December 1985), amended by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§1103. Failure to Take Examination

A. Except for an emergency situation approved by the board, failure of an applicant to take the examination after being duly notified shall automatically cause the applicant's temporary permit to immediately become null and void. The applicant shall have to pay the appropriate fee for the renewal of the temporary permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104 and R.S. 37:2105.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§1105. Renewal of License

A. Every license issued by the board shall be renewed annually on or before January 15 of each calendar year, and any license not renewed within 30 days after the renewal date shall be suspended.

B. A license suspended for delinquency of renewal may be renewed within 30 days of the suspension date by the payment of the renewal fee, and in addition the payment of a delinquency penalty charge.

C. A license may be renewed after a lapse of 30 days from the date of suspension, only by action of the board and payment of renewal fees and delinquency penalty charges as the board may assess each individual case, and provided that the applicant meets with the basic educational requirements in effect at the time of application for reinstatement.

D. A license revoked for cause by the board may be reinstated only by the action of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104, R.S. 37:2108, and R.S. 37:2109.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

Chapter 13. Registration

§1301. Registration

A. By virtue of being licensed by the board, a sanitarian will be registered with the board and shall be assigned a registration number.

B. A sanitarian having satisfactorily met the requirements of the board is entitled to recognition as a registered sanitarian, licensed to practice as a sanitarian in the state of Louisiana.

C. The board shall maintain a list of registered sanitarians registered with the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners for Sanitarians, LR 11:1144 (December 1985), amended by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

Chapter 15. Fees

§1501. Fees

A. Fees for examinations, temporary permits, licenses, etc., shall be fixed by statute. Refer to R.S. 37:2107, R.S. 37:2108, and R.S. 37:2109.1 for details.

B. Unless the statute which enacts or amends fees specifies otherwise, the effective date for fees apply to the calendar year beginning January 1 following statutory enactment or amendment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104, R.S. 37:2107, R.S. 37:2108, and 37:2109.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners for Sanitarians, LR 11:1145 (December 1985), amended and repromulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

Chapter 17. Enforcement

§1703. Enforcement of R.S. 37:2102 et seq.

A. When violations or suspected violations of the law are brought to the attention of the board, the board shall cause to be made through a thorough investigation of the alleged violation, and shall, if the investigation indicates, file

mandamus or injunction suits for the purpose of enforcing the provisions of the said law or regulations of the board.

B. The board shall direct the secretary to take action in the board's behalf as is necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104 and R.S. 37:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

Chapter 19. Qualification Requirements

§1901. Qualifications

A. The qualifications required of an applicant for a sanitarian permit shall be:

1. graduation from an accredited college or university, with a bachelor's degree and concentration of courses in the general area of environmental health. In lieu thereof, an applicant may offer a bachelor's degree which includes at least 30 semester hours (or the equivalent) of courses in the physical and biological sciences, with minimum of six hours in the physical sciences and a minimum of 10 hours in the biological sciences, plus one year of field experience in environmental health acceptable to the board. The physical sciences will be said to include only chemistry and physics; the biological sciences include but are not limited to biology, entomology, microbiology, zoology, and such applied sciences as animal husbandry, dairy husbandry, environmental sciences, environmental engineering, and veterinary science;

2. the board may by further regulation require, also, that the field experience include specified phases of environmental health and the applicant complete a short intensive training course in environmental health.

B. Applicants for examination shall have the college or university which they attend transmit a transcript of their college credits to the secretary of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104, R.S. 37:2105 and R.S. 37:2111.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

Chapter 21. Continuing Education Requirements

§2101. General

A. All active registered sanitarians shall obtain a minimum of eight contact hours of continuing education during each calendar year.

1. For purposes of compliance with this paragraph, the following equivalents shall apply:

a. one academic semester hour shall be equivalent to 15 contact hours;

b. one academic quarter hour shall be equivalent to 12.5 contact hours; and

c. one continuing education unit shall be equivalent to 10 contact hours.

B. It is incumbent upon each active registered sanitarian to orderly (by calendar year) maintain his/her own documentation of continuing education credits received. When requested in writing by the board, the original copies of such documentation shall be submitted to the board within a time limit specified by the board.

C. Active registered sanitarians shall maintain their own records of continuing education received for at least five calendar years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2105.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§2103. Cause for Provisional License Status Issuance

A. Failure to obtain the minimum required continuing education credits prior to each annual renewal period shall be cause for an active registered sanitarian's license to be downgraded to a provisional license status. In addition, failure to submit proper documentation of training credits received upon written request of the board and within the time limit specified by the board shall be cause for an active registered sanitarian's license to be downgraded to a provisional license status.

B. Once the board has downgraded an active registered sanitarian's license to a provisional license status, it shall be incumbent upon the board to promptly notify an active registered sanitarian of such action, including the reason for such action and the consequences for failure to cure the problem.

C. Notification of provisional license status shall be done by certified mail-return receipt requested or hand delivery. For sanitarians employed by the State of Louisiana, a copy of such action shall be sent by regular mail to the appropriate supervisor(s) and human resource office(s) to inform them that their employee has effectively been placed on notice by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104 and 37:2105.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§2105. Consequences of Provisional License Status

Issuance/Possible Revocation of License

A. Once a sanitarian has been placed on provisional license status for violation of the requirements of this Chapter, he/she shall be required to fully comply with the requirements of §2101.A of this Chapter during the same calendar year in which he/she has been placed on provisional license status.

B. Failure to fully comply with the requirements of Section 2101.A of this Chapter by the end of the calendar year in which he/she has been placed on provisional license status shall be cause for revocation of license.

C. Notification of revocation of license shall be done by certified mail-return receipt requested or hand delivery. For sanitarians employed by the State of Louisiana, a copy of such action shall be sent by regular mail, using a certificate of mailing, to the appropriate supervisor(s) and human resource office(s) to inform them that their employee no longer has a valid license to practice as a sanitarian.

D. This Section shall not be construed to allow a sanitarian to forego the continuing education requirements of the current calendar year while he/she is acquiring continuing education credits for the purpose of curing a provisional license issued due to failure to achieve continuing education requirements from one or more previous calendar years. In other words, at the end of the calendar year in which the sanitarian has been placed on provisional license status for violation of the requirements of this Chapter, one must also acquire all other continuing education credits necessary to bring oneself fully up to date and compliant with all continuing education requirements then required of him/her at the end of such calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104 and 37:2105.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§2107. Limitations of Provisional License Status

Issuance

A. A sanitarian can be placed on provisional license status no more than three times during their entire career.

B. Issuance of provisional license status on a consecutive basis is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104 and 37:2105.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§2109. Cure of Provisional License Status

A. A sanitarian who has been placed on provisional license status may cure and return to full licensure status by fully complying with the requirements of Section 2101.A of this Chapter during the same calendar year in which he/she has been placed on provisional license status.

B. It shall be incumbent upon the sanitarian who has been placed on provisional license status to provide documentation to the board, prior to the end of the calendar year in which he/she was placed on provisional license status, that shows full compliance with the requirements of §2101.A of this Chapter. Such documentation should be sent to the board by certified mail-return receipt requested.

C. Upon the board's receipt, review, and approval of documentation indicating compliance with the requirements of §2101.A of this Chapter, the provisional license status shall be terminated by the board. Notification of the termination of provisional license status and the return to full license status shall be done by regular mail, using a certificate of mailing, or hand delivery. For sanitarians employed by the State of Louisiana, a copy of the notice terminating provisional license status shall also be sent by regular mail to the appropriate supervisor(s) and human resource office(s) to inform them that their employee has effectively been removed from the "on notice" status by the board.

D. This Section shall not be construed to allow a sanitarian to forego the continuing education requirements of the current calendar year while he/she is acquiring continuing education credits for the purpose of curing a provisional license issued due to failure to achieve continuing education requirements from one or more previous calendar years. In other words, at the end of the calendar year in which the sanitarian has been placed on provisional license status for violation of the requirements of this Chapter, one must also acquire all other continuing education credits necessary to bring oneself fully up to date and compliant with all continuing education requirements then required of him/her at the end of such calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104 and 37:2105.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§2111. Express Acknowledgement of Time Limits

A. Notwithstanding the general time limitation requirements contained within Sections 2105.A and B and 2109.A and B of this Chapter, the board acknowledges its express understanding that a sanitarian who has been placed

on provisional license status after June 30 of a particular year shall, in no case, be given less than six full months from the date of receipt of notification to cure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104 and 37:2105.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§2113. Course Approval Advisory Committee

A. The board is authorized, at its option, to establish a Course Approval Advisory Committee to assist the board in its review of instructional courses and training materials which would qualify as being approved for the purposes of this Chapter.

B. If established, the Course Approval Advisory Committee shall consist of nine active registered sanitarians. The board shall appoint each member to the committee with each member representing each of the nine Department of Health and Hospitals Office of Public Health (DHH-OPH) geographical regions. At least once every two years, the board shall appoint one of the nine members to act as chairman of the committee. Committee members are not required to be employed by the State of Louisiana. Active registered sanitarians who agree to serve shall do so voluntarily and without any compensation. The chairman of the committee shall call meetings as needed and necessary. Nothing herein shall prohibit any or all such meetings to be held by teleconference. Five members shall constitute a quorum to transact official business of the committee.

C. If established, each active registered sanitarian appointed to the original Course Approval Advisory Committee shall be appointed to terms beginning with the effective date of this Section or a date specified by the board, as follows:

1. members representing DHH-OPH geographical Regions 1, 3, 5, 8, and 9 for one year;

2. members representing DHH-OPH geographical Regions 2, 4, 6, and 7 for two years;

3. thereafter, each active registered sanitarian appointed to the Course Approval Advisory Committee shall be appointed for a term of two years.

D. If established, the chairman of the Course Approval Advisory Committee shall submit the recommendations on course approvals to the board chair. Any such course, regardless of whether or not it has gone through the Course Approval Advisory Committee, shall be deemed to not be officially approved for the purposes of this Chapter until such time as the board rules and issues a formal notification of approval.

E. Once established, the Course Approval Advisory Committee may be disbanded by a simple majority vote of the board. It may be reestablished by a simple majority of the board. If reestablished, it shall conform to the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104 and 37:2105.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§2115. Approval of Instructional Courses and Training Materials

A. To be approved for training credit by the board, all instructional courses and training materials, including those identified in Paragraphs B or C of this Section, shall meet the following general requirements.

1. The board must have on file a copy of the outline of the training course, seminar, workshop, etc.

2. Information must include dates, place held, sponsoring organization, speaker/instructor's names, time (length of presentation on subject matter), and target audience.

3. No blanket approvals (from year to year) will be given or implied and a separate approval must be given by the board each time training is given.

4. An active registered sanitarian or an organization who is aggrieved by a decision of the board relative to denial by the board of an instructional course being approved for training credit may apply for an administrative hearing to contest the board's action. The administrative hearing shall be conducted by a panel of board members or the entire board.

B. Types of instructional courses, short courses, technical sessions, seminars, workshops, etc., generally recognized by the board as potentially fulfilling the requirements of this Chapter include, but are not limited to, the following:

1. annual educational conference of the Louisiana Public Health Association, technical sessions, seminars and workshops;

2. annual educational conference of the American Public Health Association, regional meetings, technical sessions, seminars and workshops;

3. annual educational conference of the Louisiana Environmental Health Association, technical sessions, seminars and workshops;

4. annual educational conference of the National Environmental Health Association, regional meetings, technical sessions, seminars and workshops;

5. annual educational conference of the Louisiana Conference on Water Supply, Sewerage and Industrial Wastes, regional meetings, technical sessions, seminars and workshops;

6. annual training and technical conference of the Louisiana Rural Water Association, regional meetings, technical sessions, seminars and workshops;

7. annual conference of the American Water Works Association, technical sessions, seminars and workshops;

8. annual conference of the Southwest Section of the American Water Works Association, technical sessions, seminars and workshops;

9. annual conference of the Water Environment Federation, regional meetings, technical sessions, seminars and workshops;

10. Louisiana Water Environment Association regional meetings, technical sessions, seminars and workshops;

11. Louisiana Environmental Training Center, at University of Louisiana at Lafayette, training courses, technical sessions, seminars and workshops;

12. college or university and vocational-technical sponsored water, wastewater, epidemiology, zoology, microbiology, virology, engineering, and other courses related to public health or environmental protection;

13. regional meetings, technical sessions, seminars, workshops and/or training programs, sponsored and/or

cosponsored by the Department of Health and Hospitals or the Department of Environmental Quality;

14. short schools, technical courses, seminars, workshops and training programs sponsored by other states; or

15. online courses offered by the federal Food and Drug Administration, Environmental Protection Agency, Centers for Disease Control, Department of Agriculture, etc., and other recognized agencies.

C. Organizations not listed in Paragraph B of this Section may apply to the Course Approval Advisory Committee, if established, or to the board itself for recognition by the board as potentially fulfilling the requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2105.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§2117. Return of Inactive Registered Sanitarians to Active Registered Sanitarian Status

A. An inactive registered sanitarian who returns to work and becomes an active registered sanitarian shall be required to comply with the requirements of §2101.A of this Chapter beginning at the start of the next full calendar year following reinstatement as an active registered sanitarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104 and 37:2105.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

§2119. Exemptions to Continuing Education Requirements

A. Nothing herein shall prohibit the board from allowing justifiable exemptions to the continuing education requirements of this Chapter. Examples include, but are not limited to, the following:

1. active registered sanitarians who are in active military service of the United States or any of its allies;

2. active registered sanitarians who are on approved Family and Medical Leave Act for six months or longer; or

3. active registered sanitarians who are on approved leave due to illness or accidents for six months or longer.

B. To be eligible for an exemption allowed under this Section, active registered sanitarians shall submit a written notification to the board.

C. Active registered sanitarians who have been granted an exemption under this Section shall be required to comply with the requirements of §2101.A of this Chapter beginning at the start of the next full calendar year following the calendar year for which an exemption was granted.

D. Active registered sanitarians who have been granted an exemption are also exempt from any reactivation or reinstatement fees; however, with the exception of individuals in active military service of the United States or any of its allies, annual fees remain due and payable.

E. Long term exemptions extending beyond one calendar year shall be handled on a case-by-case basis by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104 and 37:2105.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

Chapter 23. Exemptions for Active Military Service
§2301. Senate Concurrent Resolution Number 104
of 2003

A. Any requirements of this Part which conflict with Senate Concurrent Resolution Number 104 of the 2003 General Legislative Session relative to exempting certain mandatory requirements for the continuation of any sanitarian license or certification for an individual while in the active military service of the United States or any of its allies is hereby declared unenforceable.

B. Mandatory requirements which are exempt for individuals in active military service of the United States or any of its allies include payment of any fees, application for renewal, or continuing education requirements.

C. Licensed sanitarians and temporary permit holders shall notify the board of his/her current military status as soon as is reasonably possible after he/she receives notice of being placed in active military service of the United States or any of its allies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2104.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Sanitarians, LR 29:

Family Impact Statement

1. The Effect on the Stability of the Family. We do not anticipate any effect on the stability of the family as a result of this proposed Rule.

2. The effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. We do not anticipate any effect on the authority and rights of parents regarding the education and supervision of their children as a result of this proposed Rule.

3. The Effect on the Functioning of the Family. We do not anticipate any effect on the functioning of the family as a result of this proposed Rule.

4. The Effect on Family Earnings and Family Budget. No significant impact on family earnings is predicted as a result of this Rule.

5. The Effect on the Behavior and Personal Responsibility of Children. We do not anticipate any direct effect on the behavior and personal responsibility of children as a result of this proposed Rule.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. We do not anticipate any adverse effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

The Board of Examiners for Sanitarians will conduct a public hearing at 10 a.m. on Tuesday, October 28, 2003, in Room 118 of the Blanche Appleby Computer Complex Building (on the Jimmy Swaggart Ministries Campus), 6867 Bluebonnet Blvd., Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

In addition, all interested persons are invited to submit written comments on the proposed rule. Such comments must be received no later than Friday, October 31, 2003 at 4:30 p.m. and should be addressed to Merl Fagan, Secretary-Treasurer, Board of Examiners for Sanitarians,

Office of Public Health, Capitol Region II Office, 1772 Wooddale Blvd., Baton Rouge, LA 70806, or faxed to (225) 925-7204.

D. Gary Lincecum
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Rules Restucture and Continuing
Education Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated cost for program start-up by the board is \$500 for FY 02/03 and \$2,960 for FY 03/04. The Board's start-up costs include: 1) one time Rule development and promulgation at a \$1,000 contractual cost; 2) an anticipated additional expenditure for per diem and travel expenses of \$700 for board members to attend the public hearing on the proposed Rule; 3) publication of the proposed Rule in the *Louisiana Register* as a Notice of Intent and later, as a final Rule, at an estimated cost of \$1,360; 4) initial development and printing costs for at least three new forms to be used by the board regarding continuing education at an estimated cost of \$300; 5) an anticipated increase in postal charges at an estimated cost of \$60; and, 6) an anticipated increase in supplies, such as mailing envelopes, etc., estimated at \$40.

The board's on-going implementation cost (Items 46 in preceding paragraph) is estimated to be \$412 during FY 2004-05. A 3 percent inflation factor was used for the subsequent fiscal year.

No staffing costs to the board are shown since it is anticipated

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on 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)

Any person who is an active registered sanitarian licensed by the Board (approximately 456 individuals) will be directly affected by the proposed Rule. Traditionally, sanitarians normally would likely attend either the annual educational conference of the Louisiana Public Health Association or the Louisiana Environmental Health Association. Other specialty type conferences include the annual conference of the Louisiana Rural Water Association or the Louisiana conference on Water Supply, Sewerage, and Industrial Wastes. It is anticipated that one may have to attend at least two days of training in order to obtain 8 contact hours of continuing education training. The costs for travel, membership, and registration at one of these annual conferences is estimated to be \$300 per year. Depending on budget constraints, etc., some of this costs may or may not be reimbursed by the sanitarian's employer. This cost estimate assumes that the employer of active registered sanitarians will allow his employee(s) on-duty status to attend continuing education classes, seminars, etc.; therefore, the cost of taking leave from work is not included in this estimate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is anticipated to cause an increase in attendance and participation at the various public health and

environmental conferences held around the state; however, there not expected to be any significant impact on competition and employment as a result of this proposed Rule.

D. Gary Lincecum
Chairman
0309#020

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Acupuncturists and Acupuncturists' Assistants Fees (LAC 46:XLV.185 and 187)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270, R.S. 37:1281, R.S. 37:1356-1360, and the provisions of the Administrative Procedure Act, intends to amend its Rules prescribing the fees payable by acupuncturists and acupuncturists' assistants for the issuance and annual renewal of certification issued by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter H, §§185 and 187. The proposed Rule amendments are set forth below. Inquires concerning the proposed amendments may be directed in writing to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

The proposed Rule amendments have no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions Subpart 1. General

Chapter 1. Fees and Costs Subchapter H. Acupuncturists and Acupuncturists' Assistants Fees

§185. Certification

A. For processing an application for certification as an acupuncturist or as an acupuncturist assistant, a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

§187. Annual Renewal

A. For processing an application for annual renewal of an acupuncturist's or acupuncturist assistant's certification, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

Interested persons may submit data, views, arguments or comments on the proposed Rules, in writing, through October 21, 2003 at 4 p.m., to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical

Examiners, 630 Camp Street, New Orleans, LA 70130. He is responsible for responding to inquiries regarding the proposed Rules.

John B. Bobear, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Acupuncturists and Acupuncturists' Assistants Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice and Rule publication costs estimated at a combined total of \$408, which will be absorbed within the board's budget during FY 2003 and 2004, it is not anticipated that the proposed Rule amendments will result in any additional costs or savings to the board or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed Rule amendments will generate additional fees of \$100 in connection with the issuance of initial certification to acupuncturists and acupuncturists' assistants and \$75 in connection with certification renewal. Based on a projection of initial/renewal applicants it is estimated that such additional revenues will total \$4,646 for FY 2004, \$5,575 for FY 2005 and \$5,575 for FY 2006.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Louisiana State Board of Medical Examiners (the "board") proposes to amend its Rules by increasing the fees payable by acupuncturists and acupuncturists' assistants for initial issuance of certification to practice in Louisiana by \$100 (from \$100 to \$200) and \$75 for annual renewal of certification (from \$25 to \$100). The total number of applicants affected would be approximately 61. The Rule amendments would not involve any workload adjustment or additional paperwork for such applicants or licensees, and it is not anticipated that the proposed Rule amendments will have any material impact on the receipts and/or income of acupuncturists and acupuncturists' assistants'.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed Rule amendments will have any significant impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0309#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Athletic Trainers' Fees (LAC 46:XLV.159, 161, 163, 165, 3107, 3129 and 3157)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3301-3312, R.S. 37:1270, R.S. 37:1281, and the

provisions of the Administrative Procedure Act, intends to adopt Rules and amend its existing Rules prescribing the fees payable for initial certification, annual renewal and temporary permits issued by the board for athletic trainers, LAC 46:XLV, Subpart 1, Chapter 1, Subchapter F, §§159, 161, 163, 165 and Subpart 2, Chapter 31, Subchapters B, §3107, D, §3129 and F, §3157. The proposed Rules and amendments are set forth below. Inquires concerning the proposed Rules and amendments may be directed in writing to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

The proposed Rules and amendments have no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLV. Medical Professions
Subpart 1. General

Chapter 1. Fees and Costs

Subchapter F. Athletic Trainers Fees

§159. Scope of Subchapter

A. The Rules of this Subchapter prescribe the fees and costs applicable to the certification of athletic trainers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

§161. Certification, Permits, and Examination

A. For processing applications for certification as an athletic trainer, a fee of \$125 shall be payable to the board.

B. For issuing a temporary permit, a fee of \$50 shall be payable to the board.

C. For registration for and taking of the certification examination administered by the board, an applicant shall pay the fee that is charged by the entity developing the examination.

D. When an applicant is required by these Rules to take the examination administered by the board, the fee prescribed by §161.C shall be added to the applicable application processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

§163. Annual Renewal

A. For processing an application for annual renewal of an athletic trainer's certification, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

§165. Reinstatement of License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

Subpart 2. Licensure and Certification

Chapter 31. Athletic Trainers

Subchapter B. Requirements and Qualifications for Certification

§3107. Requirements for Certification

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

5. satisfy the applicable fees as prescribed by Chapter 1 of these Rules;

A.6. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

Subchapter D. Application

§3129. Application Procedure

A. - G ...

H. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998), LR 29:

Subchapter F. Certificate Issuance, Termination, Renewal, Reinstatement

§3157. Renewal of Certificate

A. Every certificate issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with evidence of the qualifications requisite to renewal as specified in §3159 and the applicable renewal fee prescribed in Chapter 1 of these Rules.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:526 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

Interested persons may submit data, views, arguments, or comments on the proposed Rules and amendments, in writing, through October 21, 2003 at 4 p.m., to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. He is responsible for responding to inquiries regarding the proposed Rules and Rule amendments.

John B. Bobear, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Athletic Trainers Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice and Rule publication costs estimated at a combined total of \$408, which will be absorbed within the board's budget during FY 2003 and 2004, it is not anticipated that the proposed Rules and Rule amendments will result in any additional costs or savings to the board or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed Rules and amendments will generate additional fees of \$95 in connection with the issuance of initial certification to athletic trainers, \$75 in connection with certification renewal and \$50 for a temporary permit. Based on a projection of initial/renewal applicants it is estimated that such additional revenues will total \$12,980 for FY 2004, \$15,575 for FY 2005 and \$15,575 for FY 2006.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In 1985 the legislature established the fees for examination (\$75), certification (\$35) and certification renewal (\$25) for athletic trainers, R.S. 37:3303. The Louisiana State Board of Medical Examiners (the "board") proposes to adopt administrative Rules and amend its existing Rules by increasing the fees payable by athletic trainers for initial issuance of certification to practice in Louisiana by \$95 (from \$35 to \$125); \$75 for annual renewal of certification (from \$25 to \$100); and \$50 for issuance of a temporary permit. The total number of applicants affected would be approximately 213. The Rules and Rule amendments would not involve any workload adjustment or additional paperwork for such applicants or licensees, and it is not anticipated that they will have any material impact on the receipts and/or income of athletic trainers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed Rules and Rule amendments will have any significant impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0309#047

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Clinical Exercise Physiologists
(LAC 46:XLV.221, 223, 225, 3713, 3743)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3240-3257, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, intends to adopt Rules and amend its existing Rules prescribing the fees payable by clinical exercise physiologists for the issuance and renewal of a license by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter L, §§221, 223, 225, and Subpart 2, Chapter 37, Subchapters C, §3713 and

E, §3743. The proposed Rules are set forth below. Inquires concerning the proposed Rules may be directed in writing to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

The proposed Rules have no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 1. General

Chapter 1. Fees and Costs

Subchapter L. Clinical Exercise Physiologists Fees

§221. Scope of Subchapter

A. The Rules of this Subchapter prescribe the fees and costs applicable to the licensing of clinical exercise physiologists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

§223. Licenses and Permits

A. For processing an application for a license as a clinical exercise physiologist, a fee of \$150 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

§225. Annual Renewal

A. For processing an application for annual renewal of a license as a clinical exercise physiologist, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

Subpart 2. Licensure and Certification

Chapter 37. Clinical Exercise Physiologists

Subchapter C. Application

§3713. Application Procedure

A. - F. ...

G. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:406 (April 1997), amended LR 29:

Subchapter E. License Issuance, Expiration, Renewal and Termination

§3743. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with a renewal fee as prescribed by Chapter 1 of these Rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter G of these Rules.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997), amended 24:1498 (August 1998), LR 29:

Interested persons may submit data, views, arguments or comments on the proposed Rules, in writing, through October 21, 2003 at 4 p.m., to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. He is responsible for responding to inquiries regarding the proposed Rules.

John B. Bobear, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Clinical Exercise Physiologists**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice and Rule publication costs estimated at a combined total of \$408, which will be absorbed by the board's budget during FY 2003 and 2004, it is not anticipated that the proposed Rules and Rule amendments will result in any additional costs or savings to the board or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed Rules and amendments will generate additional fees of \$75 in connection with the initial issuance and renewal of a clinical exercise physiologist's license. Based on a projection of initial/renewal applicants it is estimated that such additional revenues will total \$7,950 for FY 2004, \$8,175 for FY 2005 and \$8,175 for FY 2006.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In 1995 the legislature established the application and licensure fee for initial clinical exercise physiologists licensure at \$75 with annual renewal at \$25. R.S. 37:3428. The Louisiana State Board of Medical Examiners (the "board") proposes to adopt administrative Rules concerning clinical exercise physiologists licensure by increasing the fees payable for initial and renewal licensure by \$75 (from \$75 to \$150 for issuance, \$25 to \$100 for renewal). The total number of all clinical exercise physiologist applicants affected would be approximately 106. The Rules and Rule amendments would not involve any workload adjustment or additional paperwork for such applicants or licensees, and it is not anticipated that the proposed Rules and amendments will have any material impact on the receipts and/or income of clinical exercise physiologists.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed Rules and Rule amendments will have any significant impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0309#046

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Midwives Fees
(LAC 46:XLV.203, 205, 2313 and 2345)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3240-3257, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, intends to amend its Rules prescribing the fees payable by midwives for the issuance and renewal of a license by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter J, §§203, 205 and Subpart 2, Chapter 23, Subchapters C, §2313 and F, §2345. The proposed Rules are set forth below. Inquires concerning the proposed Rules may be directed in writing to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

The proposed Rules have no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLV. Medical Professions
Subpart 1. General**

Chapter 1. Fees and Costs

Subchapter J. Midwives Fees

§203. Licenses and Permits

A. For processing an application for a midwifery license, a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3240-3257, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

§205. Renewal

A. For processing an application for biannual renewal of a midwifery license, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3240-3257, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

Subpart 2. Licensure and Certification

Chapter 23. Licensed Midwives

Subchapter C. Application

§2313. Application Procedure

A. - F. ...

G. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these Rules.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3240-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended 17:779 (August 1991), LR 29:

Subchapter F. License Issuance, Termination, Renewal, Reinstatement

§2345. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed biannually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with the renewal fee prescribed in Chapter 1 of these Rules.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3240-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended 17:779 (August 1991), LR 29:

Interested persons may submit data, views, arguments or comments on the proposed Rules, in writing, through October 21, 2003 at 4 p.m., to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. He is responsible for responding to inquiries regarding the proposed Rules.

John B. Bobear, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Midwives Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than Notice and Rule publication costs estimated at a combined total of \$408, which will be absorbed within the board's budget during FY 2003 and 2004, it is not anticipated that the proposed Rules will result in any additional costs or savings to the board or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed Rules will generate additional fees of \$100 in connection with the issuance of an initial midwifery license and \$50 for licensure renewal. Based on a projection of initial/renewal applicants it is estimated that such additional revenues will total \$750 for FY 2004, \$850 for FY 2005 and \$850 for FY 2006.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Louisiana State Board of Medical Examiners (the "board") Rules concerning midwifery fees were adopted in 1984, followed by a statutory increase in 1988 that established the initial midwifery license fee at \$100 with biannual renewal at \$50. R.S. 37:3250. The board proposes to amend its Rules concerning midwives by increasing the fees payable for initial licensure by \$100 (from \$100 to \$200) and by \$50 for biannual renewal of licensure (from \$50 to \$100). The total number of all applicants affected would be approximately 16. The Rules would not involve any workload adjustment or additional paperwork for such applicants or licensees, and it is not

anticipated that the proposed Rules will have any material impact on the receipts and/or income of midwives.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed Rules will have any significant impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0309#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Occupational Therapists, Occupational Therapy Assistants Fees (LAC 46:XLV.173, 175, 1913 and 1947)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3001-3014, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, intends to amend its Rules prescribing the fees payable for the issuance of initial license and annual license renewal by occupational therapists and occupational therapy assistants, as well as that applicable to temporary permits issued by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter G, §§173, 175 and Subpart 2, Chapter 19, Subchapters C, §1913 and F, §1947. The proposed Rule amendments are set forth below. Inquires concerning the proposed amendments may be directed in writing to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

The proposed Rule amendments have no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XLV. Medical Professions
Subpart 1. General**

**Chapter 1. Fees and Costs
Subchapter G. Occupational Therapists and Occupational Therapy Assistants Fees**

§173. Licenses and Permits

A. For processing an application for an occupational therapist's license a fee of \$150 shall be payable to the board.

B. For processing an application for an occupational therapy assistant's license a fee of \$100 shall be payable to the board.

C. For issuing a temporary permit, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

§175. Annual Renewal

A. For processing an application for annual renewal of an occupational therapist's license, a fee of \$100 shall be payable to the board.

B. For processing an application for annual renewal of an occupational therapy assistant's license a fee of \$75 shall be payable to the board.

C. If the application for renewal is received beyond the deadline designated by the board, a late renewal fee of \$35 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

Subpart 2. Licensure and Certification

Chapter 19. Occupational Therapists and Occupational Therapy Assistants

Subchapter C. Application

§1913. Application Procedure

A. - G ...

H. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these Rules.

I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

Subchapter F. License Issuance, Termination, Renewal and Reinstatement

§1947. Renewal of License

A. Every license issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with the renewal fee prescribed in Chapter 1 of these Rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter H of these Rules.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 24:1499 (August 1998), LR 29:

Interested persons may submit data, views, arguments or comments on the proposed Rule amendments, in writing, through October 21, 2003 at 4 p.m., to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana

70130. He is responsible for responding to inquiries regarding the proposed Rule amendments.

John B. Bobear, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Occupational Therapists, Occupational Therapy Assistants Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice and Rule publication costs estimated at a combined total of \$408, which will be absorbed within the board's budget during FY 2003 and 2004, it is not anticipated that the proposed Rule amendments will result in any additional costs or savings to the board or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed Rule amendments will generate additional fees of: \$95 in connection with the issuance of an initial occupational therapist license on the basis of a standard application, \$70 on the basis of a reciprocity application; \$75 for occupational therapist licensure renewal; \$65 for issuance of an occupational therapy assistant license; \$50 for occupational therapy assistant license renewal; and \$25 for issuance of a temporary permit. Based on a projection of initial/renewal applicants it is estimated that such additional revenues will total \$115,804 for FY 2004, \$138,965 for FY 2005 and \$138,965 for FY 2006.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Louisiana State Board of Medical Examiners (the "board") proposes to amend its Rules concerning occupational therapists by increasing the fees payable for initial licensure by \$95/\$70 (from \$55 to \$150 for standards applicants, \$80 to \$150 for reciprocity applicants); and by \$75 for annual renewal of license (from \$25 to \$100). The proposed fee increases for occupational therapy assistants would be \$65 for issuance of an initial license (from \$35 to \$100) and \$50 for license renewal (from \$25 to \$75). A fee increase of \$25 (from \$25 to \$50) is proposed for issuance of a temporary permit. The total number of all occupational therapists affected would be approximately 1,535. The total number of all occupational therapy assistants affected would be approximately 396. The Rule amendments would not involve any workload adjustment or additional paperwork for such applicants or licensees, and it is not anticipated that the proposed Rule amendments will have any material impact on the receipts and/or income of occupational therapists or occupational therapy assistants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed Rule amendments will have any significant impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0309#041

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Physician Assistants Fees
(LAC 46:XLV.149, 153, 1509 and 1517)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270, R.S. 37:1281, R.S. 37:1360.23, R.S. 37:1360.24, R.S. 37:1360.27, and the provisions of the Administrative Procedure Act, intends to amend its Rules prescribing the fees payable by physician assistants for initial issuance and renewal of certification issued by the board to physician assistants. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter E, §§149, 153, Subpart 2, Chapter 15, §§1509 and 1517. The proposed Rule amendments are set forth below. Inquiries concerning the proposed amendments may be directed in writing to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

The proposed Rule amendments have no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 1. General

Chapter 1. Fees and Costs

Subchapter E. Physicians Assistants Fees

§149. Certification

A. For processing an application for certification as a physicians assistant, a fee of \$250 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:1362.23, R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

§153. Annual Renewal

A. For processing an application for annual renewal of a physicians assistant's certification, a fee of \$150 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:1360.23, R.S. 37:1360.27.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

Subpart 2. Licensure and Certification

Chapter 15. Physician Assistants

§1509. Application for Licensure; Procedure

A.1. - 2. ...

3. payment of the applicable fee as provided in Chapter 1 of these Rules; and

4. ...

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:1360.23, R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:202 (March 1996), LR 25:29 (January 1999), LR 29:

§1517. Expiration of Licensure; Renewals;

Modification; Notification of Intent to Practice

A. ...

B. Every license issued by the board under this Chapter shall be renewed annually on or before the first day of the month in which the licensee was born, by submitting to the board an application for renewal upon forms supplied by the board, together with satisfactory documentation of current certification by the National Commission on Certificate of Physicians Assistants. Each application for renewal shall be accompanied by the applicable fee as provided in Chapter 1 of these Rules.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:1360.23, R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991), LR 22:203 (March 1996), LR 24:1498 (August 1998), LR 25:31 (January 1999), LR 29:

Interested persons may submit data, views, arguments or comments on the proposed Rule amendments, in writing, through October 21, 2003 at 4 p.m., to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. He is responsible for responding to inquiries regarding the proposed Rule amendments.

John B. Bobear, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Physician Assistants Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice and Rule publication costs estimated at a combined total of \$408, which will be absorbed within the board's budget during FY 2003 and 2004, it is not anticipated that the proposed Rule amendments will result in any additional costs or savings to the board or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed Rule amendments will generate additional fees of \$95 in connection with the issuance of initial certification to physician assistants and \$50 in connection with certification renewal. Based on a projection of initial/renewal applicants it is estimated that such additional revenues will total \$18,838 for FY 2004, \$22,605 for FY 2005 and \$22,605 for FY 2006.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Louisiana State Board of Medical Examiners (the "board") proposes to amend its Rules by increasing the fees payable by physician assistant applicants for an initial certification to practice as a physician assistant in Louisiana by \$95 (from \$155 to \$250) and \$50 for annual renewal of

certification (from \$100 to \$150). The total number of all applicants affected would be approximately 372. The Rule amendments would not involve any workload adjustment or additional paperwork for such applicants or licensees, and it is not anticipated that the proposed Rule amendments will have any material impact on the receipts and/or income of physician assistants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed Rule amendments will have any significant impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0309#043

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Physicians Fees
(LAC 46:XLV.125, 127 and 131)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270 and R.S. 37:1281, and the provisions of the Administrative Procedure Act, intends to amend its Rules prescribing the fees payable by physicians for initial issuance and renewal of medical licensure, as well as those applicable to a graduate education temporary permit, visiting physician permit, short-term residency permit, institutional or temporary permit and intern registration. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter C, §§125, 127, and 131. The proposed Rule amendments are set forth below. Inquires concerning the proposed amendments may be directed in writing to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

The proposed Rule amendments have no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 1. General

Chapter 1. Fees and Costs

Subchapter C. Physicians and Surgeons Fees

§125. Licenses, Permits, and Examination

A. For processing applications for licensure of the type indicated, the following fees shall be payable to the board.

1. Standard application C\$250
2. Reciprocity application C\$350

B. For processing applications for permits of the type indicated, the following fees shall be payable to the board.

1. Graduate medical education temporary permit C\$200
2. Visiting physician permit C\$100

3. Short-term residency permit C\$100
4. Other institutional or temporary permits C\$100

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:603 (June 1991), LR 21:467 (May 1995), LR 21:1238 (November 1995), LR 29:

§127. Postgraduate Education Registration

A. For processing an application for and issuance of a certificate of registration pursuant to Subchapter J of Chapter 3 of these Rules, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:1238 (November 1995), LR 29:

§131. Annual Renewal

A. For processing a licensee's annual renewal of license under §417 of these Rules, a fee of \$300 shall be payable to the board.

B. For processing a permit holder's annual renewal of a graduate medical education temporary permit, a fee of \$100 shall be payable to the board.

C. For processing renewal of an institutional or other temporary permit, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:1238 (November 1995), LR 29:

Interested persons may submit data, views, arguments or comments on the proposed Rule amendments, in writing, through October 21, 2003 at 4 p.m., to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. He is responsible for responding to inquiries regarding the proposed Rule amendments.

John B. Bobear, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Physicians Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than Notice and Rule publication costs estimated at a combined total of \$408, which will be absorbed within the board's budget during FY 2003 and 2004, it is not anticipated that the proposed Rule amendments will result in any additional costs or savings to the board or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed Rule amendments will generate additional fees of \$150 in connection with the issuance of an initial medical license and license renewal, \$100 for issuance and \$75 for renewal of a graduate medical education temporary permit, \$50 for visiting physician and short-term residency permits, \$50 for issuance and renewal of institutional or temporary permits, and \$25 for issuance of an intern registration. Based on a projection of initial/renewal applicants it is estimated that such additional revenues will total \$2,180,375 for FY 2004, \$2,616,450 for FY 2005, and \$2,616,450 for FY 2006.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Louisiana State Board of Medical Examiners (the "board") proposes to amend its Rules by increasing the fees payable: by physician applicants for an initial license to practice medicine by \$150 (from \$100 to \$250 for applicants on the basis of examination, \$200 to \$350 for reciprocity applicants); by physicians for annual renewal of a medical license by \$150 (from \$150 to \$300); for issuance/renewal of a graduate medical education temporary permit by \$100/\$75 (from \$100 to \$200 for initial, \$25 to \$100 for renewal); for issuance/renewal of visiting physician, short-term residency, institutional or temporary permits by \$50 (from \$50 to \$100); and for issuance of an intern registration by \$25 (from \$25 to \$50). The total number of all applicants affected would be approximately 17,914. The Rule amendments would not involve any workload adjustment or additional paperwork for such applicants or licensees, and it is not anticipated that the proposed Rule amendments will have any material impact on the receipts and/or income of physicians.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed Rule amendments will have any significant impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0309#042

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

**Podiatrists' Fees
(LAC 46:XLV.139, 141 and 143)**

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 37:618, R.S. 37:621-622, and the provisions of the Administrative Procedure Act, intends to amend its Rules prescribing the fees payable for initial issuance and renewal of podiatric licensure, as well as those applicable to temporary permits, and to establish a fee respecting issuance of an intern registration. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter D, §§139-143. The proposed Rule amendments are set forth below. Inquiries concerning the proposed amendments may be directed in writing to John B. Bobear, M.D., Executive

Director, Louisiana State Board of Medical Examiners, at the address set forth below.

The proposed Rule amendments have no known impact on family, formation, stability or autonomy as described in R.S. 49:972. A preamble has not been prepared.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 1. General

Chapter 1. Fees and Costs

Subchapter D. Podiatrists Fees

§139. Licenses, Permits, and Examination

A. For processing an application for licensure as a podiatrist, a fee of \$300 shall be payable to the board.

B. For issuing a temporary permit, a fee of \$100 shall be payable to the board.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 618, R.S. 621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

§141. Annual Renewal

A. For processing a podiatrist's annual renewal of license, a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 618, R.S. 621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

§143. Podiatric Postgraduate Education Registration

A. For processing an application for and issuance of a certificate of registration pursuant to Subchapter K of Chapter 13 of these Rules, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 618, R.S. 621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

Interested persons may submit data, views, arguments or comments on the proposed Rule amendments, in writing, through October 21, 2003 at 4 p.m., to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. He is responsible for responding to inquiries regarding the proposed Rule amendments.

John B. Bobear, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Podiatrists' Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than Notice and Rule publication costs estimated at a combined total of \$408, which will be absorbed within the board's budget during FY 2003 and 2004, it is not anticipated that the proposed Rule amendments will result in any additional

costs or savings to the board or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed Rule amendments will generate additional fees of \$250 in connection with the issuance of a standard initial podiatric license, \$193.50 for reciprocity licensure, \$175 for licensure renewal, \$90 for issuance of a temporary permit, and \$50 for issuance of a podiatric intern registration. Based on a projection of initial/renewal applicants it is estimated that such additional revenues will total \$35,188 for FY 2004, \$42,225 for FY 2005 and \$42,225 for FY 2006.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Louisiana State Board of Medical Examiners (the "board") proposes to amend its Rules by increasing the fees payable: by podiatric applicants for an initial license to practice podiatry by \$250/\$193.50 (from \$50 to \$300 for applicants on the basis of examination, \$106.50 to \$300 for reciprocity applicants); by \$175 for annual renewal of a podiatric license (from \$25 to \$200); by \$90 for issuance of a temporary permit (from \$10 to \$100); and to establish a fee under Chapter 13, Subchapter K, 46 XLV.1391-1397, for issuance of a podiatric intern registration at \$50. The total number of all applicants affected would be approximately 234. The Rule amendments would not involve any workload adjustment or additional paperwork for such applicants or licensees, and it is not anticipated that the proposed Rule amendments will have any material impact on the receipts and/or income of podiatrists.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed Rule amendments will have any significant impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0309#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

**Registered Respiratory Therapists' and Certified
Respiratory Therapists' Fees
(LAC 46:XLV.193, 195, and 197)**

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3351-3361, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, intends to adopt Rules prescribing the fees payable by registered respiratory therapists and certified respiratory therapists for the issuance of an initial license, annual license renewal, and a temporary license by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter I, §§193, 195 and 197. The proposed Rules are set forth below. Inquires concerning the proposed Rules may be directed in writing to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

The proposed Rules have no known impact on family, formation, stability, or autonomy, as described in R.S. 49:972.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLV. Medical Professions
Subpart 1. General**

**Chapter 1. Fees and Costs
Subchapter I. Respiratory Therapists and Respiratory
Therapy Technicians**

§193. Scope of Subchapter

A. The Rules of this Subchapter prescribe the fees and costs applicable to the licensing of registered respiratory therapists and certified respiratory therapists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

§195. Licenses

A. For processing an application for licensing a registered respiratory therapist, a fee of \$150 shall be payable to the board.

B. For processing an application for licensing a certified respiratory therapist, a fee of \$100 shall be payable to the board.

C. For processing a temporary license, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

§197. Annual Renewal

A. For processing an application for annual renewal of a registered respiratory therapist's license, a fee of \$100 shall be payable to the board.

B. For processing an application for annual renewal of a certified respiratory therapist's license a fee of \$75 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

Interested persons may submit data, views, arguments, or comments on the proposed Rules, in writing, through October 21, 2003 at 4 p.m., to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA, 70130. He is responsible for responding to inquiries regarding the proposed Rules.

John B. Bobear, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Registered Respiratory Therapists and
Certified Respiratory Therapists Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice and Rule publication costs estimated at a combined total of \$408, which will be absorbed by the board's

budget during FY 2003 and 2004, it is not anticipated that the proposed Rules will result in any additional costs or savings to the board or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed Rules will generate additional fees of: \$75 in connection with the issuance of an initial registered respiratory therapist's license on the basis of a standard application; \$50 on the basis of a reciprocity application; \$75 for registered respiratory therapist license renewal; \$50 for issuance of a certified respiratory therapist's license on the basis of a standard application; \$33 on the basis of a reciprocity application; \$58 for certified respiratory therapist license renewal; and \$25 for issuance of a temporary license. Based on a projection of initial/renewal applicants it is estimated that such additional revenues will total \$190,687 for FY 2004, \$228,824 for FY 2005, and \$228,824 for FY 2006.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Louisiana State Board of Medical Examiners (the "board") proposes to amend its Rules concerning registered respiratory therapists by increasing the fees payable for initial licensure by \$75/50 (from \$75 to \$150 for standard applicants, \$100 to \$150 for reciprocity applicants), and by \$75 for annual renewal of license (from \$25 to \$100). The proposed fee increases for certified respiratory therapists would be \$50/\$33 in the fees payable for issuance of an initial standard/reciprocity certified respiratory therapist license (from \$50 to \$100 for standard applicants, \$67 to \$100 for reciprocity applicants), and \$58 for license renewal (from \$17 to \$75). A fee increase of \$25 (from \$25 to \$50) is proposed for issuance of a temporary license. The total number of all registered respiratory therapists affected would be approximately 1,504; total number of certified respiratory therapists affected would be approximately 2,032. The Rules would not involve any workload adjustment or additional paperwork for such applicants or licensees, and it is not anticipated that the proposed Rules will have any material impact on the receipts and/or income of registered respiratory therapists and certified respiratory therapists.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed Rules will have any significant impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0309#045

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Hospice Licensure Standards
(LAC 48:I.Chapter 82)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend the following Rule as authorized by R.S. 40:2181-2191. This proposed Rule is amended in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted

rules and regulations governing the licensing of all hospices operating in the State of Louisiana (*Louisiana Register*, Volume 24, Number 12). The bureau now proposes to amend the December 20, 1988 Rule to clarify the provisions governing the survey process and revocation or denial of license renewal, to allow more flexibility in the staffing requirements for nurses, and to simplify the requirements for nurses, and to simplify the requirement for an annual review of contracts.

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, and autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing amends the provisions of the December 20, 1998 Rule governing the licensure and regulation of hospice agencies.

Title 48

PUBLIC HEALTHC GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 82. Minimum Standards for Licensing of Hospice Agencies

Subchapter A. General Provisions

§8205. Survey

A. - A.3. ...

4. If, at the initial licensing survey, an agency has more than five violations of any minimum standards or if any of the violations are determined to be of such a serious nature that they may cause or have the potential to cause actual harm, DHH shall deny licensing.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2260 (December 1998), LR 29:

§8207. Revocation or Denial of Renewal of License

A. The Secretary of DHH may deny an application for a license, or refuse to renew a license or revoke a license in accordance with R.S. 40:2187-2188. An agency's license may not be renewed and/or may be revoked for any of the following:

1. failure to be in substantial compliance with the hospice minimum standards;

2. failure to provide services essential to the palliative care of terminally ill individuals;

3. failure to uphold patient rights whereby violations may result in harm or injury;

4. failure of agency to protect patients/persons in the community from harmful actions of the agency employees; including, but not limited to, health and safety, coercion, threat, intimidation, and harassment;

5. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause harm to the patient;

6. failure to maintain staff adequate to provide necessary services to current active patients;

7. failure to employ qualified personnel;

8. failure to remain fully operational at any time for any reason other than a disaster;

9. failure to submit fees including, but not limited to, annual fee, renewal fee, provisional follow-up fee, or change of agency address or name, or any fines assessed by DHH;

10. failure to allow entry to hospice agency or access to any requested records during any survey;

11. failure to protect patient from unsafe skilled and/or unskilled care by any person employed by the agency;

12. failure of agency to correct violations after being issued a provisional license;

13. agency staff or owner has knowingly, or with reason to know, made a false statement of a material fact in:

- a. application for licensure;
- b. data forms;
- c. clinical record;
- d. matter under investigation by the department;
- e. information submitted for reimbursement from any payment source;

f. the use of false, fraudulent or misleading advertising;

g. that the agency staff misrepresented or was fraudulent in conducting hospice business;

h. convictions of a felony by an owner, administrator, director of nursing or medical director as shown by a certified copy of the record of the court of conviction of the above individual; or if the applicant is a firm or corporation, of any of its members or officers, or of the person designated to manage or supervise the hospice agency;

14. failure to maintain proper insurance; and

15. failure to comply with all reporting requirements in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2260 (December 1998), LR 29:

Subchapter B. Organization and Staffing

§8217. Personnel Qualifications/Responsibilities

A. - H. ...

1. Qualifications. A licensed practical nurse must be currently licensed by the Louisiana State Board of Practical Nurse Examiners with no restrictions:

a. with at least two years of full time experience as an L.P.N.

H.1.b - O. ...

1. Qualifications. A licensed registered nurse must be currently licensed to practice in the State of Louisiana with no restrictions:

a. have at least two years of full time experience as a registered nurse. However, two years of full time clinical experience in hospice care as a licensed practical nurse may be substituted for the required two years of experience as a registered nurse;

b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2262 (December 1998), LR 29:

Subchapter D. Administration

§8237. Contract Services

A. - D.9. ...

E. The hospice shall document review of its contracts on an annual basis.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2272 (December 1998), LR 29:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, LA 70821-9030. A public hearing on this proposed Rule is scheduled for Tuesday, October 28, 2003 at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Hospice Licensure Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will have no fiscal impact to the state general fund other than cost of promulgation for SFY 2003-2004. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in SFY 2003-04 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 SFY 2003-2004. It is anticipated that \$102 will be expended in SFY 2003-2004 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that implementation of this proposed Rule will not have estimable cost or economic benefits for hospice agencies for SFY 2003-2004, 2004-2005 and 2005-2006. This Rule proposes to amend licensing standards for Hospice agencies in the state of Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule has no known impact on competition. It is anticipated that this proposed Rule will allow more flexibility for the employment of nurses by hospice agencies.

Ben A. Bearden
Director
0309#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Hospital Program
Out-of-State Hospitals CInpatient Services
Reimbursement Reduction

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule in January of 1996 which established the reimbursement methodology for inpatient hospital services provided in out-of-state hospitals at the lower of 50 percent of billed charges or the Medicaid per diem rate of the state wherein the services were provided (*Louisiana Register, Volume 22, Number 1*). This Rule was subsequently amended in September of 1997 to increase the reimbursement to 72 percent of billed charges for inpatient services provided in out-of-state hospitals to recipients up to age 21 (*Louisiana Register, Volume 23, Number 9*).

As a result of a budgetary shortfall, the bureau amended the reimbursement methodology contained in the January 1996 and September 1997 Rules for out-of-state hospitals that provided at least 500 inpatient hospital days in State Fiscal Year 1999 to Louisiana Medicaid recipients and are located in border cities. The reimbursement was established at the lesser of each hospital's actual cost per day as calculated from the 1998 filed Medicaid cost report or the Medicaid per diem rate of the state in which the services are provided (*Louisiana Register, Volume 26, Number 12*).

As a result of a budgetary shortfall, the bureau promulgated a Rule to reduce the reimbursement for inpatient services provided in out-of-state hospitals. The bureau reduced reimbursements for inpatient services provided in out-of-state hospitals to the lower of 40 percent of billed charges or the Medicaid per diem rate of the state wherein the services are provided for recipients age 21 and above and the lower of 60 percent of billed charges or the Medicaid per diem rate of the state wherein the services are provided for recipients under the age of 21. In addition, the bureau reduced reimbursements to children's hospitals located in states bordering Louisiana to the lower of the Medicaid per diem rate of the state wherein the services are provided or the Louisiana children's hospital Medicaid peer group rate (*Louisiana Register, Volume 29, Number 4*). The bureau now proposes to promulgate a Rule to continue the provisions contained in the April 1, 2003 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed

Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the January 1996 and September 1997 Rules governing the reimbursement methodology for inpatient services provided in out-of-state hospitals. Reimbursement shall be established at the lower of 40 percent of billed charges or the Medicaid per diem rate of the state wherein the services are provided for recipients age 21 and above and the lower of 60 percent of billed charges or the Medicaid per diem rate of the state wherein the services are provided for recipients under the age of 21. Hospitals designated as children's hospitals that are located in states that border Louisiana shall be reimbursed at the lower of the Medicaid per diem rate of the state wherein the services are provided or the Louisiana children's hospital Medicaid peer group rate. Neonatal intensive care unit services, pediatric intensive care unit services, and burn unit services provided in these children's hospitals shall be paid the Louisiana peer group rate for the qualifying level of service documented by the hospital. The hospital stay and the level of service shall be authorized by the bureau.

Out-of-state hospitals that provided at least 500 inpatient hospital days in State Fiscal Year 1999 and are located in border cities (cities located within a 50 mile trade area of the Louisiana state border) will continue to be reimbursed at the lesser of each hospital's actual cost per day (based on the 1998 filed cost report) or the Medicaid per diem rate of the state wherein the services are provided. This reimbursement methodology is applicable for all Louisiana Medicaid recipients who receive inpatient services in an out-of-state hospital located in a border city, including those recipients up to the age of 21.

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, October 28, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Hospital Program C Out-of-State
Hospitals C Inpatient Services
Reimbursement Reduction**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed Rule will result in estimated savings to the state of \$75,959 for SFY 2002-2003, \$895,596 for SFY 2003-2004 and \$922,639 for SFY 2004-2005. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in SFY 2003-04 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 \$186,329 for SFY 2002-2003, \$2,251,519 for SFY 2003-2004 and \$2,319,240 for SFY 2004-2005. \$170 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed Rule reduces the reimbursement to out-of-state hospitals (approximately 130) for inpatient services. It is anticipated that implementation of this proposed Rule will reduce reimbursements to out-of-state hospitals for inpatient services by approximately \$262,288 for SFY 2002-2003, \$3,147,455 for SFY 2003-2004 and \$3,241,879 for SFY 2004-2005.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is anticipated that there will be no effect on competition or employment as a result of the implementation of this proposed Rule. This reimbursement reduction could result in decreased participation by out-of-state hospitals in the Medicaid Program.

Ben A. Bearden
Director
0309#051

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Hospital Program
Out-of-State Hospitals C Outpatient Services
Reimbursement Reduction

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule in January of 1996 which established the reimbursement methodology for outpatient hospital services provided in out-of-state hospitals at 50 percent of billed

charges except for those services subject to a fee schedule (*Louisiana Register*, Volume 22, Number 1).

As a result of a budgetary shortfall, the bureau reduced the reimbursement for outpatient services provided in out-of-state hospitals to 31.04 percent of billed charges. Outpatient services subject to a fee schedule continue to be reimbursed per the fee schedule amounts (*Louisiana Register*, Volume 29, Number 4). This Rule is being promulgated to continue the provisions contained in the April 1, 2003 Emergency Rule.

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

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology contained in the January 1996 Rule for outpatient services provided in out-of-state hospitals to 31.04 percent of billed charges. Outpatient services subject to a fee schedule will continue to be reimbursed per the fee schedule amounts. This reimbursement methodology is applicable for all Louisiana Medicaid recipients who receive outpatient services in an out-of-state hospital, including those recipients up to the age of 21.

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, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, October 28, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Hospital Program
Out-of-State Hospitals C Outpatient Services
Reimbursement Reduction**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed Rule will result in estimated savings to the state of \$15,377 for SFY 2002-2003, \$181,234 for SFY 2003-2004 and \$186,776 for SFY 2004-2005. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in SFY 2003-04 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 \$37,720 for SFY 2002-2003, \$455,723 for SFY 2003-2004 and \$469,500 for SFY 2004-2005. \$102 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule reduces the reimbursement to out-of-state hospitals (approximately 130) for outpatient services. It is anticipated that implementation of this proposed Rule will reduce reimbursements to out-of-state hospitals for outpatient services by approximately \$53,097 for SFY 2002-2003, \$637,161 for SFY 2003-2004 and \$656,276 for SFY 2004-2005.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition or employment as a result of the implementation of this proposed Rule. This reimbursement reduction could result in decreased participation by out-of-state hospitals in the Medicaid Program.

Ben A. Bearden
Director
0309#116

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid Eligibility
Prior Authorization of Services

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule promulgating the Medicaid Eligibility Manual in its entirety by reference in July, 1996 (*Louisiana Register*, Volume 22, Number 7). The prior authorization of medical transportation and durable medical equipment, appliances and supplies is addressed in Section O of the July 20, 1996 Rule. The prior authorization requirements for these services are promulgated in separate Rules governing the administration of the Durable Medical Equipment and Medical Transportation Programs. These requirements are also addressed in the service provider manuals for these individual programs. Therefore, the Bureau proposes to repeal Section O of the July 20, 1996 Rule that addresses prior authorization of medical transportation and durable medical equipment, appliances, and supplies in the Medicaid Eligibility Manual.

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, and 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 repeals Section O of the July 20, 1996 Rule addressing the prior authorization of medical transportation and durable medical equipment, appliances, and supplies in the Medicaid Eligibility Manual. The prior authorization requirements for these services are promulgated in separate Rules governing the administration of the Durable Medical Equipment and Medical Transportation Programs.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. A public hearing on this proposed Rule is scheduled for Tuesday, October 28, 2003 in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Eligibility
Prior Authorization of Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will have no programmatic fiscal impact for SFY 2003-2004, 2004-2005 and 2005-2006. It is anticipated that \$136 (\$68 SGF and \$68 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect federal revenue collections for SFY 2003-2004, 2004-2005 and 2005-2006. It is anticipated that \$68 will be expended in SFY 2003-2004 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that implementation of this proposed Rule will not have estimable cost or economic benefits for Medicaid recipients or providers. This Rule proposes to repeal Section O of the July 20, 1996 Rule addressing the prior authorization of medical transportation and durable medical equipment, appliances, and supplies in the Medicaid Eligibility Manual.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that this Rule will have no effect on competition or employment.

Ben A. Bearden
Director
0309#052

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Personal Assistant Services
Employment Support
(LAC 50:XV.Chapter 141)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.Chapter 141 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule to establish the provisions governing coverage of personal assistant services as an optional service under the Medicaid State Plan to support the employment efforts of Medicaid recipients with disabilities who are age 18 through 64 years old. (*Louisiana Register*, Volume 29, Number 8). The bureau now proposes to amend the August 20, 2003 Rule to establish provisions governing staffing requirements for personal assistant services providers and the recipient's rights regarding changing providers. In addition, the bureau proposes to clarify the provisions governing authorization of services.

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 implementation of this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 as it will enhance the quality of services by ensuring that employees of personal assistant services agencies are qualified to provide services.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 11. Personal Assistant Services

Chapter 141. Employment Support

§14101. General Provisions

A. - B. ...

C. An assessment shall be performed for every recipient who requests personal assistant services. This assessment shall be utilized to identify the recipient's employment related needs, preferences, the availability of family and community supports and to develop the plan of care. The Minimum Data Set-Home Care (MDS-HC) System will be used as the basic assessment tool. However, other assessment tools may be utilized as a supplement to the MDS-HC to address the needs of special groups within the target population.

D. Authorization. Personal assistant services (PAS) shall be authorized by the Bureau of Health Services Financing or its designee. The Bureau of Health Services Financing or its designee will review the completed assessment, supporting documentation from the recipient's primary physician, plan of care and any other pertinent documents to determine whether the recipient meets the qualifications for personal assistant services and the quantity 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 29:1487 (August 2003), amended LR 29:

§14107. Recipient Rights

A. - A.9. ...

B. Changing Providers. Recipients may request to change personal assistant services providers without cause once during every 90 days of the service authorization period. Recipients may request to change personal assistant services providers with good cause at any time during the service authorization period. Good cause is defined as the failure of the provider to furnish services in compliance with the service plan. Good cause shall be determined 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 29:1488 (August 2003), amended LR 29:

§14109. Standards for Participation

A. - B.2. ...

3. ensure that a physical examination to determine good health, drug screening test and criminal background check are conducted for all direct care staff prior to an offer of employment being made;

4. - 11. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:1488 (August 2003), amended LR 29:

§14111. Staffing Requirements

A. Personal assistant services agencies participating in the Medicaid Program must ensure that all staff providing direct care to the recipient meet the qualifications for furnishing personal assistant services. The PAS worker should demonstrate empathy toward persons with disabilities, an ability to provide care to these recipients, and the maturity and ability to deal effectively with the demands of the job. In addition, all supervisors of direct care staff must meet qualifications set forth in this §14111.

B. Personal Assistant Services Worker Qualifications

1. Age. The worker must be at least 21 years old or older at the time the offer of employment is made. Verification of age must be maintained in each worker's personnel record.

2. Education and Experience. All personal assistant services workers must meet one of the following minimum education and experience qualifications:

a. a high school diploma or general equivalency diploma (GED) and one year of documented experience providing direct care services to persons with disabilities; or

b. successful completion of a home health aide training program and competency evaluation; or

c. successful completion of a certified nursing assistant training program and competency evaluation approved by the Department of Health and Hospitals; or

d. five years of documented experience providing direct care services to persons with disabilities.

3. The PAS worker must have the ability to read and write in English as well as to carry out directions promptly and accurately.

4. Prior to an offer of employment being finalized, the PAS worker must have:

a. a physical examination that verifies that he/she is in good health and free from contagious disease;

b. a drug screening test performed by an independent laboratory. The worker shall not be assigned to provide services to a recipient until the results have been received from the physical examination and the drug screening test; and

c. a criminal background check. The worker may be assigned to provide services pending the results of the criminal background if the recipient or his/her responsible representative gives written consent.

C. Restrictions. A legally responsible relative is prohibited from being the paid PAS worker for a family member. Legally responsible relative is defined as a recipient's spouse or a parent of a minor child.

D. Supervisor Qualifications

1. Age. The supervisor must be at least 23 years old or older at the time the offer of employment is made. Verification of age must be maintained in each worker's personnel record.

2. Education and Experience

a. All supervisors of PAS workers must meet one of the following minimum education and experience qualifications:

i. a bachelor's degree in a human service-related field such as social work, psychology, sociology, physical therapy, recreational therapy or counseling from an accredited college or university and two years of paid experience in a human service-related field providing direct services to persons with disabilities; or

ii. a licensed registered nurse (RN) or a licensed practical nurse (LPN) with one year of paid experience as an RN or LPN providing direct services to persons with disabilities; or

iii. a high school diploma or GED and five years of paid experience providing direct care services to persons with disabilities.

b. Thirty hours of graduate level course credit in any of the referenced human service-related fields may be substituted for the one year of required paid experience.

E. Training. Training for personal assistant services workers and supervisors must be provided or arranged for by the personal assistant services agency at its own expense.

1. A minimum of eight hours of orientation must be provided to new direct care and supervisory employees within one week of employment. The orientation provided to staff shall include, but is not limited to:

a. agency policies and procedures;

b. staff duties and responsibilities;

c. ethics and confidentiality;

d. record keeping;

e. a description of the population served by the agency; and

f. a discussion of issues related to providing care for these individuals, including physical and emotional problems associated with disability.

2. New direct care staff must also receive training in cardiopulmonary resuscitation (CPR) and basic first aid within one week of employment. A current, valid certification for CPR and first aid may be accepted as verification of training.

3. A minimum of 16 hours of training must be furnished to new employees within 30 days of employment. The PAS agency training curriculum must, at a minimum, include the following components:

a. communication skills;

b. observation, reporting and documentation of the recipient status and the care or service furnished;

c. basic infection control procedures;

d. basic elements of body functioning and changes in body function that must be reported to a worker's supervisor;

e. safe transfer techniques and ambulation;

f. appropriate and safe techniques in personal hygiene and grooming that include:

i. bed bath;

ii. sponge, tub, or shower bath;

iii. sink, tub, bed shampoo;

iv. nail and skin care;

v. oral hygiene; and

vi. toileting and elimination;

g. recognizing emergencies and knowledge of emergency procedures;

h. maintenance of a clean, safe and healthy environment; and

i. treating the recipient with dignity and respect, including the need to respect his/her privacy and property.

4. PAS workers and supervisors must satisfactorily complete a minimum of 20 hours of annual training related to the provision of personal assistant services. This training may include updates on the subjects covered in orientation and initial training. The eight hours of orientation required for new employees are not included as part of the hours required for the annual training.

5. Documentation. All required training must be documented in the employee's personnel record, including the date, time spent in the training sessions, subjects covered and the name of the individual who conducted the training. Verification of training shall be furnished to the bureau or its designee upon request.

F. Supervisory Responsibilities

1. Each supervisor shall be responsible for assessing the job performance of each staff member, reviewing individual cases, providing constructive feedback, and assisting staff to provide services in a more effective manner and to resolve problems using the following methods:

a. routine face-to-face meetings with individual staff;

b. routine face-to-face group meetings with all staff; or

c. periodic visits to the recipient's residence to ensure his/her satisfaction with services being provided.

2. Each supervisor shall be responsible for the supervision of no more than 10 PAS workers.

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

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

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 following address: 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, October 28, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Personal Assistant Services Employment Support

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will have no programmatic fiscal impact for SFY 2003-2004, 2004-2005 and 2005-2006. It is anticipated that \$680 (\$340 SGF and \$340 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect federal revenue collections for SFY 2003-2004, 2004-2005 and 2005-2006. It is anticipated that \$340 will be expended in SFY 2003-2004 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that providers of personal assistant services (PAS) will incur costs in hiring and training PAS workers and supervisors. However, these estimated costs cannot be determined at this time. Implementation of this proposed Rule will amend provisions contained in the June 20, 2003 Rule to establish staffing requirements for personal assistant services and the recipient's rights regarding changing providers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. It is anticipated that this proposed Rule could provide employment opportunities to providers of personal assistant services.

Ben A. Bearden
Director
0309#054

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Professional Services Program Physician Services Reimbursement Increase

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 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 reimburses professional services in accordance with an established fee schedule for Physicians' Current Procedural Terminology (CPT) codes, locally assigned codes and Health Care Financing Administration Common Procedure Codes (HCPCs). Reimbursement for these services is a flat fee established by the bureau minus the amount which any third party coverage would pay.

As a result of a budgetary shortfall, the bureau promulgated Emergency Rules in February 2000 reducing the reimbursement paid to physicians by 7 percent for specific procedure codes (*Louisiana Register, Volume 26, Number 2*). As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau subsequently promulgated Rules restoring the 7 percent reduction to the fees paid to physicians for specific procedure codes and increasing the reimbursement for other designated procedure codes (*Louisiana Register, Volume 27, Number 5*).

After consultation with pediatric surgeons, cardiologists, maternal fetal medicine specialists, orthopedists and other physicians around the state, the bureau promulgated four Emergency Rules that increased the reimbursement rate for designated CPT procedure codes for services rendered to Medicaid recipients (*Louisiana Register, Volume 28, Number 12*). This Rule is being promulgated to continue the provisions contained in the January 1, 2003 Rules.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule has on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning and stability as described in R.S. 49:972 by encouraging more physicians to participate in the program and thereby making these services available to more recipients.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rates for the following services.

Pediatric Surgery Services

A. Reimbursement is increased for selected surgery services provided by the primary servicing physician to Medicaid recipients from birth through 10 years of age. Physicians' Current Procedural Terminology (CPT) surgical procedure codes (10021-69990) shall be reimbursed at 100 percent of the Medicare Region 99 allowable for 2002,

except for procedure codes on file that are in non-pay status, procedure codes for newborn circumcisions (54150) and (54160) or those payable with a fee greater than 100 percent of the Medicare Region 99 allowable for 2002.

Orthopedic Services

A. CPT orthopedic procedure codes (20000-29898) shall be reimbursed at 80 percent of the Medicare Region 99 allowable for 2002, except for those procedure codes on file that are in non-pay status or those payable with a fee greater than 80 percent of the Medicare Region 99 allowable for 2002.

Cardiology, Maternal Fetal Medicine and Inpatient Services

A. The following CPT procedures shall be reimbursed at 84 percent of the Medicare Region 99 allowable for 2002:

1. transfusion, intrauterine, fetal;
2. amniocentesis, diagnostic;
3. chronic villus sampling, any method;
4. echocardiography, fetal, cardiovascular system, real time;
5. Doppler echocardiography, fetal, cardiovascular system, pulsed wave and/or continuous wave with spectral display, complete; follow-up or repeat study;
6. combined right heart catheterization and retrograde left heart catheterization, for congenital cardiac anomalies;
7. combined right heart catheterization and transseptal left heart catheterization through existing septal opening, with or without retrograde left heart catheterization, for congenital cardiac anomalies;
8. subsequent hospital care, per day (low complexity); and
9. subsequent hospital care, per day (moderate complexity).

Antibiotic Injections

A. Antibiotic injections administered to Medicaid recipients up to the age of 21 shall be reimbursed at a flat rate of \$22.

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, October 28, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Professional Services Program Physician Services Reimbursement Increase

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$1,393,647 for SFY 2002-2003, \$ 3,385,786 for SFY 2003-2004 and \$3,487,184 for FY 2004-2005. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$3,418,671 for SFY 2002-2003, \$8,510,603 for SFY 2003-2004 and \$8,765,746 for SFY 2004-2005. \$170 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule, which continues the Emergency Rules of January 1, 2003, will increase the reimbursement rate for designated Physicians Current Procedural Terminology (CPT) procedure codes (for antibiotic injections, cardiology services, orthopedic services and pediatric surgeries) for services rendered to Medicaid recipients. Implementation of this proposed Rule will increase expenditures by \$4,812,318 for SFY 2002-2003, \$11,896,049 for SFY 2003-2004 and \$12,252,930 for SFY 2004-2005.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this Rule will not have an effect on competition. The proposed Rule could encourage additional providers to participate in the Medicaid Program.

Ben A. Bearden
Director
0308#115

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Public Hospitals
Inpatient Reimbursement Methodology
Target Rate per Discharge

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 provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in July of 1983 which established a reimbursement methodology for inpatient services provided in acute care hospitals (*Louisiana Register, Volume 9, Number 7*). Inpatient hospital services were reimbursed in accordance with the Medicare reimbursement principles with a target rate set based on the cost per discharge for each hospital, except that the base year to be used in determining the target rate was the fiscal year ending on September 30, 1981 through September 29, 1982. In a Rule adopted in October of 1984 (*Louisiana Register, Volume 10, Number 10*), separate per diem limitations were established for neonatal and pediatric intensive care and burn units using the same base period as the target rate per discharge calculation. A Rule was adopted in October 1992, which provided that inpatient hospital services to children under one year of age shall be reimbursed as pass-through costs and shall not be subject to per discharge or per diem limits applied to other inpatient hospital services. The reimbursement methodology was subsequently amended in a Rule adopted in June of 1994 which discontinued this reimbursement methodology for all nonstate hospitals and established a prospective payment methodology for nonstate hospitals (*Louisiana Register, Volume 20, Number 6*). The department rebased the target rate per discharge amounts and per diem limitations for carve out specialty units in state owned or operated hospitals utilizing the amounts calculated per the cost report for the fiscal year ending either on June 30, 2001 or June 30, 2002 (*Louisiana Register, Volume 29, Number 1*). This Rule is being promulgated to continue the provisions contained in the January 1, 2003 Rule.

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

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing rebases the target rate per discharge amounts and per diem limitations for carve out specialty units in state owned or operated hospitals utilizing the amounts calculated per the cost report for the fiscal year ending either on June 30, 2001 or June 30, 2002. Allowable malpractice costs shall be included in the target rate per discharge and per diem limitations. Data from the 12 month cost reporting period of the base year shall be extracted to determine each hospital's cost per discharge or per day. Inpatient hospital services provided to children under one year of age in state owned or operated hospitals shall continue to be reimbursed as pass-through costs and shall not be subject to per discharge or per diem limits applied to other inpatient hospital services.

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, October 28, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Public Hospitals C Inpatient Reimbursement Methodology Target Rate per Discharge

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$12,420,847 for SFY 2003-2004, \$12,420,711 for SFY 2004-2005 and \$0 for SFY 2005-2006. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$31,222,119 for SFY 2003-2004 and \$31,221,983 for SFY 2004-2005 and \$0 for SFY 2005-2006. \$136 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule rebases the target rate per discharge amounts and per diem limitations for carve out specialty units in state owned or operated hospitals. Federal regulations allow State hospitals to be paid 175 percent of uncompensated care cost (disproportionate share hospital (DSH) payment methodology) in state fiscal years 2003-2004 and 2004-2005. It is anticipated that implementation of this proposed Rule will increase payments to public hospitals by \$43,642,694 for SFY 2003-2004 and \$43,642,694 for SFY 2004-2005 and \$0 for SFY 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition or employment as a result of the implementation of this proposed Rule.

Ben A. Bearden
Director
0309#114

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

LSU Health Sciences Center Health Care Services Division

Minimum Fee in Outpatient Clinics and Emergency Rooms (LAC 48:XI.1309)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that as a result of Act 906, R.S. 46:6(A), of the 2003 Regular Session LAC 48:XI.1309, is hereby repealed.

Title 48

PUBLIC HEALTHC GENERAL

Part XI. Hospitals

Subpart 3. General Hospitals

Chapter 13. Admissions, Eligibility, Fees

§1309. Minimum Fee in Outpatient Clinics and Emergency Room

Repealed.

AUTHORITY NOTE: Promulgated 46.6(A) as a result of Act 893 of 1991. Repealed in accordance with amended R.S. 46:6(A) (Act 906 of the 2003 Regular Session.)

HISTORICAL NOTE: Promulgated by the Louisiana Health Care Authority, LR 20:667 (June 1994), repealed by the LSU Health Science Center, Health Care Services Division, LR 29:

Family Impact Statement

In accordance with Section 953 and 974 of Title 40 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? Not applicable.

Interested persons may submit written comments until 4:30 p.m. October 31, 2003, to Marcia Daigle, LSUHSC Health Care Services Division, Planning Section, 8550 United Plaza Boulevard, Suite 400, Baton Rouge, LA 70809.

James Brexler, MPA, F.A.C.H.E.
Vice Chancellor
and
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Minimum Fee in Outpatient Clinics and Emergency Rooms

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units as a result of this Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that this proposed Rule will have a (\$12,450) effect on revenue to the HCSD.

The decreased in revenue is calculated by using the \$3.50 administrative fee charged during Fiscal year 03 (\$429, 352) and multiplying these charges by the average collection rate on charges from self-pay patients (2.9 percent).

$$\$429,352 \times 2.9\% = \$12,451.21$$

This decrease in revenue will be offset by new policies and procedures of the HCSD medical centers [Act 906 of 2003 amended R.S. 46.6(A) to reasonable charge persons with an income greater than 200 percent of the federal poverty level.]

It is unknown at this time the revenue which will be generated by the new policies and procedures of reasonable charging persons with an income greater than 200 percent of the federal poverty level for services received. However, it is felt the new policy will offset the lost revenue of the repeal of the \$3.50 administrative fee.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The persons historically charged the \$3.50 administrative fee will no longer be charged this fee. The repeal is not expected to affect any nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that this proposed Rule will not have any effect on competition and employment.

Don Elbourne
Chief Financial Officer
0309#119

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Hazardous Liquids Pipeline Safety (LAC 33:V.Chapters 301-313)

The Louisiana Office of Conservation proposes to amend LAC 33:V.301 et seq. in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Section 30:501 et seq. These proposed Rules replace the current minimum pipeline safety requirements for hazardous liquids pipelines with new codification, technical changes and the addition of new requirements.

There will be negligible costs to directly affected persons or hazardous liquids pipeline operators. Benefits will be realized by persons near hazardous liquids pipelines through safer construction and operation standards imposed by the Rule amendments. Moreover, Louisiana presently receives approximately \$148,000 in federal funds and \$62,000 in pipeline fees to administer the Hazardous Liquids Pipeline Safety Program. Failure to amend the Louisiana Rules to make them consistent with federal regulations would cause the state to lose federal funding.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 3. Natural Resources

Chapter 301. Transportation of Hazardous Liquids by Pipeline [49 CFR Part 195]

Subchapter A. General [Subpart A]

§30101. Scope [49 CFR 195.0]

A. This Subpart prescribes safety standards and reporting requirements for pipeline facilities used in the transportation of hazardous liquids or carbon dioxide. [49 CFR 195.0]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 29:

§30103. Applicability [49 CFR 195.1]

A. Except as provided in §30103.B of this Section, this Subpart applies to pipeline facilities and the transportation of hazardous liquids or carbon dioxide by pipeline within the state of Louisiana, including the coastal zone limits. [49 CFR 195.1(a)]

B. This Subpart does not apply to: [49 CFR 195.1(b)]

1. transportation of a hazardous liquid that is transported in a gaseous state; [49 CFR 195.1(b)(1)]

2. transportation of a hazardous liquid through a pipeline by gravity; [49 CFR 195.1(b)(2)]

3. transportation through any of the following low-stress pipelines: [49 CFR 195.1(b)(3)]

a. an onshore pipeline or pipeline segment that: [49 CFR 195.1(b)(3)(i)]

i. does not transport HVL; [49 CFR 195.1(b)(3)(i)(A)]

ii. is located in a rural area; and [49 CFR 195.1(b)(3)(i)(B)]

iii. is located outside a waterway currently used for commercial navigation; [49 CFR 195.1(b)(3)(i)(C)]

b. a pipeline subject to safety regulations of the U.S. Coast Guard; or [49 CFR 195.1(b)(3)(ii)]

c. a pipeline that serves refining, manufacturing, or truck, rail, or vessel terminal facilities, if the pipeline is less than one mile long (measured outside facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation; [49 CFR 195.1(b)(3)(iii)]

4. transportation of petroleum in onshore gathering lines in rural areas except gathering lines in the inlets of the Gulf of Mexico subject to §30413; [49 CFR 195.1(b)(4)]

5. transportation of a hazardous liquid or carbon dioxide in offshore pipelines which are located upstream from the outlet flange of each facility where hydrocarbons or carbon dioxide are produced or where produced hydrocarbons or carbon dioxide are first separated,

dehydrated, or otherwise processed, whichever facility is farther downstream; [49 CFR 195.1(b)(5)]

6. Intentionally left blank; [49 CFR 195.1(b)(6)]

7. transportation of a hazardous liquid or carbon dioxide through onshore production (including flowlines), refining or manufacturing facilities or storage or in-plant piping systems associated with such facilities; [49 CFR 195.1(b)(7)]

8. transportation of a hazardous liquid or carbon dioxide: [49 CFR 195.1(b)(8)]

a. by vessel, aircraft, tank truck, tank car, or other nonpipeline mode of transportation; or [49 CFR 195.1(b)(8)(i)]

b. through facilities located on the grounds of a materials transportation terminal that are used exclusively to transfer hazardous liquid or carbon dioxide between nonpipeline modes of transportation or between a nonpipeline mode and a pipeline, not including any device and associated piping that are necessary to control pressure in the pipeline under §30406.B; and [49 CFR 195.1(b)(8)(ii)]

9. transportation of carbon dioxide downstream from the following point, as applicable: [49 CFR 195.1(b)(9)]

a. the inlet of a compressor used in the injection of carbon dioxide for oil recovery operations, or the point where recycled carbon dioxide enters the injection system, whichever is farther upstream; or [49 CFR 195.1(b)(9)(i)]

b. the connection of the first branch pipeline in the production field that transports carbon dioxide to injection wells or to headers or manifolds from which pipelines branch to injection wells. [49 CFR 195.1(b)(9)(ii)]

C. Breakout tanks subject to this part must comply with requirements that apply specifically to breakout tanks and, to the extent applicable, with requirements that apply to pipeline systems and pipeline facilities. If a conflict exists between a requirement that applies to pipeline systems or pipeline facilities, the requirement that applies specifically to breakout tanks prevails. Anhydrous ammonia breakout tanks need not comply with §30189.B, 30205.B, 30264.B and E, 30307, 30428.C and D, and 30432.B and C. [49 CFR 195.1(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 20:439 (1994), LR 21:814 (August 1995), LR 29:

§30105. Definitions [49 CFR 195.2]

A. As used in this Chapter:

Abandoned C permanently removed from service.

Administrator C the Administrator, Research and Special Programs Administration or his or her delegate.

Barrel C a unit of measurement equal to 42 U.S. standard gallons.

Breakout Tank C a tank used to:

a. relieve surges in a hazardous liquids pipeline system; or

b. receive and store hazardous liquid transported by a pipeline for reinjection and continued transportation by pipeline.

Carbon Dioxide C a fluid consisting of more than 90 percent carbon dioxide molecules compressed to a supercritical state.

Commissioner—the Commissioner of Conservation or any person to whom he has delegated authority in the matter concerned. For the purpose of these regulations, the commissioner is the delegated authority of the secretary of transportation.

Component—any part of a pipeline which may be subjected to pump pressure including, but not limited to, pipe, valves, elbows, tees, flanges, and closures.

Computation Pipeline Monitoring (CPM)—a software-based monitoring tool that alerts the pipeline dispatcher of a possible pipeline operating anomaly that may be indicative of a commodity release.

Corrosive Product—"corrosive material" as defined by CFR 173.136 Class 8—Definitions of this Chapter.

Exposed Pipeline—a pipeline where the top of the pipe is protruding above the seabed in water less than 15 feet (4.6 meters) deep, as measured from the mean low water.

Flammable Product—"flammable liquid" as defined by CFR 173.120 Class 3—Definitions of this Chapter.

Gathering Line—a pipeline 8-5/8 in. (219.1 mm.) or less nominal outside diameter that transports petroleum from a production facility.

Gulf of Mexico and its Inlets—the waters from the mean high water mark of the coast of the Gulf of Mexico and its inlets open to the sea (excluding rivers, tidal marshes, lakes, and canals) seaward to include the territorial sea and Outer Continental Shelf to a depth of 15 feet (4.6 m), as measured from the mean low water.

Hazardous Liquid—petroleum, petroleum products, or anhydrous ammonia.

Hazard to Navigation—for the purpose of this Subpart, a pipeline where the top of the pipe is less than 12 inches (305 mm) below the seabed in water less than 15 feet (4.6 m) deep, as measured from the mean low water.

Highly Volatile Liquid or HVLC—a hazardous liquid which will form a vapor cloud when released to the atmosphere and which has a vapor pressure exceeding 40Epsia (276 kPa) at 100EF (37.8EC).

In-Plant Piping System—piping that is located on the grounds of a plant and used to transfer hazardous liquid or carbon dioxide between plant facilities or between plant facilities and a pipeline or other mode of transportation, not including any device and associated piping that are necessary to control pressure in the pipeline under §30406.B.

Interstate Pipeline—a pipeline or that part of a pipeline that is used in the transportation of hazardous liquids or carbon dioxide in interstate or foreign commerce.

Intrastate Pipeline—a pipeline or that part of a pipeline to which this Subpart applies that is not an interstate pipeline.

Line Section—a continuous run of pipe between adjacent pressure pump stations, between a pressure pump station and terminal or breakout tanks, between a pressure pump station and a block valve, or between adjacent block valves.

Low-Stress Pipeline—a hazardous liquid pipeline that is operated (based on MOP) in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe.

Nominal Wall Thickness—the wall thickness listed in the pipe specifications.

Offshore—beyond the line of ordinary low water along that portion of the coast of the United States that is in direct contact with the open sea and beyond the line marking the seaward limit of inland waters.

Operator—a person who owns or operates pipeline facilities.

Outer Continental Shelf—all submerged lands lying seaward and outside the area of lands beneath navigable waters as defined in Section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Person—any individual, firm, joint venture, partnership, corporation, association, state, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

Petroleum—crude oil, condensate, natural gasoline, natural gas liquids, and liquefied petroleum gas.

Petroleum Product—flammable, toxic, or corrosive products obtained from distilling and processing of crude oil, unfinished oils, natural gas liquids, blend stocks and other miscellaneous hydrocarbon compounds.

Pipe or Line Pipe—a tube, usually cylindrical, through which a hazardous liquid or carbon dioxide flows from one point to another.

Pipeline or Pipeline System—all parts of a pipeline facility through which a hazardous liquid or carbon dioxide moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks.

Pipeline Facility—new and existing pipe, rights-of-way and any equipment, facility, or building used in the transportation of hazardous liquids or carbon dioxide.

Production Facility—piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation or treating of petroleum or carbon dioxide, or associated storage or measurement. (To be a production facility under this definition, piping or equipment must be used in the process of extracting petroleum or carbon dioxide from the ground or from facilities where CO₂ is produced, and preparing it for transportation by pipeline. This includes piping between treatment plants which extract carbon dioxide, and facilities utilized for the injection of carbon dioxide for recovery operations.)

Rural Area—outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, or community development.

Specified Minimum Yield Strength—the minimum yield strength, expressed in pounds per square inch (p.s.i.)(kPa) gauge, prescribed by the specification under which the material is purchased from the manufacturer.

Stress Level—the level of tangential or hoop stress, usually expressed as a percentage of specified minimum yield strength.

Surge Pressure—pressure produced by a change in velocity of the moving stream that results from shutting down a pump station or pumping unit, closure of a valve, or any other blockage of the moving stream.

Toxic Product"poisonous material" as defined by CFR 173.132 Class 6, Division 6.1C Definitions of this Chapter.

Transportation of Hazardous Liquidsthe gathering, transmission, or distribution of hazardous liquids by pipeline.

Unusually Sensitive Area (USA)Ca drinking water or ecological resource area that is unusually sensitive to environmental damage from a hazardous liquid pipeline release, as identified under §30112.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 21:815 (August 1995), LR 29:

§30107. Matter Incorporated by Reference
[49 CFR 195.3]

A. Any document or portion thereof incorporated by reference in this Subpart is included in this Subpart as though it were printed in full. When only a portion of a document is referenced, then this Subpart incorporates only that referenced portion of the document and the remainder is not incorporated. Applicable editions are listed in Subsection C of this Section in parentheses following the title of the referenced material. Earlier editions listed in previous editions of this Section may be used for components manufactured, designed, or installed in accordance with those earlier editions at the time they were listed. The user must refer to the appropriate previous edition of 49 CFR for a listing of the earlier editions. [49 CFR 195.3(a)]

B. All incorporated materials are available for inspection in the Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC, and at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. These materials have been approved for incorporation by reference by the director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. In addition, materials incorporated by reference are available as follows. [49 CFR 195.3(b)]

1. American Gas Association (AGA), 1515 Wilson Boulevard, Arlington, VA 22209. [49 CFR 195.3(b)(1)]

2. American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005; [49 CFR 195.3(b)(2)]

3. The American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, NY 10017; [49 CFR 195.3(b)(3)]

4. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, NE., Vienna, VA 22180; [49 CFR 195.3(b)(4)]

5. American National Standards Institute (ANSI), 11 West 42nd Street, New York, NY 10036; [49 CFR 195.3(b)(5)]

6. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428. [49 CFR 195.3(b)(6)]

7. National Fire Protection Association (NFPA), 11 Tracy Drive, Avon, MA 02322. [49 CFR 195.3(b)(7)]

8. NACE International, 1440 South Creek Drive, Houston, TX 77084 [49 CFR 195.3(b)(8)]

C. The full title for the publications incorporated by reference in this Subpart are as follows. Number in parenthesis indicated applicable editions. [49 CFR 195.3(c)]

1. American Gas Association (AGA): AGA Pipeline Research Committee, Project PR-3-805, *A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe* (December 1989). The RSTRENG program may be used for calculating remaining strength. [49 CFR 195.3(c)(1)]

2. American Petroleum Institute (API): [49 CFR 195.3(c)(2)]

a. API 510 Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration (8th edition, June 1997) [49 CFR 195.3(c)(2)(i)]

b. API 1130 *Computational Pipeline Monitoring* (1st Edition, 1995) [49 CFR 195.3(c)(2)(ii)]

c. API Publication 2026 Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service (2nd edition, April 1998). [49 CFR 195.3(c)(2)(iii)]

d. API Recommended Practice 651 *Cathodic Protection of Aboveground Petroleum Storage Tanks* (2nd edition, December 1997) [49 CFR 195.3(c)(2)(iv)]

e. API Recommended Practice 652 *Lining of Aboveground Petroleum Storage Tank Bottoms* (2nd edition, 1997) [49 CFR 195.3(c)(2)(v)]

f. API Recommended Practice 2003 *Protection Against Ignitions Arising out of Static, Lightning, and Stray Currents* (6th edition, December 1998) [49 CFR 195.3(c)(2)(vi)]

g. API Recommended Practice 2350 *Overfill Protection for Storage Tanks In Petroleum Facilities* (2nd edition, January 1996) [49 CFR 195.3(c)(2)(vii)]

h. API Specification 5L *Specification for Line Pipe* (41st edition, 1995) [49 CFR 195.3(c)(2)(viii)]

i. API Specification 6D *Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)* (21st edition, 1994) [49 CFR 195.3(c)(2)(ix)]

j. API Specification 12F *Specification for Shop Welded Tanks for Storage of Production Liquids* (11th edition, November 1994) [49 CFR 195.3(c)(2)(x)]

k. API Standard 1104 *Welding Pipelines and Related Facilities* (18th edition, 1994) [49 CFR 195.3(c)(2)(xi)]

l. API Standard 620 *Design and Construction of Large, Welded, Low-Pressure Storage Tanks* (9th edition, February 1996, Including Addenda 1 and 2); [49 CFR 195.3(c)(2)(xii)]

m. API Standard 650 *Welded Steel Tanks for Oil Storage* (9th edition, July 1993, Including Addenda 1 through 4) [49 CFR 195.3(c)(2)(xiii)]

n. API Standard 653 *Tank Inspection, Repair Alteration, and Reconstruction* (2nd edition, December 1995, including Addenda 1 and 2) [49 CFR 195.3(c)(2)(xiv)]

o. API Standard 2000 *Venting Atmospheric and Low-Pressure Storage Tanks* (4th edition, September 1992); [49 CFR 195.3(c)(2)(xv)]

p. API Standard 2510 *Design and Construction of LPG Installations* (7th edition, May 1995) [49 CFR 195.3(c)(2)(xvi)]

3. American Society of Mechanical Engineers (ASME) [49 CFR 195.3(c)(3)]

a. ASME/ANSI B16.9 *Factory-Made Wrought Steel Butt Welding Fittings* (1993) [49 CFR 195.3(c)(3)(i)]

b. ASME/ANSI B31.4 *Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas,*

Anhydrous Ammonia, and Alcohols (1992 ed. with ASME B31.4a -1994 Addenda) [49 CFR 195.3(c)(3)(ii)]

c. ASME/ANSI B31.8 *Gas Transmission and Distribution Piping Systems* (1995). [49 CFR 195.3(c)(3)(iii)]

d. ASME/ANSI B31G Manual for Determining the Remaining Strength of Corroded Pipelines (1991) [49 CFR 195.3(c)(3)(iv)]

e. ASME Boiler and Pressure Vessel Code, Section VIII, *Pressure Vessels* Divisions 1 and 2 (1995 edition with 1995 Addenda) [49 CFR 195.3(c)(3)(v)]

f. ASME Boiler and Pressure Vessel Code, Section IX *Welding and Brazing Qualifications* (1995 edition with 1995 Addenda) [49 CFR 195.3(c)(3)(vi)]

4. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS) [49 CFR 195.3(c)(4)]

a. MSS SP-75 Specification for High Test Wrought Butt Welding Fittings (1993) [49 CFR 195.3(c)(4)(i)]

b. [Reserved] [49 CFR 195.3(c)(4)(ii)]

5. American Society for Testing and Materials (ASTM) [49 CFR 195.3(c)(5)]

a. ASTM Designation: A 53 Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless (A 53-96) [49 CFR 195.3(c)(5)(i)]

b. ASTM Designation: A 106 Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service (A 106-95) [49 CFR 195.3(c)(5)(ii)]

c. ASTM Designation: A 333/A 333M Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service (A 333/A 333M-94); [49 CFR 195.3(c)(5)(iii)]

d. ASTM Designation: A 381 Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High Pressure Transmission Systems (A 381-93); [49 CFR 195.3(c)(5)(iv)]

e. ASTM Designation: A 671 Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures (A 671-94); [49 CFR 195.3(c)(5)(v)]

f. ASTM Designation: A 672 Standard Specification for Electric-Fusion-Welded Steel Pipe for High- Pressure Service at Moderate Temperatures (A 672-94); [49 CFR 195.3(c)(5)(vi)]

g. ASTM Designation: A 691 Standard Specification for Carbon and Alloy Steel Pipe Electric-Fusion-Welded for High-Pressure Service at High Temperatures (A 691-93); [49 CFR 195.3(c)(5)(vii)]

6. National Fire Protection Association (NFPA): [49 CFR 195.3(c)(6)]

a. ANSI/NFPA 30 Flammable and Combustible Liquids Code. (1996) [49 CFR 195.3(c)(6)(i)]

7. NACE International (NACE): [49 CFR 195.3(c)(7)]

a. NACE Standard RP0169-96, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems" (1996). [49 CFR 195.3(c)(7)(i)]

b. [Reserved] [49 CFR 195.3(c)(7)(ii)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:439 (1994), LR 21:815 (August 1995), LR 24: 1313 (1998), LR 27:1523 (September 2001), LR 29:

§30109. Compatibility Necessary for Transportation of Hazardous Liquids or Carbon Dioxide [49 CFR 195.4]

A. No person may transport any hazardous liquid or carbon dioxide unless the hazardous liquid or carbon dioxide is chemically compatible with both the pipeline, including all components, and any other commodity that it may come into contact with while in the pipeline. [49 CFR 195.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:862 (August 1992), LR 29:

§30111. Conversion to Service Subject to This Subpart [49 CFR 195.5]

A. A steel pipeline previously used in service not subject to this Subpart qualifies for use under this Subpart if the operator prepares and follows a written procedure to accomplish the following. [49 CFR 195.5(a)]

1. The design, construction, operation, and maintenance history of the pipeline must be reviewed and, where sufficient historical records are not available, appropriate tests must be performed to determine if the pipeline is in satisfactory condition for safe operation. If one or more of the variables necessary to verify the design pressure under §30161 or to perform the testing under Paragraph A.4 of this Section is unknown, the design pressure may be verified and the maximum operating pressure determined by: [49 CFR 195.5(a)(1)]

a. testing the pipeline in accordance with ASME B31.8, Appendix N, to produce a stress equal to the yield strength; and [49 CFR 195.5(a)(1)(i)]

b. applying to not more than 80 percent of the first pressure that produces a yielding, the design factor F in §30161.A and the appropriate factors in §30161.E. [49 CFR 195.5(a)(1)(ii)]

2. The pipeline right-of-way, all aboveground segments of the pipeline, and appropriately selected underground segments must be visually inspected for physical defects and operating conditions which reasonably could be expected to impair the strength or tightness of the pipeline. [49 CFR 195.5(a)(2)]

3. All known unsafe defects and conditions must be corrected in accordance with this Subpart. [49 CFR 195.5(a)(3)]

4. The pipeline must be tested in accordance with Chapter 303 to substantiate the maximum operating pressure permitted by §30406. [49 CFR 195.5(a)(4)]

B. A pipeline which qualifies for use under this Section need not comply with the corrosion control requirements of this Subchapter B of Chapter 305 until 12 months after it is placed in service, notwithstanding any previous deadlines for compliance. [49 CFR 195.5(b)]

C. Each operator must keep for the life of the pipeline a record of the investigations, tests, repairs, replacements, and alterations made under the requirements of §30111.A. [49 CFR 195.5(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:816 (August 1995), LR 29:

§30112. Unusually Sensitive Areas (USAs)

[49 CFR 195.6]

A. As used in this Subpart, a USA means a drinking water or ecological resource area that is unusually sensitive to environmental damage from a hazardous liquid pipeline release.

1. A USA drinking water resource is:

a. the water intake for a Community Water System (CWS) or a Non-Transient Non-Community Water System (NTNCWS) that obtains its water supply primarily from a surface water source and does not have an adequate alternative drinking water source;

b. the Source Water Protection Area (SWPA) for a CWS or a NTNCWS that obtains its water supply from a Class I or Class IIA aquifer and does not have an adequate alternative drinking water source. Where a state has not yet identified the SWPA, the Wellhead Protection Area (WHPA) will be used until the state has identified the SWPA; or

c. the sole source aquifer recharge area where the sole source aquifer is a karst aquifer in nature.

2. An USA ecological resource is:

a. an area containing a critically imperiled species or ecological community;

b. a multi-species assemblage area;

c. a migratory waterbird concentration area;

d. an area containing an imperiled species, threatened or endangered species, depleted marine mammal species, or an imperiled ecological community where the species or community is aquatic, aquatic dependent, or terrestrial with a limited range; or

e. an area containing an imperiled species, threatened or endangered species, depleted marine mammal species, or an imperiled ecological community where the species or community occurrence is considered to be one of the most viable, highest quality, or in the best condition as identified by an element occurrence ranking (EORANK) of A (excellent quality) or B (good quality).

3. As used in this Subpart:

Adequate Alternative Drinking Water Source Ca source of water that currently exists, can be used almost immediately with a minimal amount of effort and cost, involves no decline in water quality, and will meet the consumptive, hygiene, and fire fighting requirements of the existing population of impacted customers for at least one month for a surface water source of water and at least six months for a groundwater source.

Aquatic or Aquatic Dependent Species or Community Ca species or community that primarily occurs in aquatic, marine, or wetland habitats, as well as species that may use terrestrial habitats during all or some portion of their life cycle, but that are still closely associated with or dependent upon aquatic, marine, or wetland habitats for some critical component or portion of their life-history (i.e., reproduction, rearing and development, feeding, etc).

Class I Aquifer Can aquifer that is surficial or shallow, permeable, and is highly vulnerable to contamination. Class I aquifers include:

i. *Unconsolidated Aquifers (Class Ia)* Cthat consist of surficial, unconsolidated, and permeable, alluvial, terrace, outwash, beach, dune, and other similar deposits. These aquifers generally contain layers of sand and gravel that, commonly, are interbedded to some degree with silt and

clay. Not all Class Ia aquifers are important water-bearing units, but they are likely to be both permeable and vulnerable. The only natural protection of these aquifers is the thickness of the unsaturated zone and the presence of fine-grained material;

ii. *Soluble and Fractured Bedrock Aquifers (Class Ib)* Clithologies in this class include limestone, dolomite, and locally, evaporitic units that contain documented karst features or solution channels, regardless of size. Generally, these aquifers have a wide range of permeability. Also included in this class are sedimentary strata, and metamorphic and igneous (intrusive and extrusive) rocks that are significantly faulted, fractured, or jointed. In all cases groundwater movement is largely controlled by secondary openings. Well yields range widely, but the important feature is the potential for rapid vertical and lateral ground water movement along preferred pathways, which result in a high degree of vulnerability;

iii. *Semiconsolidated Aquifers (Class Ic)* Cthat generally contain poorly to moderately indurated sand and gravel that is interbedded with clay and silt. This group is intermediate to the unconsolidated and consolidated end members. These systems are common in the Tertiary age rocks that are exposed throughout the Gulf and Atlantic coastal states. Semiconsolidated conditions also arise from the presence of intercalated clay and caliche within primarily unconsolidated to poorly consolidated units, such as occurs in parts of the High Plains Aquifer; or

iv. *Covered Aquifers (Class Id)* Cthat are any Class I aquifer overlain by less than 50 feet of low permeability, unconsolidated material, such as glacial till, lacustrine, and loess deposits.

Class IIA Aquifer CHigher Yield Bedrock Aquifer that is consolidated and is moderately vulnerable to contamination. These aquifers generally consist of fairly permeable sandstone or conglomerate that contain lesser amounts of interbedded fine grained clastics (shale, siltstone, mudstone) and occasionally carbonate units. In general, well yields must exceed 50 gallons per minute to be included in this class. Local fracturing may contribute to the dominant primary porosity and permeability of these systems.

Community Water System (CWS) Ca public water system that serves at least 15 service connections used by year-round residents of the area or regularly serves at least 25 year-round residents.

Critically Imperiled Species or Ecological Community (Habitat) Can animal or plant species or an ecological community of extreme rarity, based on The Nature Conservancy's Global Conservation Status Rank. There are generally five or fewer occurrences, or very few remaining individuals (less than 1,000) or acres (less than 2,000). These species and ecological communities are extremely vulnerable to extinction due to some natural or man-made factor.

Depleted Marine Mammal Species Ca species that has been identified and is protected under the Marine Mammal Protection Act of 1972, as amended (MMPA) (16 U.S.C. 1361 et seq.). The term "depleted" refers to marine mammal species that are listed as threatened or endangered, or are below their optimum sustainable populations (16 U.S.C. 1362). The term "marine mammal" means "any mammal which is morphologically adapted to the marine environment

(including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea), or primarily inhabits the marine environment (such as the polar bear)" (16 U.S.C. 1364). The order Sirenia includes manatees, the order Pinnipedia includes seals, sea lions, and walruses, and the order Cetacea includes dolphins, porpoises, and whales.

Ecological Community Can interacting assemblage of plants and animals that recur under similar environmental conditions across the landscape.

Element Occurrence Rank (EORANK) Cthe condition or viability of a species or ecological community occurrence, based on a population's size, condition, and landscape context. EORANKs are assigned by the Natural Heritage Programs. An EORANK of A means an excellent quality and an EORANK of B means good quality.

Imperiled Species or Ecological Community (Habitat) Ca rare species or ecological community, based on The Nature Conservancy's Global Conservation Status Rank. There are generally six to 20 occurrences, or few remaining individuals (1,000 to 3,000) or acres (2,000 to 10,000). These species and ecological communities are vulnerable to extinction due to some natural or man-made factor.

Karst Aquifer Can aquifer that is composed of limestone or dolomite where the porosity is derived from connected solution cavities. Karst aquifers are often cavernous with high rates of flow.

Migratory Waterbird Concentration Area Ca designated Ramsar site or a Western Hemisphere Shorebird Reserve Network site.

Multi Species Assemblage Area Can area where three or more different critically imperiled or imperiled species or ecological communities, threatened or endangered species, depleted marine mammals, or migratory water bird concentrations co-occur.

Non-Transient Non-community Water System (NTNCWS) Ca public water system that regularly serves at least 25 of the same persons over six months per year. Examples of these systems include schools, factories, and hospitals that have their own water supplies.

Public Water System (PWS) Ca system that provides the public water for human consumption through pipes or other constructed conveyances, if such systems has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. These systems include the sources of the water supplies, i.e., surface or ground. PWS can be community, non-transient non-community, or transient non-community systems.

Ramsar Site Ca site that has been designated under The Convention on Wetlands of International Importance Especially as Waterfowl Habitat program. Ramsar sites are globally critical wetland areas that support migratory waterfowl. These include wetland areas that regularly support 20,000 waterfowl; wetland areas that regularly support substantial numbers of individuals from particular groups of waterfowl, indicative of wetland values, productivity, or diversity; and wetland areas that regularly support 1 percent of the individuals in a population of one species or subspecies of waterfowl.

Sole Source Aquifer (SSA) Can area designed by the U.S. Environmental Protection Agency under the Sole Source Aquifer program as the "sole or principal" source of

drinking water for an area. Such designations are made if the aquifer's ground water supplies 50 percent or more of the drinking water for an area, and if that aquifer were to become contaminated, it would pose a public health hazard. A sole source aquifer that is karst in nature is one composed of limestone where the porosity is derived from connected solution cavities. They are often cavernous, with high rates of flow.

Source Water Protection Area (SWPA) Cthat the area delineated by the state for a public water supply system (PWS) or including numerous PWSs, whether the source is ground water or surface water or both, as part of the state source water assessment program (SWAP) approved by EPA under §1453 of the Safe Drinking Water Act.

Species Cspecies, subspecies, population stocks, or distinct vertebrate populations.

Terrestrial Ecological Community with a Limited Range Ca non-aquatic or non-aquatic dependent ecological community that covers less than five acres.

Terrestrial Species with a Limited Range Ca non-aquatic or non-aquatic dependent animal or plant species that has a range of no more than five acres.

Threatened and Endangered Species (T&E) Can animal or plant species that has been listed and is protected under the Endangered Species Act of 1973, as amended (ESA 73)(16 U.S.C. 1531 et seq.).

i. **Endangered Species** Cany species which is in danger of extinction throughout all or a significant portion of its range (16 U.S.C. 1532).

ii. **Threatened Species** Cany species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532).

Transient Non-Community Water System (TNCWS) Ca public water system that does not regularly serve at least 25 of the same persons over six months per year. This type of water system serves a transient population found at rest stops, campgrounds, restaurants, and parks with their own source of water.

Wellhead Protection Area (WHPA) Cthe surface and subsurface area surrounding a well or well field that supplies a public water system through which contaminants are likely to pass and eventually reach the water well or well field.

Western Hemisphere Shorebird Reserve Network (WHSRN) Site Can area that contains migratory shorebirds concentrations and has been designated as a hemispheric reserve, international reserve, regional reserve, or endangered species reserve. Hemispheric reserves host at least 500,000 shorebirds annually or 30 percent of a species flyaway population. International reserves host 100,000 shorebirds annually or 15 percent of a species flyaway population. Regional reserves host 20,000 shorebirds annually or 5 percent of a species flyaway population. Endangered species reserves are critical to the survival of endangered species and no minimum number of birds is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 28:83 (January 2002), LR 29:

§30114. Transportation of Hazardous Liquid or Carbon Dioxide in Pipelines Constructed with Other than Steel Pipe [49 CFR 195.8]

A. No person may transport any hazardous liquid or carbon dioxide through a pipe that is constructed after October 1, 1970, for hazardous liquids or after July 12, 1991, for carbon dioxide of material other than steel unless the person has notified the Commissioner and Administrator in writing at least 90 days before the transportation is to begin. The notice must state whether carbon dioxide or a hazardous liquid is to be transported and the chemical name, common name, properties and characteristics of the hazardous liquid to be transported and the material used in construction of the pipeline. If the Commissioner and Administrator determine that the transportation of the hazardous liquid or carbon dioxide in the manner proposed would be unduly hazardous, he will, within 90 days after receipt of the notice, order the person that gave the notice, in writing, not to transport the hazardous liquid or carbon dioxide in the proposed manner until further notice. [49 CFR 195.8]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30116. Responsibility of Operator for Compliance with this Subpart [49 CFR 195.10]

A. An operator may make arrangements with another person for the performance of any action required by this Subpart. However, the operator is not thereby relieved from the responsibility for a compliance with any requirement of this Subpart. [49 CFR 195.10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

Subchapter B. Reporting Accidents and Safety-Related Conditions [Subpart B]

§30125. Reporting Accidents [49 CFR 195.50]

A. An accident report is required for each failure in a pipeline system subject to this Subpart in which there is a release of the hazardous liquid or carbon dioxide transported resulting in any of the following: [49 CFR 195.50]

1. explosion or fire not intentionally set by the operator; [49 CFR 195.50(a)]
2. release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide, except that no report is required for a release of less than 5 barrels (0.8 cubic meters) resulting from a pipeline maintenance activity if the release is: [49 CFR 195.50(b)]
 - a. not otherwise reportable under this section; [49 CFR 195.50(b)(1)]
 - b. not one described in §30127(A)(4); [49 CFR 195.50(b)(2)]
 - c. confined to company property or pipeline right-of-way, and [49 CFR 195.50(b)(3)]
 - d. cleaned up promptly; [49 CFR 195.50(b)(4)]
3. death of any person; [49 CFR 195.50(c)]
4. personal injury necessitating hospitalization; [49 CFR 195.50(d)]

5. estimated property damage, including cost of clean-up and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding \$50,000. [49 CFR 195.50(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 21:816 (August 1995), LR 27:1524 (September 2001), LR 29:

§30127. Telephonic Notice of Certain Accidents [49 CFR 195.52]

A. At the earliest practicable moment within two hours following discovery of a release of the hazardous liquid or carbon dioxide transported resulting in an event described in §30125, the operator of the system shall give notice, in accordance with §30127.B of any failure that: [49 CFR 195.52(a)]

1. caused a death or a personal injury requiring hospitalization; [49 CFR 195.52(a)(1)]
2. resulted in either a fire or explosion not intentionally, set by the operator; [49 CFR 195.52(a)(2)]
3. caused estimated property damage, including cost of clean-up and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding \$50,000; [49 CFR 195.52(a)(3)]
4. resulted in pollution of any stream, river, lake, reservoir, or other similar body of water that violated applicable water quality standards, caused a discoloration of the surface of the water or adjoining shoreline, or deposited a sludge or emulsion beneath the surface of the water or upon adjoining shorelines; or [49 CFR 195.52(a)(4)]
5. in the judgment of the operator was significant even though it did not meet the criteria of any other paragraph of this Section. [49 CFR 195.52(a)(5)]

B. Reports made under §30127.A are made by telephone to (800) 424-8802 (in Washington, D. C. 267-2675) as well as Louisiana (225) 342-5505 (day or night) and must include the following information: [49 CFR 195.52(b)]

1. name and address of the operator; [49 CFR 195.52(b)(1)]
2. name and telephone number of the reporter; [49 CFR 195.52(b)(2)]
3. the location of the failure; [49 CFR 195.52(b)(3)]
4. the time of the failure; [49 CFR 195.52(b)(4)]
5. the fatalities and personal injuries if any; [49 CFR 195.52(b)(5)]
6. all other significant facts known by the operator that are relevant to the cause of the failure or extent of the damages. [49 CFR 195.52(b)(6)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 20:440 (1994), LR 21:816 (August 1995). LR 29:

§30131. Accident Reports [49 CFR 195.54]

A. Each operator that experiences an accident that is required to be reported under §30125 shall as soon as practicable, but not later than 30 days after discovery of the accident, prepare and file an accident report on DOT Form 7000-1, and Louisiana's Accident Report Form.[49 CFR 195.54(a)]

B. Whenever an operator receives any changes in the information reported or additions to the original report on DOT Form 7000-1, and Louisiana's Accident Report Form, it shall file a supplemental report within 30 days. [49 CFR 195.54(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:440 (April 1994), LR 29:

§30133. Reporting Safety-Related Conditions **[49 CFR 195.55]**

A. Except as provided in §30133.B, each operator shall report in accordance with §30135 the existence of any of the following safety-related conditions involving pipeline in service: [49 CFR 195.55(a)]

1. general corrosion that has reduced the wall thickness to less than that required for the maximum operating pressure, and localized corrosion pitting to a degree where leakage might result; [49 CFR 195.55(a)(1)]

2. unintended movement or abnormal loading of a pipeline by environmental causes, such as an earthquake, landslide, or flood that impairs its serviceability; [49 CFR 195.55(a)(2)]

3. any material defect or physical damage that impairs the serviceability of a pipeline; [49 CFR 195.55(a)(3)]

4. any malfunction or operating error that causes the pressure of a pipeline to rise above 110 percent of its maximum operating pressure; [49 CFR 195.55(a)(4)]

5. a leak in a pipeline that constitutes an emergency; [49 CFR 195.55(a)(5)]

6. any safety-related condition that could lead to an imminent hazard and causes (either directly or indirectly by remedial action of the operator), for purposes other than abandonment, a 20 percent or more reduction in operating pressure or shutdown of operation of a pipeline. [49 CFR 195.55(a)(6)]

B. A report is not required for any safety-related condition that: [49 CFR 195.55(b)]

1. exist on a pipeline that is more than 220 yards (200 meters) from any building intended for human occupancy or outdoor place of assembly except that reports are required for conditions within the right-of-way of an active railroad, paved road, street, or highway, or that occur offshore or at on-shore locations where a loss of hazardous liquid could reasonably be expected to pollute any stream, river, lake, reservoir, or other body of water; [49 CFR 195.55(b)(1)]

2. is an accident that is required to be reported under §30125 or results in such an accident before the deadline for filing the safety-related condition report; or [49 CFR 195.55(b)(2)]

3. is corrected by repair or replacement in accordance with applicable safety standards before the deadline for filing the safety-related condition report, except that reports are required for all conditions under §30133.A.1 other than localized corrosion pitting on an effectively coated and cathodically protected pipeline. [49 CFR 195.55(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 29:

§30135. Filing Safety-Related Condition Report **[49 CFR 195.56]**

A. Each report of a safety-related condition under §30133.A must be filed (received by the Commissioner and Administrator) in writing within five working days (not including Saturday, Sunday, or State/Federal holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. To file a report by telefacsimile (FAX), dial (202) 366-7128 and for Louisiana (225) 342-5529. [49 CFR 195.56(a)]

B. The report must be headed "Safety-Related Condition Report" and provide the following information: [49 CFR 195.56(b)]

1. name and principal address of operator; [49 CFR 195.56(b)(1)]

2. date of report; [49 CFR 195.56(b)(2)]

3. name, job title, and business telephone number of person submitting the report; [49 CFR 195.56(b)(3)]

4. name, job title, and business telephone number of person who determined that the condition exists; [49 CFR 195.56(b)(4)]

5. date condition was discovered and date condition was first determined to exist; [49 CFR 195.56(b)(5)]

6. location of condition, with reference to the state (and town, city, or parish) or offshore site, and as appropriate nearest street address, offshore platform, survey station number, milepost, landmark, or name of pipeline; [49 CFR 195.56(b)(6)]

7. description of the condition, including circumstances leading to its discovery, any significant effects of the condition on safety, and the name of the commodity transported or stored; [49 CFR 195.56(b)(7)]

8. the corrective action taken (including reduction of pressure or shutdown) before the report is submitted and the planned follow-up or future corrective action, including the anticipated schedule for starting and concluding such action. [49 CFR 195.56(b)(8)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 20:440 (1994), LR 29:

§30137. Annual Report

A. Each operator of a gathering system in a non-rural area, or of an intrastate transmission system, is required to file an annual report. This report must be submitted each year, not later than March 15, for the preceding calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 29:

§30139. Filing Offshore Pipeline Condition Reports **[49 CFR 195.57]**

A. Each operator shall, within 60 days after completion of the inspection of all its underwater pipelines subject to §30413.A, report the following information: [49 CFR 195.57(a)]

1. name and principal address of operator; [49 CFR 195.57(a)(1)]
2. date of report; [49 CFR 195.57(a)(2)]
3. name, job title, and business telephone number of person submitting the report; [49 CFR 195.57(a)(3)]
4. total number of miles (kilometers) of pipeline inspected; [49 CFR 195.57(a)(4)]
5. length and date of installation of each exposed pipeline segment, and location; including, if available, the location according to the Minerals Management Service or state offshore area and block number tract; [49 CFR 195.57(a)(5)]
6. length and date of installation of each pipeline segment, if different from a pipeline segment identified under §30139.A.5, that is a hazard to navigation, and the location; including, if available, the location according to the Minerals Management Service or state offshore area and block number tract. [49 CFR 195.57(a)(6)]

B. The report shall be mailed to the Information Officer, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590 and concurrently to the Commissioner of Conservation, Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275. [49 CFR 195.57(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30140. Address for Written Reports [49 CFR 195.58]

A. Each written report required by this Subchapter must be made to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 2335, 400 Seventh Street SW, Washington, DC 20590 and concurrently to Office of Conservation, Pipeline Safety, P.O. Box 94275, Baton Rouge, LA 70804-9275. Safety-related condition reports required by §30133 for intrastate pipelines must be submitted concurrently to the state agency, and if that agency acts as an agent of the secretary with respect to interstate pipelines, safety related condition reports for these pipelines must be submitted concurrently to that agency. [49 CFR 195.58]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30141. Abandoned Underwater Facilities Report [49 CFR 195.59]

A. For each abandoned offshore pipeline facility or each abandoned onshore pipeline facility that crosses over, under or through a commercially navigable waterway, the last operator of that facility must file a report upon abandonment of that facility. [49 CFR 195.59]

1. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with NPMS *Standards for Pipeline and Liquefied Natural Gas Operator Submissions*. To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at www.npms.rspa.dot.gov or contact the NPMS National Repository at (703) 317-3073. A digital data format is

preferred, but hard copy submissions are acceptable if they comply with the NPMS Standards. In addition to the NPMS-required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operator's knowledge, all of the reasonably available information requested was provided and, to the best of the operator's knowledge, the abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax, or e-mail to the Information Officer, Research and Special Programs Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; email, roger.little@rspa.dot.gov. The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws. [49 CFR 195.59(a)]

2. Data on pipeline facilities abandoned before October 10, 2000 must be filed before April 10, 2001. Operators may submit reports by mail, fax, email to the Information Officer, Research and Special Programs Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; email, roger.little@rspa.dot.gov. The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws. [49 CFR 195.59(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30142. Operator Assistance in Investigation [49 CFR 195.60]

A. If the Department of Natural Resources investigates an accident, the operator involved shall make available to the representative of the department all records and information that in any way pertain to the accident, and shall afford all reasonable assistance in the investigation of the accident. [49 CFR 195.60]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30144. Supplies of Accident Report DOT Form 7000-1 [49 CFR 195.62]

A. Each operator shall maintain an adequate supply of forms that are a facsimile of DOT Form 7000-1 and Louisiana's Accident Report Form to enable it to promptly report accidents. The department will, upon request, furnish specimen copies of the form. Requests for DOT Form 7000-1 should be addressed to the Information Resources Manager, Office of Pipeline Safety, Department of Transportation, Washington, D.C. 20590. Requests for

Louisiana's Accident Report Form should be addressed to Office of Pipeline Safety, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275. [49 CFR 195.62]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30145. OMB Control Number Assigned to Information Collection [49 CFR 195.63]

A. The control number assigned by the Office of Management and Budget to the hazardous liquid pipeline information collection requirements of this Subpart pursuant to the Paperwork Reduction Act of 1980 is 2137-0047. [49 CFR 195.63]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

Subchapter C. Design Requirements [Subpart C]

§30153. Scope [49 CFR 195.100]

A. This Subchapter prescribes minimum design requirements for new pipeline systems constructed with steel pipe and for relocating, replacing, or otherwise changing existing systems constructed with steel pipe. However, it does not apply to the movement of line pipe covered by §30424. [49 CFR 195.100]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), LR 29:

§30155. Qualifying Metallic Components Other than Pipe [49 CFR 195.101]

A. Notwithstanding any requirement of the Subchapter which incorporates by reference an edition of a document listed in §30107, a metallic component other than pipe manufactured in accordance with any other edition of that document is qualified for use if: [49 CFR 195.101]

1. it can be shown through visual inspection of the cleaned component that no defect exists which might impair the strength or tightness of the component; and [49 CFR 195.101(a)]

2. the edition of the document under which the component was manufactured has equal or more stringent requirements for the following as an edition of that document currently or previously listed in §30107: [49 CFR 195.101(b)]

- a. pressure testing; [49 CFR 195.101(b)(1)]
- b. materials; and [49 CFR 195.101(b)(2)]
- c. pressure and temperature rating. [49 CFR 195.101(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 29:

§30157. Design Temperature [49 CFR 195.102]

A. Material for components of the system must be chosen for the temperature environment in which the components will be used so that the pipeline will maintain its structural integrity. [49 CFR 195.102(a)]

B. Components of carbon dioxide pipelines that are subject to low temperatures during normal operation because of rapid pressure reduction or during the initial fill of the line must be made of materials that are suitable for those low temperatures. [49 CFR 195.102(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 29:

§30159. Variations in Pressure [49 CFR 195.104]

A. If, within a pipeline system, two or more components are to be connected at a place where one will operate at a higher pressure than another, the system must be designed so that any component operating at the lower pressure will not be overstressed. [49 CFR 195.104]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 29:

§30161. Internal Design Pressure [49 CFR 195.106]

A. Internal design pressure for the pipe in a pipeline is determined in accordance with the following formula:

$$P = (2 St/D) \times E \times F$$

P= Internal design pressure in p.s.i. (kPa) gauge.

S= Yield strength in pounds per square inch (kPa) determined in accordance with §30161.B.

t= Nominal wall thickness of the pipe in inches (millimeters). If this is unknown, it is determined in accordance with §30161.C.

D= Nominal outside diameter of the pipe in inches (millimeters).

E= Seam joint factor determined in accordance with §30161.E.

F= A design factor of 0.72, except that a design factor of 0.60 is used for pipe, including risers, on a platform located off-shore or on a platform in inland navigable waters, and 0.54 is used for pipe that has been subjected to cold expansion to meet the specified minimum yield strength and is subsequently heated, other than by welding or stress relieving as a part of welding, to temperature higher than 900°F (482°C) for any period of time or over 600°F (316°C) for more than one hour. [49 CFR 195.106(a)]

B. The yield strength to be used in determining the internal design pressure under §30161.A is the specified minimum yield strength. If the specified minimum yield strength is not known, the yield strength to be used in the design formula is one of the following: [49 CFR 195.106(b)]

1. the yield strength determined by performing all of the tensile tests of API Specification 5L on randomly selected specimens with the following number of tests: [49 CFR 195.106(b)(1)(i)]

Pipe Size	Number Of Tests
Less than 6-5/8 in. (168.3 mm) nominal outside diameter	One test for each 200 lengths
6-5/8 through 12-3/4 in. (168 through 323 mm.) nominal outside diameter	One test for each 100 lengths
Larger than 12-3/4 in. (324 mm.) nominal outside diameter	One test for each 50 lengths

2. if the average yield-tensile ratio exceeds 0.85, the yield strength shall be taken as 24,000 psi (165,474 kPa). If the average yield tensile ratio is 0.85 or less, the yield

strength of the pipe is taken as the lower of the following: [49 CFR 195.106(b)(1)(ii)]

a. eighty percent of the average yield strength determined by the tensile tests; [49 CFR 195.106(b)(1)(ii)(A)]

b. the lowest yield strength determined by the tensile tests; [49 CFR 195.106(b)(1)(ii)(B)]

3. if the pipe is not tensile tested as provided in Subsection B, the yield strength shall be taken as 24,000 psi (165,474 kPa). [49 CFR 195.106(b)(2)]

C. If the nominal wall thickness to be used in determining internal design pressure under §30161.A is not known, it is determined by measuring the thickness of each piece of pipe at quarter points on one end. However, if the pipe is of uniform grade, size, and thickness, only 10 individual lengths or five percent of all lengths, whichever is greater, need be measured. The thickness of the lengths that are not measured must be verified by applying a gage set to the minimum thickness found by the measurement. The nominal wall thickness to be used is the next wall thickness found in commercial specifications that is below the average of all the measurement taken. However, the nominal wall thickness may not be more than 1.14 times the smallest measurement taken on pipe that is less than 20 in. (508 mm) nominal outside diameter, nor more than 1.11 times the smallest measurement taken on pipe that is 20 in. (508 mm) or more in nominal outside diameter. [49 CFR 195.106(c)]

D. The minimum wall thickness of the pipe may not be less than 87.5 percent of the value used for nominal wall thickness in determining the internal design pressure under §30161.A. In addition, the anticipated external loads and external pressures that are concurrent with internal pressure must be considered in accordance with §30163 and §30165 and, after determining the internal design pressure, the nominal wall thickness must be increased as necessary to compensate for these concurrent loads and pressures. [49 CFR 195.106(d)]

E.1. The seam joint factor used in §30161.A is determined in accordance with the following table. [49 CFR 195.106(e)]

Specification	Pipe Class	Seam Joint Factor
ASTMA53	Seamless	1.00
	Electric resistance Welded	1.00
	Furnace lap welded	0.80
	Furnace butt welded	0.60
ASTMA 106	Seamless	1.00
	Seamless	1.00
ASTMA 333/A 333M	Seamless	1.00
	Welded	1.00
ASTMA381	Double submerged arc welded	1.00
ASTMA671	Electric fusion welded	1.00
ASTMA672	Electric fusion welded	1.00
ASTMA691	Electric fusion welded	1.00
API 5L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
	Furnace lap welded	0.80
	Furnace butt welded	0.60

2. The seam joint factor for pipe which is not covered by this Subsection must be approved by the Commissioner/Administrator. [49 CFR 195.106(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:441 (1994), LR 21:817 (August 1995), LR 27:1525 (September 2001), LR 29:

§30163. External Pressure [49 CFR 195.108]

A. Any external pressure that will be exerted on the pipe must be provided for in designing a pipeline system. [49 CFR 195.108]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:441 (1994), LR 29:

§30165. External Loads [49 CFR 195.110]

A. Anticipated external loads (e.g., earthquakes, vibration, thermal expansion, and contraction) must be provided for in designing a pipeline system. In providing for expansion and flexibility, Section 419 of ASME/ANSI B31.4 must be followed. [49 CFR 195.110(a)]

B. The pipe and other components must be supported in such a way that the support does not cause excess localized stresses. In designing attachments to pipe, the added stress to the wall of the pipe must be computed and compensated for. [49 CFR 195.110(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:441 (1994), LR 29:

§30167. Fracture Propagation [49 CFR 195.111]

A. A carbon dioxide pipeline system must be designed to mitigate the effects of fracture propagation. [49 CFR 195.111]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18:864 (August 1992), amended LR 29:

§30169. New Pipe [49 CFR 195.112]

A. Any new pipe installed in a pipeline system must comply with the following. [49 CFR 195.112]

1. The pipe must be made of steel of the carbon, low alloy-high strength, or alloy type that is able to withstand the internal pressures and external loads and pressures anticipated for the pipeline system. [49 CFR 195.112(a)]

2. The pipe must be made in accordance with a written pipe specification that sets forth the chemical requirements for the pipe steel and mechanical tests for the pipe to provide pipe suitable for the use intended. [49 CFR 195.112(b)]

3. Each length of pipe with a nominal outside diameter of 4-1/2 in. (114.3 mm) or more must be marked on the pipe or pipe coating with the specification to which it was made, the specified minimum yield strength or grade, and the pipe size. The marking must be applied in a manner that does not damage the pipe or pipe coating and must remain visible until the pipe is installed. [49 CFR 195.112(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR

15:629 (August 1989), amended LR 21:817 (August 1995), LR 27:1525 (September 2001), LR 29:

§30171. Used Pipe [49 CFR 195.114]

A. Any used pipe installed in a pipeline system must comply with §30169.A.1.2, and the following. [49 CFR 195.114]

1. The pipe must be of a known specification and the seam joint factor must be determined in accordance with §30161.E. If the specified minimum yield strength or the wall thickness is not known, it is determined in accordance with §30161.B or §30161.C as appropriate. [49 CFR 195.114(a)]

2. There may not be any: [49 CFR 195.114(b)]

a. buckles; [49 CFR 195.114(b)(1)]

b. cracks, grooves, gouges, dents, or other surface defects that exceed the maximum depth of such a defect permitted by the specification to which the pipe was manufactured; or [49 CFR 195.114(b)(2)]

c. corroded areas where the remaining wall thickness is less than the minimum thickness required by the tolerances in the specification to which the pipe was manufactured. However, pipe that does not meet the requirements of §30171.A.2.c. may be used if the operating pressure is reduced to be commensurate with the remaining wall thickness. [49 CFR 195.114(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 29:

§30173. Valves [49 CFR 195.116]

A. Each valve installed in a pipeline system must comply with the following. [49 CFR 195.116]

1. The valve must be of a sound engineering design. [49 CFR 195.116(a)]

2. Materials subject to the internal pressure of the pipeline system, including welded and flanged ends, must be compatible with the pipe or fittings to which the valve is attached. [49 CFR 195.116(b)]

3. Each part of the valve that will be in contact with the carbon dioxide or hazardous liquid stream must be made of materials that are compatible with carbon dioxide or each hazardous liquid that it is anticipated will flow through the pipeline system. [49 CFR 195.116(c)]

4. Each valve must be both hydrostatically shell tested and hydrostatically seat tested without leakage to at least the requirements set forth in section 5 of API Standard 6D. [49 CFR 195.116(d)]

5. Each valve other than a check valve must be equipped with a means for clearly indicating the position of the valve (open, closed, etc.). [49 CFR 195.116(e)]

6. Each valve must be marked on the body or the nameplate, with at least the following: [49 CFR 195.116(f)]

a. manufacturer's name or trademark; [49 CFR 195.116(f)(1)]

b. class designation or the maximum working pressure to which the valve may be subjected; [49 CFR 195.116(f)(2)]

c. body material designation (the end connection material, if more than one type is used); [49 CFR 195.116(f)(3)]

d. nominal valve size. [49 CFR 195.116(f)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 29:

§30175. Fittings [49 CFR 195.118]

A. Butt-welding type fittings must meet the marking, end preparation, and the bursting strength requirements of ASME/ANSI B16.9 or MSS Standard Practice SP-75. [49 CFR 195.118(a)]

B. There may not be any buckles, dents, cracks, gouges, or other defects in the fitting that might reduce the strength of the fitting. [49 CFR 195.118(b)]

C. The fitting must be suitable for the intended service and be at least as strong as the pipe and other fittings in the pipeline system to which it is attached. [49 CFR 195.118(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:441 (1994), LR 29:

§30177. Passage of Internal Inspection Devices [49 CFR 195.120]

A. Except as provided in Subsections B and C of this Section, each new pipeline and each line section of a pipeline where the line pipe, valve, fitting or other line component is replaced; must be designed and constructed to accommodate the passage of instrumented internal inspection devices. [49 CFR 195.120(a)]

B. This Section does not apply to: [49 CFR 195.120(b)]

1. manifolds; [49 CFR 195.120(b)(1)]

2. station piping such as at pump stations, meter stations, or pressure reducing stations; [49 CFR 195.120(b)(2)]

3. piping associated with tank farms and other storage facilities; [49 CFR 195.120(b)(3)]

4. cross-overs; [49 CFR 195.120(b)(4)]

5. sizes of pipe for which an instrumented internal inspection device is not commercially available; [49 CFR 195.120(b)(5)]

6. offshore pipelines, other than main lines 10 inches (254 mm.) or greater in nominal diameter, that transport liquids to onshore facilities; and [49 CFR 195.120(b)(6)]

7. other piping that the administrator under CFR Part 190.9 and the Commissioner under Chapter 313 of this Subpart, finds in a particular case would be impracticable to design and construct to accommodate the passage of instrumented internal inspection devices. [49 CFR 195.120(b)(7)]

C. An operator encountering emergencies, construction time constraints and other unforeseen construction problems need not construct a new or replacement segment of a pipeline to meet §30177.A, if the operator determines and documents why an impracticability prohibits compliance with §30177.A. Within 30 days after discovering the emergency or construction problem the operator must petition, under CFR Part 190 and Chapter 313 of this Subpart, for approval that design and construction to accommodate passage of instrumented internal inspection devices would be impracticable. If the petition is denied,

within one year after the date of the notice of the denial, the operator must modify that segment to allow passage of instrumented internal inspection devices. [49 CFR 195.120(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:817 (August 1995), LR 27:1526 (September 2001), LR 29:

§30179. Fabricated Branch Connections [49 CFR 195.122]

A. Each pipeline system must be designed so that the addition of any fabricated branch connections will not reduce the strength of the pipeline system. [49 CFR 195.122]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 29:

§30181. Closures [49 CFR 195.124]

A. Each closure to be installed in a pipeline system must comply with the ASME Boiler and Pressure Vessel Code, section VIII, Pressure Vessels, Division 1, and must have pressure and temperature ratings at least equal to those of the pipe to which the closure is attached. [49 CFR 195.124]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 29:

§30183. Flange Connection [49 CFR 195.126]

A. Each component of a flange connection must be compatible with each other component and the connection as a unit must be suitable for the service in which it is to be used. [49 CFR 195.126]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 29:

§30185. Station Piping [49 CFR 195.128]

A. Any pipe to be installed in a station that is subject to system pressure must meet the applicable requirements of this Subchapter. [49 CFR 195.128]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 29:

§30187. Fabricated Assemblies [49 CFR 195.130]

A. Each fabricated assembly to be installed in a pipeline system must meet the applicable requirements of this Subchapter. [49 CFR 195.130]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 29:

§30189. Design and Construction of Above Ground Breakout Tanks [49 CFR 195.132]

A. Each above ground breakout tank must be designed and constructed to withstand the internal pressure produced by the hazardous liquid to be stored therein and any anticipated external loads. [49 CFR 195.132(a)]

B. For aboveground breakout tanks first placed in service after October 2, 2000, compliance with Paragraph A. of this Section requires one of the following. [49 CFR 195.132(b)]

1. Shop-fabricated, vertical, cylindrical, closed top, welded steel tanks with nominal capacities of 90 to 750 barrels (14.3 to 119.2 m³) and with internal vapor space pressures that are approximately atmospheric must be designed and constructed in accordance with API Specification 12F. [49 CFR 195.132(b)(1)]

2. Welded, low-pressure [i.e., internal vapor space pressure not greater than 15 psig (103.4 kPa)], carbon steel tanks that have wall shapes that can be generated by a single vertical axis of revolution must be designed and constructed in accordance with API Standard 620. [49 CFR 195.132(b)(2)]

3. Vertical, cylindrical, welded steel tanks with internal pressures at the tank top approximately atmospheric pressures [i.e., internal vapor space pressures not greater than 2.5 psig (17.2 kPa), or not greater than the pressure developed by the weight of the tank roof] must be designed and constructed in accordance with API Standard 650. [49 CFR 195.132(b)(3)]

4. High pressure steel tanks [i.e., internal gas or vapor space pressures greater than 15 psig (103.4 kPa)] with a nominal capacity of 2000 gallons (7571 liters) or more of liquefied petroleum gas (LPG) must be designed and constructed in accordance with API Standard 2510. [49 CFR 195.132(b)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30191. CPM Leak Detection [49 CFR 195.134]

A. This Section applies to each hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid). On such systems, each new computational pipeline monitoring (CPM) leak detection system and each replaced component of an existing CPM system must comply with section 4.2 of API 1130 in its design and with any other design criteria addressed in API 1130 for components of the CPM leak detection system. [49 CFR 195.134]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1526 (September 2001).

Chapter 302. Transportation of Hazardous Liquids by Pipeline Construction [49 CFR Part 195 Subpart D]

§30200. Scope [49 CFR 195.200]

A. This Chapter prescribes minimum requirements for constructing new pipeline systems with steel pipe, and for relocating, replacing, or otherwise changing existing pipeline systems that are constructed with steel pipe. However, this Chapter does not apply to the movement of pipe covered by §30424. [49 CFR 195.200]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30202. Compliance with Specifications or Standards.
[49 CFR 195.202]

A. Each pipeline system must be constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of this Subpart. [49 CFR 195.202]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30204. InspectionC General [49 CFR 195.204]

A. Inspection must be provided to ensure the installation of pipe or pipeline systems in accordance with the requirements of this Chapter. Each operator shall notify by facsimile [(225) 342-5529] the Pipeline Safety Section of the Office of Conservation, Louisiana Department of Natural Resources, of proposed pipeline construction at least seven days prior to commencement of said construction. No person may be used to perform inspections unless that person has been trained and is qualified in the phase of construction to be inspected. [49 CFR 195.204]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30205. Repair, Alteration and Reconstruction of Aboveground Breakout Tanks that Have Been in Service [49 CFR 195.205]

A. Aboveground breakout tanks that have been repaired, altered, or reconstructed and returned to service must be capable of withstanding the internal pressure produced by the hazardous liquid to be stored therein and any anticipated external loads. [49 CFR 195.205(a)]

B. After October 2, 2000, compliance with Subsection A of this Section requires the following for the tanks specified. [49 CFR 195.205(b)]

1. For tanks designed for approximately atmospheric pressure constructed of carbon and low alloy steel, welded or riveted, and non-refrigerated and tanks built to API Standard 650 or its predecessor Standard 12C, repair, alteration, and reconstruction must be in accordance with API Standard 653. [49 CFR 195.205(b)(1)]

2. For tanks built to API Specification 12F or API Standard 620, the repair, alteration, and reconstruction must be in accordance with the design, welding, examination, and material requirements of those respective standards. [49 CFR 195.205(b)(2)]

3. For high pressure tanks built to API Standard 2510, repairs, alterations, and reconstruction must be in accordance with API 510. [49 CFR 195.205(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30206. Material Inspection [49 CFR 195.206]

A. No pipe or other component may be installed in a pipeline system unless it has been visually inspected at the site of installation to ensure that it is not damaged in a manner that could impair its strength or reduce its serviceability. [49 CFR 195.206]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30208. Welding of Supports and Braces
[49 CFR 195.208]

A. Supports or braces may not be welded directly to pipe that will be operated at a pressure of more than 100 p.s.i. (689 Kpa) gage. [49 CFR 195.208]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30210. Pipeline Location [49 CFR 195.210]

A. Pipeline right-of-way must be selected to avoid, as far as practicable, areas containing private dwellings, industrial buildings, and places of public assembly. [49 CFR 195.210(a)]

B. No pipeline may be located within 50 feet (15 meters) of any private dwelling, or any industrial building or place of public assembly in which persons work, congregate, or assemble, unless it is provided with at least 12 inches (305 millimeters) of cover in addition to that prescribed in §30248. [49 CFR 195.210(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30212. Bending of Pipe [49 CFR 195.212]

A. Pipe must not have a wrinkle bend. [49 CFR 195.212(a)]

B. Each field bend must comply with the following: [49 CFR 195.212(b)]

1. a bend must not impair the serviceability of the pipe; [49 CFR 195.212(b)(1)]

2. each bend must have a smooth contour and be free from buckling, cracks, or any other mechanical damage; [49 CFR 195.212(b)(2)]

3. on pipe containing a longitudinal weld, the longitudinal weld must be as near as practicable to the neutral axis of the bend unless: [49 CFR 195.212(b)(3)]

a. the bend is made with an internal bending mandrel; or [49 CFR 195.212(b)(3)(i)]

b. the pipe is 12-3/4 in. (324 mm.) or less nominal outside diameter or has a diameter to wall thickness ratio less than 70. [49 CFR 195.212(b)(3)(ii)]

C. Each circumferential weld which is located where the stress during bending causes a permanent deformation in the pipe must be nondestructively tested either before or after the bending process. [49 CFR 195.212(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30214. Welding: General [49 CFR 195.214]

A. Welding must be performed by qualified welder in accordance with welding procedures qualified to produce welds meeting the requirements of this Chapter. The quality of the test welds used to qualify the procedure shall be determined by destructive testing. [49 CFR 195.214(a)]

B. Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used. [49 CFR 195.214(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30216. Welders: Miter Joints [49 CFR 195.216]

A. A miter joint is not permitted (not including deflections up to three degrees that are caused by misalignment). [49 CFR 195.216]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30222. Welding: Qualification of Welders [49 CFR 195.222]

A. Each welder must be qualified in accordance with section 3 of API Standard 1104 or section IX of the ASME Boiler and Pressure Vessel Code, except that a welder qualified under an earlier edition than listed in §30107 may weld but may not requalify under that earlier edition. [49 CFR 195.222]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30224. Welding: Weather. [49 CFR 195.224]

A. Welding must be protected from weather conditions that would impair the quality of the completed weld. [49 CFR 195.224]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30226. Welding: Arc Burns [49 CFR 195.226]

A. Each arc burn must be repaired. [49 CFR 195.226(a)]

B. An arc burn may be repaired by completely removing the notch by grinding, if the grinding does not reduce the remaining wall thickness to less than the minimum thickness required by the tolerances in the specification to which the pipe is manufactured. If a notch is not repairable by grinding, a cylinder of the pipe containing the entire notch must be removed. [49 CFR 195.226(b)]

C. A ground may not be welded to the pipe or fitting that is being welded. [49 CFR 195.226(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30228. Welds and Welding Inspection: Standards of Acceptability [49 CFR 195.228]

A. Each weld and welding must be inspected to insure compliance with the requirements of this Chapter. Visual inspection must be supplemented by nondestructive testing. [49 CFR 195.228(a)]

B. The acceptability of a weld is determined according to the standards in Section 6 of API Standard 1104. However, if

a girth weld is unacceptable under those standards for a reason other than a crack, and if the Appendix to API Standard 1104 applies to the weld, the acceptability of the weld may be determined under that appendix. [49 CFR 195.228(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30230. Welds: Repair or Removal of Defects [49 CFR 195.230]

A. Each weld that is unacceptable under §30228 must be removed or repaired. Except for welds on an off-shore pipeline being installed from a pipelay vessel, a weld must be removed if it has a crack that is more than 8 percent of the weld length. [49 CFR 195.230(a)]

B. Each weld that is repaired must have the defect removed down to sound metal and the segment to be repaired must be preheated if conditions exist which would adversely affect the quality of the weld repair. After repair, the segment of the weld that was repaired must be inspected to ensure its acceptability. [49 CFR 195.230(b)]

C. Repair of a crack, or of any defect in a previously repaired area must be in accordance with written weld repair procedures that have been qualified under §30214. Repair procedures must provide that the minimum mechanical properties specified for the welding procedure used to make the original weld are met upon completion of the final weld repair. [49 CFR 195.230(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30234. Welds: Nondestructive Testing [49 CFR 195.234]

A. A weld may be nondestructively tested by any process that will clearly indicate any defects that may affect the integrity of the weld. [49 CFR 195.234(a)]

B. Any nondestructive testing of welds must be performed: [49 CFR 195.234(b)]

1. in accordance with a written set of procedures for nondestructive testing; and [49 CFR 195.234(b)(1)]

2. with personnel that have been trained in the established procedures and in the use of the equipment employed in the testing. [49 CFR 195.234(b)(2)]

C. Procedures for the proper interpretation of each weld inspection must be established to ensure the acceptability of the weld under §30228. [49 CFR 195.234(c)]

D. During construction, at least 10 percent of the girth welds made by each welder during each welding day must be nondestructively tested over the entire circumference of the weld. [49 CFR 195.234(d)]

E. All girth welds installed each day in the following locations must be nondestructively tested over their entire circumference, except that when nondestructive testing is impracticable for a girth weld, it need not be tested if the number of girth welds for which testing is impracticable does not exceed 10 percent of the girth welds installed that day: [49 CFR 195.234(e)]

1. at any onshore location where a loss of hazardous liquid could reasonably be expected to pollute any stream,

river, lake, reservoir, or other body of water, and any offshore area; [49 CFR 195.234(e)(1)]

2. within railroad or public road rights-of-way; [49 CFR 195.234(e)(2)]

3. at overhead road crossings and within tunnels; [49 CFR 195.234(e)(3)]

4. within the limits of any incorporated subdivision of a state government; and [49 CFR 195.234(e)(4)]

5. within populated areas, including, but not limited to, residential subdivisions, shopping centers, schools, designated commercial areas, industrial facilities, public institutions, and places of public assembly. [49 CFR 195.234(e)(5)]

F. When installing used pipe, 100 percent of the old girth welds must be nondestructively tested. [49 CFR 195.234(f)]

G. At pipeline tie-ins, including tie-ins of replacement sections, 100 percent of the girth welds must be nondestructively tested. [49 CFR 195.234(g)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30246. Installation of Pipe in a Ditch [49 CFR 195.246]

A. All pipe installed in a ditch must be installed in a manner that minimizes the introduction of secondary stresses and the possibility of damage to the pipe. [49 CFR 195.246(a)]

B. Except for pipe in the Gulf of Mexico and its inlets, all offshore pipe in water at least 12 feet (3.7 m.) deep but not more than 200 feet (61 m.) deep, as measured from the mean low tide, must be installed so that the top of the pipeline is below the natural bottom unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means. [49 CFR 195.246(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30248. Cover over Buried Pipeline [49 CFR 195.248]

A. Unless specifically exempted in this Chapter, all pipe must be buried so that it is below the level of cultivation. Except as provided in §30248.B, the pipe must be installed so that the cover between the top of the pipe and the ground level, road bed, river bottom, or sea bottom, as applicable, complies with the following table: [49 CFR 195.248(a)]

Location	Cover (Inches)(Millimeters)	
	For Normal Excavation	For Rock Excavation ¹
Industrial, commercial and residential area	36 (914)	30 (762)
Crossings of inland bodies of water with a width of at least 100 ft. (30 meters) from high water mark to high water mark	48 (1219)	18 (457)
Drainage ditches at public roads and railroads	36 (914)	36 (914)
Deepwater port safety zone	48 (1219)	24 (610)

Gulf of Mexico and its inlets and other offshore areas under water less than 12 ft. (3.7 meters) deep as measured from the mean low tide	36 (914)	18 (457)
Any other area	30 (762)	18 (457)

¹Rock excavation is any excavation that requires blasting or removal by equivalent means.

B. Except for the Gulf of Mexico and its inlets, less cover than the minimum required by §30248.A and §30210 may be used if: [49 CFR 195.248(b)]

1. it is impracticable to comply with the minimum cover requirements; and [49 CFR 195.248(b)(1)]

2. additional protection is provided that is equivalent to the minimum required cover. [49 CFR 195.248(b)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30250. Clearance Between Pipe and Underground Structures [49 CFR 195.250]

A. Any pipe installed underground must have at least 12 inches (305 millimeters) of clearance between the outside of the pipe and the extremity of any other underground structure, except that for drainage tile the minimum clearance may be less than 12 inches (305 millimeters) but not less than two inches (51 millimeters). However, where 12 inches (305 millimeters) of clearance is impracticable, the clearance may be reduced if adequate provisions are made for corrosion control. [49 CFR 195.250]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30252. Backfilling [49 CFR 195.252]

A. Backfilling must be performed in a manner that protects any pipe coating and provides firm support for the pipe. [49 CFR 195.252]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30254. Above Ground Components [49 CFR 195.254]

A. Any component may be installed above ground in the following situations, if the other applicable requirements of this Subpart are complied with: [49 CFR 195.254(a)]

1. overhead crossing of highways, railroads, or body of water; [49 CFR 195.254(a)(1)]

2. spans over ditches and gullies; [49 CFR 195.254(a)(2)]

3. scraper traps or block valves; [49 CFR 195.254(a)(3)]

4. area under the direct control of the operator; [49 CFR 195.254(a)(4)]

5. in any area inaccessible to the public. [49 CFR 195.254(a)(5)]

B. Each component covered by §30254 must be protected from the forces exerted by the anticipated loads. [49 CFR 195.254(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30256. Crossing of Railroads and Highways [49 CFR 195.256]

A. The pipe at each railroad or highway crossing must be installed so as to adequately withstand the dynamic forces exerted by anticipated traffic loads. [49 CFR 195.256]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30258. Valves: General [49 CFR 195.258]

A. Each valve must be installed in a location that is accessible to authorized employees and that is protected from damage or tampering. [49 CFR 195.258(a)]

B. Each submerged valve located offshore or in inland navigable waters must be marked, or located by conventional survey techniques, to facilitate quick location when operation of the valve is required. [49 CFR 195.258(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30260. Valves: Location [49 CFR 195.260]

A. A valve must be installed at each of the following locations: [49 CFR 195.260]

1. on the suction end and the discharge end of a pump station in a manner that permits isolation of the pump station equipment in the event of an emergency; [49 CFR 195.260(a)]

2. on each line entering or leaving a breakout storage tank area in a manner that permits isolation of the tank area from other facilities; [49 CFR 195.260(b)]

3. on each mainline at locations along the pipeline system that will minimize damage or pollution from accidental hazardous liquid discharge, as appropriate for the terrain in open country, for offshore areas, or for populated areas; [49 CFR 195.260(c)]

4. on each lateral takeoff from a trunk line in a manner that permits shutting off the lateral without interrupting the flow in the trunk line; [49 CFR 195.260(d)]

5. on each side of a water crossing that is more than 100 feet (30 meters) wide from high-water mark to high-water mark unless the Commissioner and Administrator finds in a particular case that valves are not justified; [49 CFR 195.260(e)]

6. on each side of a reservoir holding water for human consumption. [49 CFR 195.260(f)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30262. Pumping Equipment [49 CFR 195.262]

A. Adequate ventilation must be provided in pump station buildings to prevent the accumulation of hazardous vapors. Warning devices must be installed to warn of the

presence of hazardous vapors in the pumping station building. [49 CFR 195.262(a)]

B. The following must be provided in each pump station: [49 CFR 195.262(b)]

1. safety devices that prevent overpressuring of pumping equipment, including the auxiliary pumping equipment within the pumping station; [49 CFR 195.262(b)(1)]

2. a device for the emergency shutdown of each pumping station; [49 CFR 195.262(b)(2)]

3. if power is necessary to actuate the safety devices, an auxiliary power supply. [49 CFR 195.262(b)(3)]

C. Each safety device must be tested under conditions approximating actual operations and found to function properly before the pumping station may be used. [49 CFR 195.262(c)]

D. Except for offshore pipelines, pumping equipment must be installed on property that is under the control of the operator and at least 50 ft. (15.2 m.) from the boundary of the pump station. [49 CFR 195.262(d)]

E. Adequate fire protection must be installed at each pump station. If the fire protection system installed requires the use of pumps, motive power must be provided for those pumps that is separate from the power that operates the station. [49 CFR 195.262(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30264. Impoundment, Protection against Entry, Normal/Emergency Venting or Pressure/Vacuum Relief for Aboveground Breakout Tanks [49 CFR 195.264]

A. A means must be provided for containing hazardous liquids in the event of spillage or failure of an aboveground breakout tank. [49 CFR 195.264(a)]

B. After October 2, 2000, compliance with Paragraph A. of this Section requires the following for the aboveground breakout tank specified. [49 CFR 195.264(b)]

1. For tanks built to API Specification 12F, API Standard 620, and others (such as API Standard 650 or its predecessor Standard 12C), the installation of impoundment must be in accordance with the following sections of NFPA 30: [49 CFR 195.264(b)(1)]

a. impoundment around a breakout tank must be installed in accordance with Section 2-3.4.3; and [49 CFR 195.264(b)(1)(i)]

b. impoundment by drainage to a remote impounding area must be installed in accordance with Section 2-3.4.2. [49 CFR 195.264(b)(1)(ii)]

2. For tanks built to API Standard 2510, the installation of impoundment must be in accordance with Section 3 or 9 of API Standard 2510. [49 CFR 195.264(b)(2)]

C. Aboveground breakout tank areas must be adequately protected against unauthorized entry. [49 CFR 195.264(c)]

D. Normal/emergency relief venting must be provided for each atmospheric pressure breakout tank. Pressure/vacuum-relieving devices must be provided for each low-pressure and high-pressure breakout tank. [49 CFR 195.264(d)]

E. For normal/emergency relief venting and pressure/vacuum-relieving devices installed on aboveground breakout tanks after October 2, 2000, compliance with Subsection D of this Section requires the following for the tanks specified. [49 CFR 195.264(e)]

1. Normal/emergency relief venting installed on atmospheric pressure tanks built to API Specifications 12F must be in accordance with Section 4, and Appendices B and C, of API Specification 12F. [49 CFR 195.264(e)(1)]

2. Normal/emergency relief venting installed on atmospheric pressure tanks (such as those built to API Standard 650 or its predecessor Standard 12C) must be in accordance with API Standard 2000. [49 CFR 195.264(e)(2)]

3. Pressure-relieving and emergency vacuum relieving devices installed on low pressure tanks built to API Standard 620 must be in accordance with Section 7 of API Standard 620 and its references to the normal and emergency venting requirements in API Standard 2000. [49 CFR 195.264(e)(3)]

4. Pressure and vacuum-relieving devices installed on high pressure tanks built to API Standard 2510 must be in accordance with Sections 5 or 9 of API Standard 2510. [49 CFR 195.264(e)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30266. Construction Records [49 CFR 195.266]

A. A complete record that shows the following must be maintained by the operator involved for the life of each pipeline facility: [49 CFR 195.266]

1. the total number of girth welds and the number nondestructively tested, including the number rejected and the disposition of each rejected weld; [49 CFR 195.266(a)]

2. the amount, location, and cover of each size of pipe installed; [49 CFR 195.266(b)]

3. the location of each crossing of another pipeline; [49 CFR 195.266(c)]

4. the location of each buried utility crossing; [49 CFR 195.266(d)]

5. the location of each overhead crossing; [49 CFR 195.266(e)]

6. the location of each valve and corrosion test station. [49 CFR 195.266(f)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

Chapter 303. Transportation of Hazardous Liquids by PipelineC Pressure Testing [49 CFR Part 195 Subpart E]

§30300. Scope [49 CFR 195.300]

A. This Chapter prescribes minimum requirements for the pressure testing of steel pipelines. However, this Chapter does not apply to movement of pipe under §30424. [49 CFR 195.300]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30302. General Requirements [49 CFR 195.302]

A. Except as otherwise provided in this Section and in §30305.B, no operator may operate a pipeline unless it has been pressure tested under this Chapter without leakage. In addition, no operator may return to service a segment of pipeline that has been replaced, relocated, or otherwise changed until it has been pressure tested under this Chapter without leakage. [49 CFR 195.302(a)]

B. Except for pipelines converted under §30111, the following pipelines may be operated without pressure testing under this Chapter. [49 CFR 195.302(b)]

1. Any hazardous liquid pipeline whose maximum operating pressure is established under §30406.A.5 that is: [49 CFR 195.302(b)(1)]

a. an interstate pipeline constructed before January 8, 1971; [49 CFR 195.302(b)(1)(i)]

b. an interstate offshore gathering line constructed before August 1, 1977; [49 CFR 195.302(b)(1)(ii)]

c. an intrastate pipeline constructed before October 21, 1985; or [49 CFR 195.302(b)(1)(iii)]

d. a low-stress pipeline constructed before August 11, 1994 that transports HVL. [49 CFR 195.302(b)(1)(iv)]

2. Any carbon dioxide pipeline constructed before July 12, 1991, that: [49 CFR 195.302(b)(2)]

a. has its maximum operating pressure established under §30406.A.5; or [49 CFR 195.302(b)(2)(i)]

b. is located in a rural area as part of a production field distribution system. [49 CFR 195.302(b)(2)(ii)]

3. Any low-stress pipeline constructed before August 11, 1994 that does not transport HVL. [49 CFR 195.302(b)(3)]

C. Except for pipelines that transport HVL onshore and low-stress pipelines, the following compliance deadlines apply to pipelines under Subsection B.1 and B.2.a of this Section that have not been pressure tested under this Chapter. [49 CFR 195.302(c)]

1. Before December 7, 1998, for each pipeline each operator shall: [49 CFR 195.302(c)(1)]

a. plan and schedule testing, according to this subsection; or [49 CFR 195.302(c)(1)]

b. establish the pipelines maximum operating pressure under §30406.A.5. [49 CFR 195.302(c)(1)(ii)]

2. For pipelines scheduled for testing, each operator shall: [49 CFR 195.302(c)(2)]

a. before December 7, 2000, pressure test: [49 CFR 195.302(c)(2)(i)]

i. each pipeline identified by name, symbol, or otherwise that existing records show contains more than 50 percent by mileage (length) of electric resistance welded pipe manufactured before 1970; and [49 CFR 195.302(c)(2)(i)(A)]

ii. at least 50 percent of the mileage (length) of all other pipelines; and [49 CFR 195.302(c)(2)(i)(B)]

b. before December 7, 2003, pressure test the remainder of the pipeline mileage (length). [49 CFR 195.302(c)(2)(ii)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30304. Test Pressure [49 CFR 195.304]

A. The test pressure for each pressure test conducted under this Chapter must be maintained throughout the part of the system being tested for at least four continuous hours at a pressure equal to 125 percent, or more, of the maximum operating pressure and, in the case of a pipeline that is not visually inspected for leakage during the test, for at least an additional four continuous hours at a pressure equal to 110 percent, or more, of the maximum operating pressure. [49 CFR 195.304]

AUTHORITY NOTE: Promulgated in accordance with R.S.30:703

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30305. Testing of Components [49 CFR 195.305]

A. Each pressure test under §30302 must test all pipe and attached fittings, including components, unless otherwise permitted by §30305.B. [49 CFR 195.305(a)]

B. A component, other than pipe, that is the only item being replaced or added to the pipeline system need not be hydrostatically tested under §30305.A if the manufacturer certifies that either: [49 CFR 195.305(b)]

1. the component was hydrostatically tested at the factory; or [49 CFR 195.305(b)(1)]

2. the component was manufactured under a quality control system that ensures each component is at least equal in strength to a prototype that was hydrostatically tested at the factory. [49 CFR 195.305(b)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30306. Test Medium [49 CFR 195.306]

A. Except as provided in §30306.B, C, and D, water must be used as the test medium. [49 CFR 195.306(a)]

B. Except for offshore pipelines, liquid petroleum that does not vaporize rapidly may be used as the test medium if: [49 CFR 195.306(b)]

1. the entire pipeline section under test is outside of cities and other populated areas; [49 CFR 195.306(b)(1)]

2. each building within 300 feet (91 meters) of the test section is unoccupied while the test pressure is equal to or greater than a pressure which produces a hoop stress of 50 percent of specified minimum yield strength; [49 CFR 195.306(b)(2)]

3. the test section is kept under surveillance by regular patrols during the test; and [49 CFR 195.306(b)(3)]

4. continuous communication is maintained along entire test section. [49 CFR 195.306(b)(4)]

C. Carbon dioxide pipelines may use inert gas or carbon dioxide as the test medium if: [49 CFR 195.306(c)]

1. the entire pipeline section under test is outside of cities and other populated areas; [49 CFR 195.306(c)(1)]

2. each building within 300 feet (91 meters) of the test section is unoccupied while the test pressure is equal to or greater than a pressure that produces a hoop stress of 50 percent of specified minimum yield strength; [49 CFR 195.306(c)(2)]

3. the maximum hoop stress during the test does not exceed 80 percent of specified minimum yield strength; [49 CFR 195.306(c)(3)]

4. continuous communication is maintained along entire test section; and [49 CFR 195.306(c)(4)]

5. the pipe involved is new pipe having a longitudinal joint factor of 1.00. [49 CFR 195.306(c)(5)]

D. Air or inert gas may be used as the test medium in low stress pipelines. [49 CFR 195.306(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30307. Pressure Testing Aboveground Breakout Tanks [49 CFR 195.307]

A. For aboveground breakout tanks built to API Specification 12F and first placed in service after October 2, 2000, pneumatic testing must be in accordance with Section 5.3 of API Specification 12 F. [49 CFR 195.307(a)]

B. For aboveground breakout tanks built to API Standard 620 and first placed in service after October 2, 2000, hydrostatic and pneumatic testing must be in accordance with Section 5.18 of API Standard 620. [49 CFR 195.307(b)]

C. For aboveground breakout tanks built to API Standard 650 and first placed in service after October 2, 2000 hydrostatic and pneumatic testing must be in accordance with Section 5.3 of API Standard 650. [49 CFR 195.307(c)]

D. For aboveground atmospheric pressure breakout tanks constructed of carbon and low alloy steel, welded or riveted, and non-refrigerated and tanks built to API Standard 650 or its predecessor Standard 12C that are returned to service after October 2, 2000, the necessity for the hydrostatic testing of repair, alteration, and reconstruction is covered in Section 10.3 of API Standard 653. [49 CFR 195.307(d)]

E. For aboveground breakout tanks built to API Standard 2510 and first placed in service after October 2, 2000 pressure testing must be in accordance with ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 or 2. [49 CFR 195.307(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30308. Testing of Tie-Ins [49 CFR 195.308]

A. Pipe associated with tie-ins must be pressure tested, either with the section to be tied in or separately. [49 CFR 195.308]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30310. Records [49 CFR 195.310]

A. A record must be made of each pressure test required by this Chapter, and the record of the latest test must be retained as long as the facility tested is in use. [49 CFR 195.310(a)]

B. The record required by §30310.A must include: [49 CFR 195.310(b)]

1. the pressure recording charts; [49 CFR 195.310(b)(1)]

2. test instrument calibration data; [49 CFR 195.310(b)(2)]

3. the name of the operator, the name of the person responsible for making the test, and the name of the test company used, if any; [49 CFR 195.310(b)(3)]
4. the date and time of the test; [49 CFR 195.310(b)(4)]
5. the minimum test pressure; [49 CFR 195.310(b)(5)]
6. the test medium; [49 CFR 195.310(b)(6)]
7. a description of the facility tested and the test apparatus; [49 CFR 195.310(b)(7)]
8. an explanation of any pressure discontinuities, including test failures, that appear on the pressure recording charts; and [49 CFR 195.310(b)(8)]
9. where elevation differences in the section under test exceed 100 feet (30 meters), a profile of the pipeline that shows the elevation and test sites over the entire length of the test section. [49 CFR 195.310(b)(9)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

Chapter 304. Transportation of Hazardous Liquids by PipelineC Operation and Maintenance [49 CFR Part 195 Subpart F]

§30400. Scope [49 CFR 195.400]

A. This Chapter prescribes minimum requirements for operating and maintaining pipeline systems constructed with steel pipe. [49 CFR 195.400]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30401. General Requirements [49 CFR 195.401]

A. No operator may operate or maintain its pipeline systems at a level of safety lower than that required by this Chapter and the procedures it is required to establish under §30402.A. [49 CFR 195.401(a)]

B. Whenever an operator discovers any condition that could adversely affect the safe operation of its pipeline system, it shall correct it within a reasonable time. However, if the condition is of such a nature that it presents an immediate hazard to persons or property, the operator may not operate the affected part of the system until it has corrected the unsafe condition. [49 CFR 195.401(b)]

C. Except as provided by §30111, no operator may operate any part of any of the following pipelines unless it was designed and constructed as required by this Subpart: [49 CFR 195.401(c)]

1. an interstate pipeline, other than a low-stress pipeline, on which construction was begun after March 31, 1970, that transports hazardous liquid; [49 CFR 195.401(c)(1)]
2. an interstate offshore gathering line, other than a low-stress pipeline, on which construction was begun after July 31, 1977, that transports hazardous liquid; [49 CFR 195.401(c)(2)]
3. an intrastate pipeline, other than a low-stress pipeline, on which construction was begun after October 20, 1985, that transports hazardous liquid; [49 CFR 195.401(c)(3)]

4. a pipeline, on which construction was begun after July 11, 1991 that transports carbon dioxide; [49 CFR 195.401(c)(4)]

5. a low-stress pipeline on which construction was begun after August 10, 1994. [49 CFR 195.401(c)(5)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30402. Procedural Manual for Operations, Maintenance, and Emergencies [49 CFR 195.402]

A. General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted. [49 CFR 195.402(a)]

B. The administrator or the state agency that has submitted a current certification under the pipeline safety laws (49 U.S.C. 60101 et seq.) with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant state procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety. [49 CFR 195.402(B)]

C. Maintenance and Normal Operations. The manual required by §30402.A must include procedures for the following to provide safety during maintenance and normal operations: [49 CFR 195.402(c)]

1. making construction records, maps, and operating history available as necessary for safe operation and maintenance; [49 CFR 195.402(c)(1)]
2. gathering of data needed for reporting accidents under Chapter 301. Subchapter B in a timely and effective manner; [49 CFR 195.402(c)(2)]
3. operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this Chapter and Subchapter B of Chapter 305; [49 CFR 195.402(c)(3)]
4. determining which pipeline facilities are located in areas that would require an immediate response by the operator to prevent hazards to the public if the facilities failed or malfunctioned; [49 CFR 195.402(c)(4)]
5. analyzing pipeline accidents to determine their causes; [49 CFR 195.402(c)(5)]
6. minimizing the potential for hazards identified under §30402.C.4 and the possibility of recurrence of accidents analyzed under §30402.C.5; [49 CFR 195.402(c)(6)]
7. starting up and shutting down any part of the pipeline system in a manner designed to assure operation within the limits prescribed by §30406, consider the hazardous liquid or carbon dioxide in transportation,

variations in altitude along the pipeline, and pressure monitoring and control devices; [49 CFR 195.402(c)(7)]

8. in the case of a pipeline that is not equipped to fail safe, monitoring from an attended location pipeline pressure during start-up until steady state pressure and flow conditions are reached and during shut-in to assure operation within limits prescribed by §30406; [49 CFR 195.402(c)(8)]

9. in the case of facilities not equipped to fail safe that are identified under §30402.C.4 or that control receipt and delivery of the hazardous liquid or carbon dioxide, detecting abnormal operating conditions by monitoring pressure, temperature, flow or other appropriate operational data and transmitting this data to an attended location; [49 CFR 195.402(c)(9)]

10. abandoning pipeline facilities, including safe disconnection from an operating pipeline system, purging of combustibles, and sealing abandoned facilities left in place to minimize safety and environmental hazards. For each abandoned offshore pipeline facility or each abandoned onshore pipeline facility that crosses over, under or through commercially navigable waterways the last operator of that facility must file a report upon abandonment of that facility in accordance with §30141 of this Subpart. [49 CFR 195.402(c)(10)]

11. minimizing the likelihood of accidental ignition of vapors in areas near facilities identified under §30402.C.4 where the potential exists for the presence of flammable liquids or gases; [49 CFR 195.402(c)(11)]

12. establishing and maintaining liaison with fire, police, and other appropriate public officials to learn the responsibility and resources of each government organization that may respond to a hazardous liquid or carbon dioxide pipeline emergency and acquaint the officials with the operator's ability in responding to a hazardous liquid or carbon dioxide pipeline emergency and means of communication; [49 CFR 195.402(c)(12)]

13. periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found; [49 CFR 195.402(c)(13)]

14. taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available when needed at the excavation, emergency rescue equipment, including a breathing apparatus and, a rescue harness and line. [49 CFR 195.402(c)(14)]

D. Abnormal Operation. The manual required by §30402.A must include procedures for the following to provide safety when operating design limits have been exceeded. [49 CFR 195.402(d)]

1. Responding to, investigating, and correcting the cause of: [49 CFR 195.402(d)(1)]

a. unintended closure of valves or shutdowns; [49 CFR 195.402(d)(1)(i)]

b. increase or decrease in pressure or flow rate outside normal operating limits; [49 CFR 195.402(d)(1)(ii)]

c. loss of communications; [49 CFR 195.402(d)(1)(iii)]

d. operation of any safety device; [49 CFR 195.402(d)(1)(iv)]

e. any other malfunction of a component, deviation from normal operation, or personnel error which could cause a hazard to persons or property. [49 CFR 195.402(d)(1)(v)]

2. Checking variations from normal operation after abnormal operation has ended at sufficient critical locations in the system to determine continued integrity and safe operation. [49 CFR 195.402(d)(2)]

3. Correcting variations from normal operation of pressure and flow equipment and controls. [49 CFR 195.402(d)(3)]

4. Notifying responsible operator personnel when notice of an abnormal operation is received. [49 CFR 195.402(d)(4)]

5. Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found. [49 CFR 195.402(d)(5)]

E. Emergencies. The manual required by §30402.A must include procedures for the following to provide safety when an emergency condition occurs. [49 CFR 195.402(e)]

1. receiving, identifying, and classifying notices of events which need immediate response by the operator or notice to fire, police, or other appropriate public officials and communicating this information to appropriate operator personnel for corrective action; [49 CFR 195.402(e)(1)]

2. prompt and effective response to a notice of each type of emergency, including fire or explosion occurring near or directly involving a pipeline facility, accidental release of hazardous liquid or carbon dioxide from a pipeline facility, operational failure causing a hazardous condition, and natural disaster affecting pipeline facilities; [49 CFR 195.402(e)(2)]

3. having personnel, equipment, instruments, tools, and material available as needed at the scene of an emergency; [49 CFR 195.402(e)(3)]

4. taking necessary action, such as emergency shutdown or pressure reduction, to minimize the volume of hazardous liquid or carbon dioxide that is released from any section of a pipeline system in the event of a failure; [49 CFR 195.402(e)(4)]

5. control of released hazardous liquid or carbon dioxide at an accident scene to minimize the hazards, including possible intentional ignition in the cases of flammable highly volatile liquid; [49 CFR 195.402(e)(5)]

6. minimization of public exposure to injury and probability of accidental ignition by assisting with evacuation of residents and assisting with halting traffic on roads and railroads in the affected area, or taking other appropriate action; [49 CFR 195.402(e)(6)]

7. notifying fire, police, and other appropriate public officials of hazardous liquid or carbon dioxide pipeline emergencies and coordinating with them preplanned and actual responses during an emergency, including additional precautions necessary for an emergency involving a pipeline system transporting a highly volatile liquid; [49 CFR 195.402(e)(7)]

8. in the case of failure of a pipeline system transporting a highly volatile liquid, use of appropriate instruments to assess the extent and coverage of the vapor cloud and determine the hazardous area; [49 CFR 195.402(e)(8)]

9. providing for a post accident review of employee activities to determine whether the procedures were effective in each emergency and taking corrective action where deficiencies are found. [49 CFR 195.402(e)(9)]

F. Safety-Related Condition Reports. The manual required by §30402.A must include instructions enabling personnel who perform operation and maintenance activities to recognize conditions that potentially may be safety-related conditions that are subject to the reporting requirements of §30133. [49 CFR 195.402(f)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30403. Emergency Response Training [49 CFR 195.403]

A. Each operator shall establish and conduct a continuing training program to instruct emergency response personnel to: [49 CFR 195.403(a)]

1. carry out the emergency procedures established under §30402 that relate to their assignments; [49 CFR 195.403(a)(1)]

2. know the characteristics and hazards of the hazardous liquids or carbon dioxide transported, including, in case of flammable HVL, flammability of mixtures with air, odorless vapors, and water reactions; [49 CFR 195.403(a)(2)]

3. recognize conditions that are likely to cause emergencies, predict the consequences of facility malfunctions or failures and hazardous liquids or carbon dioxide spills, and take appropriate corrective action; [49 CFR 195.403(a)(3)]

4. take steps necessary to control any accidental release of hazardous liquid or carbon dioxide and to minimize the potential for fire, explosion, toxicity, or environmental damage; and [49 CFR 195.403(a)(4)]

5. learn the proper use of firefighting procedures and equipment, fire suits, and breathing apparatus by utilizing, where feasible, a simulated pipeline emergency condition. [49 CFR 195.403(a)(5)]

B. At the intervals not exceeding 15 months, but at least once each calendar year, each operator shall: [49 CFR 195.403(b)]

1. review with personnel their performance in meeting the objectives of the emergency response training program set forth in Subsection A of this Section; and [49 CFR 195.403(b)(1)]

2. make appropriate changes to the emergency response training program as necessary to ensure that it is effective. [49 CFR 195.403(b)(2)]

C. Each operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under §30402 for which they are responsible to ensure compliance. [49 CFR 195.403(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30404. Maps and Records [49 CFR 195.404]

A. Each operator shall maintain current maps and records of its pipeline systems that include at least the following information: [49 CFR 195.404(a)]

1. location and identification of the following pipeline facilities: [49 CFR 195.404(a)(1)]

a. breakout tanks; [49 CFR 195.404(a)(1)(i)]

b. pump stations; [49 CFR 195.404(a)(1)(ii)]

c. scraper and sphere facilities; [49 CFR 195.404(a)(1)(iii)]

d. pipeline valves; [49 CFR 195.404(a)(1)(iv)]

e. facilities to which §30402.C.9 applies; [49 CFR 195.404(a)(1)(v)]

f. rights-of-way; and [49 CFR 195.404(a)(1)(vi)]

g. safety devices to which §30428 applies; [49 CFR 195.404(a)(1)(vii)]

2. all crossings of public roads, railroads, rivers, buried utilities, and foreign pipelines; [49 CFR 195.404(a)(2)]

3. the maximum operating pressure of each pipeline; [49 CFR 195.404(a)(3)]

4. the diameter, grade, type, and nominal wall thickness of all pipe. [49 CFR 195.404(a)(4)]

B. Each operator shall maintain for at least three years daily operating records that indicate: [49 CFR 195.404(b)]

1. the discharge pressure at each pump station; and [49 CFR 195.404(b)(1)]

2. any emergency or abnormal operation to which the procedures under §30402 apply. [49 CFR 195.404(b)(2)]

C. Each operator shall maintain the following records for the periods specified: [49 CFR 195.404(c)]

1. the date, location, and description of each repair made to pipe shall be maintained for the useful life of the pipe; [49 CFR 195.404(c)(1)]

2. the date, location, and description of each repair made to parts of the pipeline system other than pipe shall be maintained for at least one year; [49 CFR 195.404(c)(2)]

3. a record of each inspection and test required by this Chapter shall be maintained for at least two years or until the next inspection or test is performed, whichever is longer. [49 CFR 195.404(c)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30405. Protection against Ignitions and Safe Access/Egress Involving Floating Roofs [49 CFR 195.405]

A. After October 2, 2000, protection provided against ignitions arising out of static electricity, lightning, and stray currents during operation and maintenance activities involving aboveground breakout tanks must be in accordance with API Recommended Practice 2003, unless the operator notes in the procedural manual [§30402.C] why compliance with all or certain provisions of API Recommended Practice 2003 is not necessary for the safety of a particular breakout tank. [49 CFR 195.405(a)]

B. The hazards associated with access/egress onto floating roofs of in-service aboveground breakout tanks to perform inspection, service, maintenance or repair activities

(other than specified general considerations, specified routine tasks or entering tanks removed from service for cleaning) are addressed in API Publication 2026. After October 2, 2000, the operator must review and consider the potentially hazardous conditions, safety practices and procedures in API Publication 2026 for inclusion in the procedure manual [§30402.C]. [49 CFR 195.405(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30406. Maximum Operating Pressure [49 CFR 195.406]

A. Except for surge pressures and other variations from normal operations, no operator may operate a pipeline at a pressure that exceeds any of the following: [49 CFR 195.406(a)]

1. the internal design pressure of the pipe determined in accordance with §30161. However, for steel pipe in pipelines being converted under §30111, if one or more factors of the design formula (§30161) are unknown, one of the following pressures is to be used as design pressure: [49 CFR 195.406(a)(1)]

a. eighty percent of the first test pressure that produces yield under section N5.0 of Appendix N of ASME B31.8, reduced by the appropriate factors in 30161.A and E; or [49 CFR 195.406(a)(1)(i)]

b. if the pipe is 12-3/4 in. (324 mm.) or less outside diameter and is not tested to yield under this Paragraph, 200 p.s.i. (1379 kPa) gage; [49 CFR 195.406(a)(1)(ii)]

2. the design pressure of any other component of the pipeline; [49 CFR 195.406(a)(2)]

3. eighty percent of the test pressure for any part of the pipeline which has been pressure tested under Chapter 303; [49 CFR 195.406(a)(3)]

4. eighty percent of the factory test pressure or of the prototype test pressure for any individually installed component which is excepted from testing under §30305; [49 CFR 195.406(a)(4)]

5. for pipelines under §30302.B.1 and B.2.a that have not been pressure tested under Chapter 303 of this Subpart, 80 percent of the test pressure or highest operating pressure to which the pipeline was subjected for four or more continuous hours that can be demonstrated by recording charts or logs made at the time the test or operations were conducted. [49 CFR 195.406(a)(5)]

B. No operator may permit the pressure in a pipeline during surges or other variations from normal operations to exceed 110 percent of the operating pressure limit established under §30406.A. Each operator must provide adequate controls and protective equipment to control the pressure within this limit. [49 CFR 195.406(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30408. Communications [49 CFR 195.408]

A. Each operator must have a communication system to provide for the transmission of information needed for the safe operation of its pipeline system. [49 CFR 195.408(a)]

B. The communication system required by §30408.A must, as a minimum, include means for: [49 CFR 195.408(b)]

1. monitoring operational data as required by §30402.C.9; [49 CFR 195.408(b)(1)]

2. receiving notices from operator personnel, the public, and public authorities of abnormal or emergency conditions and sending this information to appropriate personnel or government agencies for corrective action; [49 CFR 195.408(b)(2)]

3. conducting two-way vocal communication between a control center and the scene of abnormal operations and emergencies; and [49 CFR 195.408(b)(3)]

4. providing communication with fire, police, and other appropriate public officials during emergency conditions, including a natural disaster. [49 CFR 195.408(b)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30410. Line Markers [49 CFR 195.410]

A. Except as provided in §30410.B, each operator shall place and maintain line markers over each buried pipeline in accordance with the following: [49 CFR 195.410(a)]

1. markers must be located at each public road crossing, at each railroad crossing, and in sufficient number along the remainder of each buried line so that its location is accurately known; [49 CFR 195.410(a)(1)]

2. the marker must state at least the following on a background of sharply contrasting color: [49 CFR 195.410(a)(2)]

a. the word "warning", "caution", or "danger" followed by the word "petroleum (or the name of the hazardous liquid transported) pipeline", or "carbon dioxide pipeline", all of which, except for markers in heavily developed urban areas, must be in letters at least 1 inch (25 millimeters) high with an approximate stroke of one-quarter inch (6.4 millimeters). [49 CFR 195.410(a)(2)(i)]

b. the name of the operator and a telephone number (including area code) where the operator can be reached at all times. [49 CFR 195.410(a)(2)(ii)]

B. Line markers are not required for buried pipelines located: [49 CFR 195.410(b)]

1. offshore or at crossings of or under waterways and other bodies of water; or [49 CFR 195.410(b)(1)]

2. in heavily developed urban areas such as downtown business centers where: [49 CFR 195.410(b)(2)]

a. the placement of markers is impracticable and would not serve the purpose for which markers are intended; and [49 CFR 195.410(b)(2)(i)]

b. the local government maintains current substructure records. [49 CFR 195.410(b)(2)(ii)]

C. Each operator shall provide line marking at locations where the line is above ground in areas that are accessible to the public. [49 CFR 195.410(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30412. Inspection of Rights-of-Way and Crossings under Navigable Waters [49 CFR 195.412]

A. Each operator shall, at intervals not exceeding three weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way. [49 CFR 195.412(a)]

B. Except for offshore pipelines, each operator shall, at intervals not exceeding five years, inspect each crossing under a navigable waterway to determine the condition of the crossing. [49 CFR 195.412(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30413. Underwater Inspection and Reburial of Pipelines in the Gulf of Mexico and Its Inlets [49 CFR 195.413]

A. Except for gathering lines of 4-1/2 in.(114 mm.) nominal outside diameter or smaller, each operator shall, in accordance with this Section, conduct an underwater inspection of its pipelines in the Gulf of Mexico and its inlets. The inspection must be conducted after October 3, 1989 and before November 16, 1992. [49 CFR 195.413(a)]

B. If, as a result of an inspection under §30413.A, or upon notification by any person, an operator discovers that a pipeline it operates is exposed on the seabed or constitutes a hazard to navigation, the operator shall: [49 CFR 195.413(b)]

1. promptly, but not later than 24 hours after discovery, notify the National Response Center, telephone: 1-800-424-8802, as well as Louisiana Pipeline Safety (225) 342-5505, (day or night), of the location, and, if available, the geographic coordinates of that pipeline; [49 CFR 195.413(b)(1)]

2. promptly, but not later than seven days after discovery, mark the location of the pipeline in accordance with 33 CFR Part 64 at the ends of the pipeline segment and at intervals of not over 500 yards (457 meters) long, except that a pipeline segment less than 200 yards (183 meters) long need only be marked at the center; and [49 CFR 195.413(b)(2)]

3. within six months after discovery, or not later than November 1 of the following year if the six-month period is after November 1 of the year that the discovery is made, place the pipeline so that the top of the pipe is 36 inches (914 millimeters) below the seabed for normal excavation or 18 inches (457 millimeters) for rock excavation. [49 CFR 195.413(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30420. Valve Maintenance [49 CFR 195.420]

A. Each operator shall maintain each valve that is necessary for the safe operation of its pipeline systems in good working order at all times. [49 CFR 195.420(a)]

B. Each operator shall, at intervals not exceeding seven and one-half months, but at least twice each calendar year,

inspect each mainline valve to determine that it is functioning properly. [49 CFR 195.420(b)]

C. Each operator shall provide protection for each valve from unauthorized operation and from vandalism. [49 CFR 195.420(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30422. Pipeline Repairs [49 CFR 195.422]

A. Each operator shall, in repairing its pipeline systems, insure that the repairs are made in a safe manner and are made so as to prevent damage to persons or property. [49 CFR 195.422(a)]

B. No operator may use any pipe, valve, or fitting, for replacement in repairing pipeline facilities, unless it is designed and constructed as required by this Subpart. [49 CFR 195.422(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30424. Pipe Movement [49 CFR 195.424]

A. No operator may move any line pipe, unless the pressure in the line section involved is reduced to not more than 50 percent of the maximum operating pressure. [49 CFR 195.424(a)]

B. No operator may move any pipeline containing highly volatile liquids where materials in the line section involved are joined by welding unless: [49 CFR 195.424(b)]

1. movement when the pipeline does not contain highly volatile liquids is impractical; [49 CFR 195.424(b)(1)]

2. the procedures of the operator under §30402 contain precautions to protect the public against the hazard in moving pipelines containing highly volatile liquids, including the use of warnings, where necessary, to evacuate the area close to the pipeline; and [49 CFR 195.424(b)(2)]

3. the pressure in that line section is reduced to the lower of the following: [49 CFR 195.424(b)(3)]

a. fifty percent or less of the maximum operating pressure; or [49 CFR 195.424(b)(3)(i)]

b. the lowest practical level that will maintain the highly volatile liquid in a liquid state with continuous flow, but not less than 50 p.s.i. (345 kPa) gage above the vapor pressure of the commodity. [49 CFR 195.424(b)(3)(ii)]

C. No operator may move any pipeline containing highly volatile liquids where materials in the line section involved are not joined by welding unless: [49 CFR 195.424(c)]

1. the operator complies with §30424.B.1 and §30424.B.2; and [49 CFR 195.424(c)(1)]

2. that line section is isolated to prevent the flow of highly volatile liquid. [49 CFR 195.424(c)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30426. Scraper and Sphere Facilities [49 CFR 195.426]

A. No operator may use a launcher or receiver that is not equipped with a relief device capable of safely relieving

pressure in the barrel before insertion or removal of scrapers or spheres. The operator must use a suitable device to indicate that pressure has been relieved in the barrel or must provide a means to prevent insertion or removal of scrapers or spheres if pressure has not been relieved in the barrel. [49 CFR 195.426]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30428. Overpressure Safety Devices and Overfill Protection Systems [49 CFR 195.428]

A. Except as provided in §30428.B, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed seven and one-half months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used. [49 CFR 195.428(a)]

B. In the case of relief valves on pressure breakout tanks containing highly volatile liquids, each operator shall test each valve at intervals not exceeding five years. [49 CFR 195.428(b)]

C. Aboveground breakout tanks that are constructed or significantly altered according to API Standard 2510 after October 2, 2000, must have an overfill protection system installed according to Section 5.1.2 of API Standard 2510. Other aboveground breakout tanks with 600 gallons (2271 liters) or more of storage capacity that are constructed or significantly altered after October 2, 2000, must have an overfill protection system installed according to API Recommended Practice 2350. However, operators need not comply with any part of API Recommended Practice 2350 for a particular breakout tank if the operator notes in the manual required by §30402 why compliance with that part is not necessary for safety of the tank. [49 CFR 195.428(c)]

D. After October 2, 2000, the requirements of §30428 A and B for inspection and testing of pressure control equipment apply to the inspection and testing of overfill protection systems. [49 CFR 195.428(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30430. Firefighting Equipment [49 CFR 195.430]

A. Each operator shall maintain adequate firefighting equipment at each pump station and breakout tank area. The equipment must be: [49 CFR 195.430]

1. in proper operating condition at all times; [49 CFR 195.430(a)]

2. plainly marked so that its identity as firefighting equipment is clear; and [49 CFR 195.430(b)]

3. located so that it is easily accessible during a fire. [49 CFR 195.430(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30432. Inspection of In-Service Breakout Tanks [49 CFR 195.432]

A. Except for breakout tanks inspected under §30432 B and C, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, inspect each in-service breakout tank. [49 CFR 195.432(a)]

B. Each operator shall inspect the physical integrity of in-service atmospheric and low-pressure steel aboveground breakout tanks according to Section 4 of API Standard 653. However, if structural conditions prevent access to the tank bottom, the bottom integrity may be assessed according to a plan included in the operations and maintenance manual under 30402.C.3. [49 CFR 195.432(b)]

C. Each operator shall inspect the physical integrity of in-service steel aboveground breakout tanks built to API Standard 2510 according to Section 6 of API 510. [49 CFR 195.432(c)]

D. The intervals of inspection specified by documents referenced in §30432 B and C begin on May 3, 1999, or on the operator's last recorded date of the inspection, whichever is earlier. [49 CFR 195.432(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30434. Signs [49 CFR 195.434]

A. Each operator shall maintain signs visible to the public around each pumping station and breakout tank area. Each sign must contain the name of the operator and an emergency telephone number (including area code) to contact. [49 CFR 195.434]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30436. Security of Facilities [49 CFR 195.436]

A. Each operator shall provide protection for each pumping station and breakout tank area and other exposed facility (such as scraper traps) from vandalism and unauthorized entry. [49 CFR 195.436]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30438. Smoking or Open Flames [49 CFR 195.438]

A. Each operator shall prohibit smoking and open flames in each pump station area and each breakout tank area where there is a possibility of the leakage of a flammable hazardous liquid or of the presence of flammable vapors. [49 CFR 195.438]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30440. Public Education [49 CFR 195.440]

A. Each operator shall establish a continuing educational program to enable the public, appropriate government organizations and persons engaged in excavation-related activities to recognize a hazardous liquid or a carbon dioxide pipeline emergency and to report it to the operator or the fire, police, or other appropriate public officials. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of non-English speaking population in the operator's operating areas. [49 CFR 195.440]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30442. Damage Prevention Program [49 CFR 195.442]

A. Except as provided in §30442.D, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purpose of this Section, the term *excavation activities* includes excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earthmoving operations. [49 CFR 195.442(a)]

B. An operator may comply with any of the requirements of §30442.C through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of the responsibility for compliance with this section. However, an operator must perform the duties of Subsection C.3. of this Section through participation in a one-call system, if that one-call system is a qualified one call-system. In areas that are covered by more than one qualified one-call system, an operator need only join one of the qualified one-call systems if there is a central telephone number for excavators to call for excavation activities, or if the one-call systems in those areas communicate with one another. An operator's pipeline system must be covered by a qualified one-call system where there is one in place. For the purpose of the Section, a one-call system is considered a *qualified one-call system* if it meets the requirements of §30442.B.1 or B.2. [49 CFR 195.442(b)]

1. The state has adopted a one-call damage prevention program under 49 CFR 198.37; or [49 CFR 195.442(b)(1)]

2. the one-call system: [49 CFR 195.442(b)(2)]

a. is operated in accordance with 49 CFR 198.39; [49 CFR 195.442(b)(2)(i)]

b. provides a pipeline operator an opportunity similar to a voluntary participant to have a part in management responsibilities; and [49 CFR 195.442(b)(2)(ii)]

c. assesses a participating pipeline operator a fee that is proportionate to the costs of the one-call system's coverage of the operator's pipeline. [49 CFR 195.442(b)(2)(iii)]

C. The damage prevention program required by §30442.A. must, at a minimum: [49 CFR 195.442(c)]

1. include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located; [49 CFR 195.442(c)(1)]

2. provide for notification of the public in the vicinity of the pipeline and actual notification of persons identified in §30442.C.1. of the following as often as needed to make them aware of the damage prevention program: [49 CFR 195.442(c)(2)]

a. the program's existence and purpose; and [49 CFR 195.442(c)(2)(i)]

b. how to learn the location of underground pipelines before excavation activities are begun; [49 CFR 195.442(c)(2)(ii)]

3. provide a means of receiving and recording notification of planned excavation activities; [49 CFR 195.442(c)(3)]

4. if the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings; [49 CFR 195.442(c)(4)]

5. provide for temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins; [49 CFR 195.442(c)(5)]

6. provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities: [49 CFR 195.442(c)(6)]

a. the inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and [49 CFR 195.442(c)(6)(i)]

b. in the case of blasting, any inspection must include leakage surveys. [49 CFR 195.442(c)(6)(ii)]

D. A damage prevention program under this Section is not required for the following pipelines: [49 CFR 195.444]

1. pipelines located offshore; [49 CFR 195.442(d)(1)]

2. pipelines to which access is physically controlled by the operator. [49 CFR 195.442(d)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30444. CPM Leak Detection [49 CFR 195.444]

A. Each computational pipeline monitoring (CPM) leak detection system installed on a hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid) must comply with API 1130 in operating, maintaining, testing, record keeping, and dispatcher training of the system. [49 CFR 195.444]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30450. High Consequence Areas C Definitions [49 CFR Part 195.450]

A. The following definitions apply to this Section and §30452.

Emergency Flow Restricting Device or EFRD Ca check valve or remote control valve as follows:

a. *Check Valve* Ca valve that permits fluid to flow freely in one direction and contains a mechanism to automatically prevent flow in the other direction;

b. *Remote Control Valve* or *RCV* any valve that is operated from a location remote from where the valve is installed. The RCV is usually operated by the supervisory

control and data acquisition (SCADA) system. The linkage between the pipeline control center and the RCV may be by fiber optics, microwave, telephone lines, or satellite.

High Consequence Area

a. **Commercially Navigable Waterway** a waterway where a substantial likelihood of commercial navigation exists;

b. **High Population Area** an urbanized area, as defined and delineated by the Census Bureau, that contains 50,000 or more people and has a population density of at least 1,000 people per square mile;

c. **Other Populated Area** a place, as defined and delineated by the Census Bureau, that contains a concentrated population, such as an incorporated or unincorporated city, town, village, or other designated residential or commercial area;

d. **Unusually Sensitive Area** as defined in §30112.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30452. Pipeline Integrity Management in High Consequence Areas [49 CFR 195.452]

A. Which pipelines are covered by this Section? This Section applies to each hazardous liquid pipeline and carbon dioxide pipeline that could affect a high consequence area, including any pipeline located in a high consequence area unless the operator effectively demonstrates by risk assessment that the pipeline could not affect the area. (§30905, Appendix C of this Subpart provides guidance on determining if a pipeline could affect a high consequence area.) Covered pipelines are categorized as follows. [49 CFR 195.452(a)]

1. Category 1 includes pipelines existing on May 29, 2001, that were owned or operated by an operator who owned or operated a total of 500 or more miles of pipeline subject to this Subpart. [49 CFR 195.452(a)(1)]

2. Category 2 includes pipelines existing on May 29, 2001, that were owned or operated by an operator who owned or operated less than 500 miles of pipeline subject to this Subpart. [49 CFR 195.452(a)(2)]

3. Category 3 includes pipelines constructed or converted after May 29, 2001. [49 CFR 195.452(a)(3)]

B. What program and practices must operators use to manage pipeline integrity? Each operator of a pipeline covered by this Section must: [49 CFR 195.452(b)]

1. develop a written integrity management program that addresses the risks on each segment of pipeline in the first column of the following table not later than the date in the second column: [49 CFR 195.452(b)(1)]

Pipeline	Date
Category 1	March 31, 2002.
Category 2	February 18, 2003.
Category 3	1 year after the date the pipeline begins operation.

2. include in the program an identification of each pipeline or pipeline segment in the first column of the following table not later than the date in the second column: [49 CFR 195.452(b)(2)]

Pipeline	Date
Category 1	December 31, 2001.
Category 2	November 18, 2002.
Category 3	Date the pipeline begins operation.

3. include in the program a plan to carry out baseline assessments of line pipe as required by Subsection C of this Section; [49 CFR 195.452(b)(3)]

4. include in the program a framework that: [49 CFR 195.452(b)(4)]

a. addresses each element of the integrity management program under Subsection F of this Section, including continual integrity assessment and evaluation under Subsection J of this Section; and [49 CFR 195.452(b)(4)(i)]

b. initially indicates how decisions will be made to implement each element; [49 CFR 195.452(b)(4)(ii)]

5. implement and follow the program; [49 CFR 195.452(b)(5)]

6. follow recognized industry practices in carrying out this section, unless: [49 CFR 195.452(b)(6)]

a. this Section specifies otherwise; or [49 CFR 195.452(b)(6)(i)]

b. the operator demonstrates that an alternative practice is supported by a reliable engineering evaluation and provides an equivalent level of public safety and environmental protection. [49 CFR 195.452(b)(6)(ii)]

C. What must be in the baseline assessment plan? [49 CFR 195.452(c)]

1. An operator must include each of the following elements in its written baseline assessment plan: [49 CFR 195.452(c)(1)]

a. The methods selected to assess the integrity of the line pipe. An operator must assess the integrity of the line pipe by any of the following methods. The methods an operator selects to assess low frequency electric resistance welded pipe or lap welded pipe susceptible to longitudinal seam failure must be capable of assessing seam integrity and of detecting corrosion and deformation anomalies: [49 CFR 195.452(c)(1)(i)]

i. internal inspection tool or tools capable of detecting corrosion and deformation anomalies including dents, gouges and grooves; [49 CFR 195.452(c)(1)(i)(A)]

ii. pressure test conducted in accordance with Chapter 303. of this Subpart; or [49 CFR 195.452(c)(1)(i)(B)]

iii. other technology that the operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify the Office of Pipeline Safety (OPS) 90 days before conducting the assessment, by sending a notice to the addresses or facsimile numbers specified in Subsection M of this section. [49 CFR 195.452(c)(1)(i)(C)]

b. a schedule for completing the integrity assessment; [49 CFR 195.452(c)(1)(ii)]

c. an explanation of the assessment methods selected and evaluation of risk factors considered in establishing the assessment schedule; [49 CFR 195.452(c)(1)(iii)]

2. an operator must document, prior to implementing any changes to the plan, any modification to the plan, and reasons for the modification. [49 CFR 195.452(c)(2)]

D. When must operators complete baseline assessments? Operators must complete baseline assessments as follows. [49 CFR 195.452(d)]

1. Time Periods. Complete assessments before the following deadlines. [49 CFR 195.452(d)(1)]

If the pipeline is:	Then complete baseline assessments not later than the following date according to a schedule that prioritizes assessments	And assess at least 50 percent of the line pipe on an expedited basis, beginning with the highest risk pipe, not later than:
Category 1	March 31, 2008.	September 30, 2004.
Category 2	February 17, 2009.	August 16, 2005.
Category 3	Date the pipeline begins operation.	Not applicable.

2. Prior Assessment. To satisfy the requirements of Subparagraph C.1.a of this Section for pipelines in the first column of the following table, operators may use integrity assessments conducted after the date in the second column, if the integrity assessment method complies with this section. However, if an operator uses this prior assessment as its baseline assessment, the operator must reassess the line pipe according to Subsection J.3 of this Section. The table follows. [49 CFR 195.452(d)(2)]

Pipeline	Date
Category 1	January 1, 1996.
Category 2	February 15, 1997.

3. Newly-Identified Areas [49 CFR 195.452(d)(3)]

a. When information is available from the information analysis (see Subsection G of this Section), or from Census Bureau maps, that the population density around a pipeline segment has changed so as to fall within the definition in §30450 of a high population area or other populated area, the operator must incorporate the area into its baseline assessment plan as a high consequence area within one year from the date the area is identified. An operator must complete the baseline assessment of any line pipe that could affect the newly-identified high consequences area within five years from the date the area is identified. [49 CFR 195.452(d)(3)(i)]

b. An operator must incorporate a new unusually sensitive area into its baseline assessment plan within one year from the date the area is identified. An operator must complete the baseline assessment of any line pipe that could affect the newly-identified high consequence area within five years from the date the area is identified. [49 CFR 195.452(d)(3)(ii)]

E. What are the risk factors for establishing an assessment schedule (for both the baseline and continual integrity assessments)? [49 CFR 195.452(e)]

1. An operator must establish an integrity assessment schedule that prioritizes pipeline segments for assessment (see Paragraphs D.1 and J.3 of this Section). An operator must base the assessment schedule on all risk factors that reflect the risk conditions on the pipeline segment. The factors an operator must consider include, but are not limited to: [49 CFR 195.452(e)(1)]

a. results of the previous integrity assessment, defect type and size that the assessment method can detect, and defect growth rate; [49 CFR 195.452(e)(1)(i)]

b. pipe size, material, manufacturing information, coating type and condition, and seam type; [49 CFR 195.452(e)(1)(ii)]

c. leak history, repair history and cathodic protection history; [49 CFR 195.452(e)(1)(iii)]

d. product transported; [49 CFR 195.452(e)(1)(iv)]

e. operating stress level; [49 CFR 195.452(e)(1)(v)]

f. existing or projected activities in the area; [49 CFR 195.452(e)(1)(vi)]

g. local environmental factors that could affect the pipeline (e.g. corrosivity of soil, subsidence, climatic) [49 CFR 195.452(e)(1)(vii)]

h. geo-technical hazards; and [49 CFR 195.452(e)(1)(viii)]

i. physical support of the segment such as by a cable suspension bridge. [49 CFR 195.452(e)(1)(ix)]

2. Section 30905, Appendix C, of this Subpart provides further guidance on risk factors. [49 CFR 195.452(e)(2)]

F. What are the elements of an integrity management program? An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program: [49 CFR 195.452(f)]

1. a process for identifying which pipeline segments could affect a high consequence area; [49 CFR 195.452(f)(1)]

2. a baseline assessment plan meeting the requirements of Subsection C of this Section; [49 CFR 195.452(f)(2)]

3. an analysis that integrates all available information about the integrity of the entire pipeline and the consequences of a failure (see Subsection G of this Section); [49 CFR 195.452(f)(3)]

4. criteria for remedial actions to address integrity issues raised by the assessment methods and information analysis (see Subsection H of this Section); [49 CFR 195.452(f)(4)]

5. a continual process of assessment and evaluation to maintain a pipeline's integrity (see Subsection J of this Section); [49 CFR 195.452(f)(5)]

6. identification of preventive and mitigative measures to protect the high consequence area (see Subsection I of this Section); [49 CFR 195.452(f)(6)]

7. methods to measure the program's effectiveness (see Subsection K of this Section); [49 CFR 195.452(f)(7)]

8. a process for review of integrity assessment results and information analysis by a person qualified to evaluate the results and information (see Subsection H.2 of this Section). [49 CFR 195.452(f)(8)]

G. What is an information analysis? In periodically evaluating the integrity of each pipeline segment (Subsection J of this Section), an operator must analyze all available information about the integrity of the entire pipeline and the

consequences of a failure. This information includes: [49 CFR 195.452(g)]

1. information critical to determining the potential for, and preventing, damage due to excavation, including current and planned damage prevention activities, and development or planned development along the pipeline segment; [49 CFR 195.452(g)(1)]

2. data gathered through the integrity assessment required under this section; [49 CFR 195.452(g)(2)]

3. data gathered in conjunction with other inspections, tests, surveillance and patrols required by this Chapter, including, corrosion control monitoring and cathodic protection surveys; and [49 CFR 195.452(g)(3)]

4. information about how a failure would affect the high consequence area, such as location of the water intake. [49 CFR 195.452(g)(4)]

H. What actions must an operator take to address integrity issues? [49 CFR 195.452(h)]

1. General Requirements. An operator must take prompt action to address all anomalous conditions that the operator discovers through the integrity assessment or information analysis. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. An operator must be able to demonstrate that the remediation of the condition will ensure that the condition is unlikely to pose a threat to the long-term integrity of the pipeline. A reduction in operating pressure cannot exceed 365 days without an operator taking further remedial action to ensure the safety of the pipeline. An operator must comply with §30422 when making a repair. [49 CFR 195.452(h)(1)]

2. Discovery of Condition. Discovery of a condition occurs when an operator has adequate information about the condition to determine that the condition presents a potential threat to the integrity of the pipeline. An operator must promptly, but no later than 180 days after an integrity assessment, obtain sufficient information about a condition to make that determination, unless the operator can demonstrate that the 180-day period is impracticable. [49 CFR 195.452(h)(2)]

3. Schedule for Evaluation and Remediation. An operator must complete remediation of a condition according to a schedule that prioritizes the conditions for evaluation and remediation. If an operator cannot meet the schedule for any condition, the operator must justify the reasons why it cannot meet the schedule and that the changed schedule will not jeopardize public safety or environmental protection. An operator must notify OPS if the operator cannot meet the schedule and cannot provide safety through a temporary reduction in operating pressure. An operator must send the notice to the addresses specified in Subsection M of this Section. [49 CFR 195.452(h)(3)]

4. Special Requirements for Scheduling Remediation. [49 CFR 195.452(h)(4)]

a. Immediate Repair Conditions. An operator's evaluation and remediation schedule must provide for immediate repair conditions. To maintain safety, an operator must temporarily reduce operating pressure or shut down the pipeline until the operator completes the repair of these conditions. An operator must calculate the temporary reduction in operating pressure using the formula in section 451.7 of ASME/ANSI B31.4 (incorporated by reference, see

§30107). An operator must treat the following conditions as immediate repair conditions: [49 CFR 195.452(h)(4)(i)]

i. metal loss greater than 80% of nominal wall regardless of dimensions; [49 CFR 195.452(h)(4)(i)(A)]

ii. a calculation of the remaining strength of the pipe shows a predicted burst pressure less than the established maximum operating pressure at the location of the anomaly. Suitable remaining strength calculation methods include, but are not limited to, ASME/ANSI B31G ("Manual for Determining the Remaining Strength of Corroded Pipelines" (1991) or AGA Pipeline Research Committee Project PR-3-805 ["A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe" (December 1989)]. These documents are incorporated by reference and are available at the addresses listed in §30107; [49 CFR 195.452(h)(4)(i)(B)]

iii. a dent located on the top of the pipeline (above the 4 and 8 o'clock positions) that has any indication of metal loss, cracking or a stress riser; [49 CFR 195.452(h)(4)(i)(C)]

iv. a dent located on the top of the pipeline (above the 4 and 8 o'clock positions) with a depth greater than 6 percent of the nominal pipe diameter; [49 CFR 195.452(h)(4)(i)(D)]

v. an anomaly that in the judgement of the person designated by the operator to evaluate the assessment results requires immediate action. [49 CFR 195.452(h)(4)(i)(E)]

b. 60-Day Conditions. Except for conditions listed in Subparagraph H.4.a of this Section, an operator must schedule evaluation and remediation of the following conditions within 60 days of discovery of condition: [49 CFR 195.452(h)(4)(ii)]

i. a dent located on the top of the pipeline (above the 4 and 8 o'clock positions) with a depth greater than 3 percent of the pipeline diameter (greater than 0.250 inches in depth for a pipeline diameter less than Nominal Pipe Size (NPS) 12); [49 CFR 195.452(h)(4)(ii)(A)]

ii. a dent located on the bottom of the pipeline that has any indication of metal loss, cracking or a stress riser. [49 CFR 195.452(h)(4)(ii)(B)]

c. 180-Day Conditions. Except for conditions listed in Subsection H.4.(a) or (b) of this Section, an operator must schedule evaluation and remediation of the following within 180 days of discovery of the condition: [49 CFR 195.452(h)(4)(iii)]

i. a dent with a depth greater than 2 percent of the pipeline's diameter (0.250 inches in depth for a pipeline diameter less than NPS 12) that affects pipe curvature at a girth weld or a longitudinal seam weld; [49 CFR 195.452(h)(4)(iii)(A)]

ii. a dent located on the top of the pipeline (above 4 and 8 o'clock position) with a depth greater than 2 percent of the pipeline's diameter (0.250 inches in depth for a pipeline diameter less than NPS 12); [49 CFR 195.452(h)(4)(iii)(B)]

iii. a dent located on the bottom of the pipeline with a depth greater than 6 percent of the pipeline's diameter; [49 CFR 195.452(h)(4)(iii)(C)]

iv. a calculation of the remaining strength of the pipe shows an operating pressure that is less than the current established maximum operating pressure at the location of the anomaly. Suitable remaining strength calculation

methods include, but are not limited to, ASME/ANSI B31G ["Manual for Determining the Remaining Strength of Corroded Pipelines" (1991)] or AGA Pipeline Research Committee Project PR-3-805 ["A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe" (December 1989)]. These documents are incorporated by reference and are available at the addresses listed in §30107; [49 CFR 195.452(h)(4)(iii)(D)]

v. an area of general corrosion with a predicted metal loss greater than 50 percent of nominal wall; [49 CFR 195.452(h)(4)(iii)(E)]

vi. predicted metal loss greater than 50 percent of nominal wall that is located at a crossing of another pipeline, or is in an area with widespread circumferential corrosion, or is in an area that could affect a girth weld; [49 CFR 195.452(h)(4)(iii)(F)]

vii. a potential crack indication that when excavated is determined to be a crack; [49 CFR 195.452(h)(4)(iii)(G)]

viii. corrosion of or along a longitudinal seam weld; [49 CFR 195.452(h)(4)(iii)(H)]

ix. a gouge or groove greater than 12.5 percent of nominal wall. [49 CFR 195.452(h)(4)(iii)(I)]

d. Other Conditions. In addition to the conditions listed in Subparagraphs H.4.a through c of this Section, an operator must evaluate any condition identified by an integrity assessment or information analysis that could impair the integrity of the pipeline, and as appropriate, schedule the condition for remediation. §30905, Appendix C of this Subpart contains guidance concerning other conditions that an operator should evaluate. [49 CFR 195.452(h)(4)(iv)]

I. What preventive and mitigative measures must an operator take to protect the high consequence area? [49 CFR 195.452(i)]

1. General Requirements. An operator must take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. These measures include conducting a risk analysis of the pipeline segment to identify additional actions to enhance public safety or environmental protection. Such actions may include, but are not limited to, implementing damage prevention best practices, better monitoring of cathodic protection where corrosion is a concern, establishing shorter inspection intervals, installing EFRDs on the pipeline segment, modifying the systems that monitor pressure and detect leaks, providing additional training to personnel on response procedures, conducting drills with local emergency responders and adopting other management controls. [49 CFR 195.452(i)(1)]

2. Risk Analysis Criteria. In identifying the need for additional preventive and mitigative measures, an operator must evaluate the likelihood of a pipeline release occurring and how a release could affect the high consequence area. This determination must consider all relevant risk factors, including, but not limited to: [49 CFR 195.452(i)(2)]

a. terrain surrounding the pipeline segment, including drainage systems such as small streams and other smaller waterways that could act as a conduit to the high consequence area; [49 CFR 195.452(i)(2)(i)]

b. elevation profile; [49 CFR 195.452(i)(2)(ii)]

c. characteristics of the product transported; [49 CFR 195.452(i)(2)(iii)]

d. amount of product that could be released; [49 e. Possibility of a spillage in a farm field following the drain tile into a waterway; [49 CFR 195.452(i)(2)(v)]

f. ditches along side a roadway the pipeline crosses; [49 CFR 195.452(i)(2)(vi)]

g. physical support of the pipeline segment such as by a cable suspension bridge; [49 CFR 195.452(i)(2)(vii)]

h. exposure of the pipeline to operating pressure exceeding established maximum operating pressure. [49 CFR 195.452(i)(2)(viii)]

3. Leak Detection. An operator must have a means to detect leaks on its pipeline system. An operator must evaluate the capability of its leak detection means and modify, as necessary, to protect the high consequence area. An operator's evaluation must, at least, consider, the following factors' length, and size of the pipeline, type of product carried, the pipeline's proximity to the high consequence area, the swiftness of leak detection, location of nearest response personnel, leak history, and risk assessment results. [49 CFR 195.452(i)(3)]

4. Emergency Flow Restricting Devices (EFRD). If an operator determines that an EFRD is needed on a pipeline segment to protect a high consequence area in the event of a hazardous liquid pipeline release, an operator must install the EFRD. In making this determination, an operator must, at least, consider the following factors' the swiftness of leak detection and pipeline shutdown capabilities, the type of commodity carried, the rate of potential leakage, the volume that can be released, topography or pipeline profile, the potential for ignition, proximity to power sources, location of nearest response personnel, specific terrain between the pipeline segment and the high consequence area, and benefits expected by reducing the spill size. [49 CFR 195.452(i)(4)]

J. What is a continual process of evaluation and assessment to maintain a pipeline's integrity? [49 CFR 195.452(j)]

1. General. After completing the baseline integrity assessment, an operator must continue to assess the line pipe at specified intervals and periodically evaluate the integrity of each pipeline segment that could affect a high consequence area. [49 CFR 195.452(j)(1)]

2. Evaluation. An operator must conduct a periodic evaluation as frequently as needed to assure pipeline integrity. An operator must base the frequency of evaluation on risk factors specific to its pipeline, including the factors specified in Subsection E of this Section. The evaluation must consider the results of the baseline and periodic integrity assessments, information analysis (Subsection G of this Section), and decisions about remediation, and preventive and mitigative actions (Subsection H and I of this Section). [49 CFR 195.452(j)(2)]

3. Assessment Intervals. An operator must establish intervals not to exceed five years for continually assessing the line pipe's integrity. An operator must base the assessment intervals on the risk the line pipe poses to the high consequence area to determine the priority for assessing

the pipeline segments. An operator must establish the assessment intervals based on the factors specified in Subsection E of this Section, the analysis of the results from the last integrity assessment, and the information analysis required by Subsection G of this Section. [49 CFR 195.452(j)(3)]

4. Variance from the five-year intervals in limited situations. [49 CFR 195.452(j)(4)]

a. Engineering Basis. An operator may be able to justify an engineering basis for a longer assessment interval on a segment of line pipe. The justification must be supported by a reliable engineering evaluation combined with the use of other technology, such as external monitoring technology, that provides an understanding of the condition of the line pipe equivalent to that which can be obtained from the assessment methods allowed in Subsection J.5 of this Section. An operator must notify OPS 270 days before the end of the five-year (or less) interval of the justification for a longer interval, and propose an alternative interval. An operator must send the notice to the addresses specified in Subsection M of this Section. [49 CFR 195.452(j)(4)(i)]

b. Unavailable Technology. An operator may require a longer assessment period for a segment of line pipe (for example, because sophisticated internal inspection technology is not available). An operator must justify the reasons why it cannot comply with the required assessment period and must also demonstrate the actions it is taking to evaluate the integrity of the pipeline segment in the interim. An operator must notify OPS 180 days before the end of the five-year (or less) interval that the operator may require a longer assessment interval, and provide an estimate of when the assessment can be completed. An operator must send a notice to the addresses specified in Subsection M of this Section. [49 CFR 195.452(j)(4)(ii)]

5. Assessment Methods. An operator must assess the integrity of the line pipe by any of the following methods. The methods an operator selects to assess low frequency electric resistance welded pipe or lap welded pipe susceptible to longitudinal seam failure must be capable of assessing seam integrity and of detecting corrosion and deformation anomalies: [49 CFR 195.452(j)(5)]

a. internal inspection tool or tools capable of detecting corrosion and deformation anomalies including dents, gouges and grooves; [49 CFR 195.452(j)(5)(i)]

b. pressure test conducted in accordance with Chapter 303 of this Subpart; or [49 CFR 195.452(j)(5)(ii)]

c. other technology that the operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify OPS 90 days before conducting the assessment, by sending a notice to the addresses or facsimile numbers specified in Subsection M of this Section. [49 CFR 195.452(j)(5)(iii)]

6. However, for low frequency electric resistance welded pipe or lap welded pipe susceptible to longitudinal seam failure, an operator must select integrity assessment methods capable of assessing seam integrity and of detecting corrosion and deformation anomalies. [49 CFR 195.452(j)(6)]

K. What methods to measure program effectiveness must be used? An operator's program must include methods to measure whether the program is effective in assessing and evaluating the integrity of each pipeline segment and in

protecting the high consequence areas. See §30905, Appendix C, of this Subpart for guidance on methods that can be used to evaluate a program's effectiveness. [49 CFR 195.452(k)]

L. What records must be kept? [49 CFR 195.452(l)]

1. An operator must maintain for review during an inspection: [49 CFR 195.452(l)(1)]

a. a written integrity management program in accordance with Subsection B of this Section; [49 CFR 195.452(l)(1)(i)]

b. documents to support the decisions and analyses, including any modifications, justifications, variances, deviations and determinations made, and actions taken, to implement and evaluate each element of the integrity management program listed in Subsection F of this Section. [49 CFR 195.452(l)(1)(ii)]

2. See §30905, Appendix C, of this Subpart for examples of records an operator would be required to keep. [49 CFR 195.452(l)(2)]

M. Where does an operator send a notification? An operator must send any notification required by §30452 to the Commissioner of Conservation, Pipeline Safety Section, P.O. Box 94275, Baton Rouge, LA 70804- 9275 or to the facsimile number (225) 342-5529 and to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street SW, Washington, D.C. 20590, or to the facsimile number (202) 366-7128. [49 CFR 195.452(m)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

Chapter 305. Transportation of Hazardous Liquids by PipelineC Qualification of Pipeline Personnel [49 CFR Part 195 Subpart G] and Corrosion Control [49 CFR Part 195 Subpart H]

Subchapter A. Qualification of Pipeline Personnel [49 CFR Part 195 Subpart G]

§30501. Scope [49 CFR 195.501]

A. This Subchapter prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility. [49 CFR 195.501(a)]

B. For the purpose of this Subchapter, a covered task is an activity, identified by the operator, that: [49 CFR 195.501(b)]

1. is performed on a pipeline facility; [49 CFR 195.501(b)(1)]

2. is an operations or maintenance task; [49 CFR 195.501(b)(2)]

3. is performed as a requirement of this Subpart; and [49 CFR 195.501(b)(3)]

4. affect the operation or integrity of the pipeline. [49 CFR 195.501(b)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30503. Definitions [49 CFR 195.503]

Abnormal Operating ConditionCa condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

- 1. indicate a condition exceeding design limits; or
- 2. result in a hazard(s) to persons, property, or the environment.

EvaluationCa process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following:

- 1. written examination;
- 2. oral examination;
- 3. work performance history review;
- 4. observation during:
 - a. performance on the job;
 - b. on the job training; or
 - c. simulations;
- 5. other forms of assessment.

QualifiedCan individual has been evaluated and can:

- 1. perform assigned covered tasks; and
- 2. recognize and react to abnormal operating conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30505. Qualification Program [49 CFR 195.505]

A. Each operator shall have and follow a written qualification program. The program shall include provisions to:

- 1. identify covered tasks; [49 CFR 195.505(a)]
- 2. ensure through evaluation that individuals performing covered tasks are qualified; [49 CFR 195.505(b)]
- 3. allow individuals that are not qualified pursuant to this Subchapter to perform a covered task if directed and observed by an individual that is qualified; [49 CFR 195.505(c)]
- 4. evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an accident as defined in this Subpart; [49 CFR 195.505(d)]
- 5. evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task; [49 CFR 195.505(e)]
- 6. communicate changes that affect covered tasks to individuals performing those covered tasks; and [49 CFR 195.505(f)]
- 7. identify those covered tasks and the intervals at which evaluation of the individual's qualifications in needed. [49 CFR 195.505(g)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30507. Record Keeping [49 CFR 195.507]

A. Each operator shall maintain records that demonstrate compliance with this Subchapter.

- 1. Qualification records shall include: [49 CFR 195.507(a)]
 - a. identification of qualified individuals(s); [49 CFR 195.507(a)(1)]

b. identification of the covered tasks the individual is qualified to perform; [49 CFR 195.507(a)(2)]

c. date(s) of current qualification; and [49 CFR 195.507(a)(3)]

d. qualification method(s) [49 CFR 195.507(a)(4)]

2. Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years. [49 CFR 195.507(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30509. General [49 CFR 195.509]

A. Operators must have a written qualification program by April 27, 2001. [49 CFR 195.509(a)]

B. Operators must complete the qualification of individuals performing covered tasks by October 28, 2002. [49 CFR 195.509(b)]

C. Work performance history review may be used as a sole evaluation method for individuals who were performing a covered task prior to October 26, 1999. [49 CFR 195.509(c)]

D. After October 28, 2002 work performance history may not be used as a sole evaluation method. [49 CFR 195.509(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

Subchapter B. Corrosion Control [49 CFR Part 195 Subpart H]

§30551. What do the regulations in this Subchapter cover? [49 CFR 195.551]

A. This Subchapter prescribes minimum requirements for protecting steel pipelines against corrosion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30553. What special definitions apply to this Subchapter? [49 CFR 195.553]

A. As used in this Subchapter:

Active CorrosionCcontinuing corrosion which, unless controlled, could result in a condition that is detrimental to public safety or the environment.

BuriedCcovered or in contact with soil.

Electrical SurveyCa series of closely spaced pipe-to-soil readings over a pipeline that are subsequently analyzed to identify locations where a corrosive current is leaving the pipeline.

Pipeline EnvironmentCincludes soil resistivity (high or low), soil moisture (wet or dry), soil contaminants that may promote corrosive activity, and other known conditions that could affect the probability of active corrosion.

YouCoperator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30555. What are the Qualifications for Supervisors? [49 CFR 195.555]

A. You must require and verify that supervisors maintain a thorough knowledge of that portion of the corrosion control procedures established under §30402.C.3 for which they are responsible for insuring compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30557. Which Pipelines must have Coating for External Corrosion Control? [49 CFR 195.557]

A. Except bottoms of aboveground breakout tanks, each buried or submerged pipeline must have an external coating for external corrosion control if the pipeline is:

1. constructed, relocated, replaced, or otherwise changed after the applicable date in §30401.C, not including the movement of pipe covered by §30424; or [49 CFR 195.557(a)]

2. converted under §30111 and: [49 CFR 195.557(b)]

a. has an external coating that substantially meets §30559 before the pipeline is placed in service; or [49 CFR 195.557(b)(1)]

b. is a segment that is relocated, replaced, or substantially altered. [49 CFR 195.557(b)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30559. What Coating Material May I Use for External Corrosion Control? [49 CFR 195.559]

A. Coating material for external corrosion control under §30557 must:

1. be designed to mitigate corrosion of the buried or submerged pipeline; [49 CFR 195.559(a)]

2. have sufficient adhesion to the metal surface to prevent under film migration of moisture; [49 CFR 195.559(b)]

3. be sufficiently ductile to resist cracking; [49 CFR 195.559(c)]

4. have enough strength to resist damage due to handling and soil stress; [49 CFR 195.559(d)]

5. support any supplemental cathodic protection; and [49 CFR 195.559(e)]

6. if the coating is an insulating type, have low moisture absorption and provide high electrical resistance. [49 CFR 195.559(f)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30561. When must I inspect pipe coating used for external corrosion control? [49 CFR 195.561]

A. You must inspect all external pipe coating required by §30557 just prior to lowering the pipe into the ditch or submerging the pipe. [49 CFR 195.561(a)]

B. You must repair any coating damage discovered. [49 CFR 195.561(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30563. Which pipelines must have cathodic protection? [49 CFR 195.563]

A. Each buried or submerged pipeline that is constructed, relocated, replaced, or otherwise changed after the applicable date in §30401.C must have cathodic protection. The cathodic protection must be in operation not later than 1 year after the pipeline is constructed, relocated, replaced, or otherwise changed, as applicable. [49 CFR 195.563(a)]

B. Each buried or submerged pipeline converted under §30111 must have cathodic protection if the pipeline: [49 CFR 195.563(b)]

1. has cathodic protection that substantially meets §30571 before the pipeline is placed in service; or [49 CFR 195.563(b)(1)]

2. is a segment that is relocated, replaced, or substantially altered. [49 CFR 195.563(b)(2)]

C. All other buried or submerged pipelines that have an effective external coating must have cathodic protection.¹ Except as provided by Subsection D of this section, this requirement does not apply to breakout tanks and does not apply to buried piping in breakout tank areas and pumping stations until December 29, 2003. [49 CFR 195.563(c)]

D. Bare pipelines, breakout tank areas, and buried pumping station piping must have cathodic protection in places where regulations in effect before January 28, 2002 required cathodic protection as a result of electrical inspections. See previous editions of this part in 49 CFR, parts 186 to 199. [49 CFR 195.563(d)]

E. Unprotected pipe must have cathodic protection if required by §30573.B. [49 CFR 195.563(e)]

¹A pipeline does not have an effective external coating material if the current required to cathodically protect the pipeline is substantially the same as if the pipeline were bare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30565. How do I install cathodic protection on breakout tanks? [49 CFR 195.565]

A. After October 2, 2000, when you install cathodic protection under §30563.A to protect the bottom of an aboveground breakout tank of more than 500 barrels (79.5 m³) capacity built to API Specification 12F, API Standard 620, or API Standard 650 (or its predecessor Standard 12C), you must install the system in accordance with API Recommended Practice 651. However, installation of the system need not comply with API Recommended Practice

651 on any tank for which you note in the corrosion control procedures established under §30402.C.3 why compliance with all or certain provisions of API Recommended Practice 651 is not necessary for the safety of the tank. [49 CFR 195.565]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30567. Which pipelines must have test leads and what must I do to install and maintain the leads? [49 CFR 195.567]

A. General. Except for offshore pipelines, each buried or submerged pipeline or segment of pipeline under cathodic protection required by this Subchapter must have electrical test leads for external corrosion control. However, this requirement does not apply until December 27, 2004 to pipelines or pipeline segments on which test leads were not required by regulations in effect before January 28, 2002. [49 CFR 195.567(a)]

B. Installation. You must install test leads as follows. [49 CFR 195.567(b)]

1. Locate the leads at intervals frequent enough to obtain electrical measurements indicating the adequacy of cathodic protection. [49 CFR 195.567(b)(1)]

2. Provide enough looping or slack so backfilling will not unduly stress or break the lead and the lead will otherwise remain mechanically secure and electrically conductive. [49 CFR 195.567(b)(2)]

3. Prevent lead attachments from causing stress concentrations on pipe. [49 CFR 195.567(b)(3)]

4. For leads installed in conduits, suitably insulate the lead from the conduit. [49 CFR 195.567(b)(4)]

5. At the connection to the pipeline, coat each bared test lead wire and bared metallic area with an electrical insulating material compatible with the pipe coating and the insulation on the wire. [49 CFR 195.567(b)(5)]

C. Maintenance. You must maintain the test lead wires in a condition that enables you to obtain electrical measurements to determine whether cathodic protection complies with §30571. [49 CFR 195.567(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30569. Do I have to examine exposed portions of buried pipelines? [49 CFR 195.569]

A. Whenever you have knowledge that any portion of a buried pipeline is exposed, you must examine the exposed portion for evidence of external corrosion if the pipe is bare, or if the coating is deteriorated. If you find external corrosion requiring corrective action under §30585, you must investigate circumferentially and longitudinally beyond the exposed portion (by visual examination, indirect method, or both) to determine whether additional corrosion requiring remedial action exists in the vicinity of the exposed portion. [49 CFR 195.569]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30571. What criteria must I use to determine the adequacy of cathodic protection? [49 CFR 195.571]

A. Cathodic protection required by this subchapter must comply with one or more of the applicable criteria and other considerations for cathodic protection contained in Paragraphs 6.2 and 6.3 of NACE Standard RP0169-96 (incorporated by reference, see §30107). [49 CFR 195.571]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30573. What must I do to monitor external corrosion control? [49 CFR 195.573]

A. Protected Pipelines. You must do the following to determine whether cathodic protection required by this Subchapter complies with §30571. [49 CFR 195.573(a)]

1. Conduct tests on the protected pipeline at least once each calendar year, but with intervals not exceeding 15 months. However, if tests at those intervals are impractical for separately protected short sections of bare or ineffectively coated pipelines, testing may be done at least once every 3 calendar years, but with intervals not exceeding 39 months. [49 CFR 195.573(a)(1)]

2. Identify before December 29, 2003 or not more than two years after cathodic protection is installed, whichever comes later, the circumstances in which a close-interval survey or comparable technology is practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE Standard RP0169-96 (incorporated by reference, see §30107). [49 CFR 195.573(a)(2)]

B. Unprotected Pipe. You must reevaluate your unprotected buried or submerged pipe and cathodically protect the pipe in areas in which active corrosion is found, as follows. [49 CFR 195.573(b)]

1. Determine the areas of active corrosion by electrical survey, or where an electrical survey is impractical, by other means that include review and analysis of leak repair and inspection records, corrosion monitoring records, exposed pipe inspection records, and the pipeline environment. [49 CFR 195.573(b)(1)]

2. For the period in the first column, the second column prescribes the frequency of evaluation. [49 CFR 195.573(b)(2)]

Period	Evaluation Frequency
Before December 29, 2003	At least once every 5 calendar years, but with intervals not exceeding 63 months.
Beginning December 29, 2003	At least once every 3 calendar years, but with intervals not exceeding 39 months.

C. Rectifiers and Other Devices. You must electrically check for proper performance each device in the first column at the frequency stated in the second column. [49 CFR 195.573(c)]

Device	Check frequency
Rectifier Reverse current switch Diode Interference bond whose failure would jeopardize structural protection.	At least six times each calendar year, but with intervals not exceeding 2 1/2 months.
Other interference bond	At least once each calendar year, but with intervals not exceeding 15 months.

D. Breakout Tanks. You must inspect each cathodic protection system used to control corrosion on the bottom of an aboveground breakout tank to ensure that operation and maintenance of the system are in accordance with API Recommended Practice 651. However, this inspection is not required if you note in the corrosion control procedures established under §30402.C.3 why compliance with all or certain operation and maintenance provisions of API Recommended Practice 651 is not necessary for the safety of the tank. [49 CFR 195.573(d)]

E. Corrective Action. You must correct any identified deficiency in corrosion control as required by §30401.B. However, if the deficiency involves a pipeline in an integrity management program under §30452, you must correct the deficiency as required by §30452.H. [49 CFR 195.573(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30575. Which facilities must I electrically isolate and what inspections, tests, and safeguards are required? [49 CFR 195.575]

A. You must electrically isolate each buried or submerged pipeline from other metallic structures, unless you electrically interconnect and cathodically protect the pipeline and the other structures as a single unit. [49 CFR 195.575(a)]

B. You must install one or more insulating devices where electrical isolation of a portion of a pipeline is necessary to facilitate the application of corrosion control. [49 CFR 195.575(b)]

C. You must inspect and electrically test each electrical isolation to assure the isolation is adequate. [49 CFR 195.575(c)]

D. If you install an insulating device in an area where a combustible atmosphere is reasonable to foresee, you must take precautions to prevent arcing. [49 CFR 195.575(d)]

E. If a pipeline is in close proximity to electrical transmission tower footings, ground cables, or counterpoise, or in other areas where it is reasonable to foresee fault currents or an unusual risk of lightning, you must protect the pipeline against damage from fault currents or lightning and take protective measures at insulating devices. [49 CFR 195.575(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30577. What must I do to alleviate interference currents? [49 CFR 195.577]

A. For pipelines exposed to stray currents, you must have a program to identify, test for, and minimize the detrimental effects of such currents. [49 CFR 195.577(a)]

B. You must design and install each impressed current or galvanic anode system to minimize any adverse effects on existing adjacent metallic structures. [49 CFR 195.577(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30579. What must I do to mitigate internal corrosion? [49 CFR 195.579]

A. General. If you transport any hazardous liquid or carbon dioxide that would corrode the pipeline, you must investigate the corrosive effect of the hazardous liquid or carbon dioxide on the pipeline and take adequate steps to mitigate internal corrosion. [49 CFR 195.579(a)]

B. Inhibitors. If you use corrosion inhibitors to mitigate internal corrosion, you must: [49 CFR 195.579(b)]

1. use inhibitors in sufficient quantity to protect the entire part of the pipeline system that the inhibitors are designed to protect; [49 CFR 195.579(b)(1)]

2. use coupons or other monitoring equipment to determine the effectiveness of the inhibitors in mitigating internal corrosion; and [49 CFR 195.579(b)(2)]

3. examine the coupons or other monitoring equipment at least twice each calendar year, but with intervals not exceeding 7 1/2 months. [49 CFR 195.579(b)(3)]

C. Removing Pipe. Whenever you remove pipe from a pipeline, you must inspect the internal surface of the pipe for evidence of corrosion. If you find internal corrosion requiring corrective action under §30585, you must investigate circumferentially and longitudinally beyond the removed pipe (by visual examination, indirect method, or both) to determine whether additional corrosion requiring remedial action exists in the vicinity of the removed pipe. [49 CFR 195.579(c)]

D. Breakout Tanks. After October 2, 2000, when you install a tank bottom lining in an aboveground breakout tank built to API Specification 12F, API Standard 620, or API Standard 650 (or its predecessor Standard 12C), you must install the lining in accordance with API Recommended Practice 652. However, installation of the lining need not comply with API Recommended Practice 652 on any tank for which you note in the corrosion control procedures established under §30402.C.3 why compliance with all or certain provisions of API Recommended Practice 652 is not necessary for the safety of the tank. [49 CFR 195.579(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30581. Which pipelines must I protect against atmospheric corrosion and what coating material may I use? [49 CFR 195.581]

A. You must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under Subsection C of this Section. [49 CFR 195.581(a)]

B. Coating material must be suitable for the prevention of atmospheric corrosion. [49 CFR 195.581(b)]

C. Except portions of pipelines in offshore splash zones or soil-to-air interfaces, you need not protect against atmospheric corrosion any pipeline for which you demonstrate by test, investigation, or experience appropriate to the environment of the pipeline that corrosion will: [49 CFR 195.581(c)]

1. only be a light surface oxide; or [49 CFR 195.581(c)(1)]

2. not affect the safe operation of the pipeline before the next scheduled inspection. [49 CFR 195.581(c)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30583. What must I do to monitor atmospheric corrosion control? [49 CFR 195.583]

A. You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows. [49 CFR 195.583(a)]

If the pipeline is located:	Then the frequency of inspection is:
Onshore	At least once every 3 calendar years, but with intervals not exceeding 39 months.
Offshore	At least once each calendar year, but with intervals not exceeding 15 months.

B. During inspections you must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbanded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water. [49 CFR 195.583(b)]

C. If you find atmospheric corrosion during an inspection, you must provide protection against the corrosion as required by §30581. [49 CFR 195.583(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30585. What must I do to correct corroded pipe? [49 CFR 195.585]

A. General Corrosion. If you find pipe so generally corroded that the remaining wall thickness is less than that required for the maximum operating pressure of the pipeline, you must replace the pipe. However, you need not replace the pipe if you: [49 CFR 195.585(a)]

1. reduce the maximum operating pressure commensurate with the strength of the pipe needed for serviceability based on actual remaining wall thickness; or [49 CFR 195.585(a)(1)]

2. repair the pipe by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe. [49 CFR 195.585(a)(2)]

B. Localized Corrosion Pitting. If you find pipe that has localized corrosion pitting to a degree that leakage might result, you must replace or repair the pipe, unless you reduce the maximum operating pressure commensurate with the strength of the pipe based on actual remaining wall thickness in the pits. [49 CFR 195.585(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30587. What methods are available to determine the strength of corroded pipe? [49 CFR 195.587]

A. Under §30585, you may use the procedure in ASME B31G, "Manual for Determining the Remaining Strength of Corroded Pipelines," or the procedure developed by AGA/Battelle, "A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe (with RSTRENG disk)," to determine the strength of corroded pipe based on actual remaining wall thickness. These procedures apply to corroded regions that do not penetrate the pipe wall, subject to the limitations set out in the respective procedures. [49 CFR 195.587]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§30589. What corrosion control information do I have to maintain? [49 CFR 195.589]

A. You must maintain current records or maps to show the location of: [49 CFR 195.589(a)]

1. cathodically protected pipelines; [49 CFR 195.589(a)(1)]

2. cathodic protection facilities, including galvanic anodes, installed after January 28, 2002; and [49 CFR 195.589(a)(2)]

3. neighboring structures bonded to cathodic protection systems. [49 CFR 195.589(a)(3)]

B. Records or maps showing a stated number of anodes, installed a stated manner or spacing, need not show specific distances to each buried anode. [49 CFR 195.589(b)]

C. You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this Subchapter in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least five years, except that records related to §§30569, 30573.A and B, and 30579.B.3 and C must be retained for as long as the pipeline remains in service. [49 CFR 195.589(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

Chapter 309. Transportation of Hazardous Liquids by PipelineC Appendices [49 CFR Part 195]

§30901. Reserved.

§30903. Reserved.

§30905. Appendix C to Subpart 3C Guidance for Implementation of Integrity Management Program [49 CFR Part 195 Appendix C]

This Appendix gives guidance to help an operator implement the requirements of the integrity management program rule in §30450 and §30452. Guidance is provided on:

1. information an operator may use to identify a high consequence area and factors an operator can use to consider the potential impacts of a release on an area;
2. risk factors an operator can use to determine an integrity assessment schedule;
3. safety risk indicator tables for leak history, volume or line size, age of pipeline, and product transported, an operator may use to determine if a pipeline segment falls into a high, medium or low risk category;
4. types of internal inspection tools an operator could use to find pipeline anomalies;
5. measures an operator could use to measure an integrity management program's performance;
6. types of records an operator will have to maintain; and
7. types of conditions that an integrity assessment may identify that an operator should include in its required schedule for evaluation and remediation.

I. Identifying a High Consequence Area and Factors for Considering a Pipeline Segment's Potential Impact on a High Consequence Area

A. The rule defines a High Consequence Area as a high population area, an other populated area, an unusually sensitive area, or a commercially navigable waterway. The Office of Pipeline Safety (OPS) will map these areas on the National Pipeline Mapping System (NPMS). An operator, member of the public, or other government agency may view and download the data from the NPMS home page <http://www.npms.rspa.dot.gov>. OPS will maintain the NPMS and update it periodically. However, it is an operator's responsibility to ensure that it has identified all high consequence areas that could be affected by a pipeline segment. An operator is also responsible for periodically evaluating its pipeline segments to look for population or environmental changes that may have occurred around the pipeline and to keep its program current with this information. (Refer to §30452.D.3.) For more information to help in identifying high consequence areas, an operator may refer to:

1. Digital Data on populated areas available on U.S. Census Bureau maps;
2. Geographic Database on the commercial navigable waterways available on <http://www.bts.gov/gis/ntatlas/networks.html> ;
3. the Bureau of Transportation Statistics database that includes commercially navigable waterways and non-commercially navigable waterways. The database can be downloaded from the BTS website at <http://www.bts.gov/gis/ntatlas/networks.html>

B. The Rule requires an operator to include a process in its program for identifying which pipeline segments could affect a high consequence area and to take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. (See §30452.F

and I.) Thus, an operator will need to consider how each pipeline segment could affect a high consequence area. The primary source for the listed risk factors is a US DOT study on instrumented Internal Inspection devices (November 1992). Other sources include the National Transportation Safety Board, the Environmental Protection Agency and the Technical Hazardous Liquid Pipeline Safety Standards Committee. The following list provides guidance to an operator on both the mandatory and additional factors:

1. terrain surrounding the pipeline. An operator should consider the contour of the land profile and if it could allow the liquid from a release to enter a high consequence area. An operator can get this information from topographical maps such as U.S. Geological Survey quadrangle maps;
2. drainage systems such as small streams and other smaller waterways that could serve as a conduit to a high consequence area;
3. crossing of farm tile fields. An operator should consider the possibility of a spillage in the field following the drain tile into a waterway;
4. crossing of roadways with ditches along the side. The ditches could carry a spillage to a waterway;
5. the nature and characteristics of the product the pipeline is transporting (refined products, crude oils, highly volatile liquids, etc.) Highly volatile liquids become gaseous when exposed to the atmosphere. A spillage could create a vapor cloud that could settle into the lower elevation of the ground profile;
6. physical support of the pipeline segment such as by a cable suspension bridge. An operator should look for stress indicators on the pipeline (strained supports, inadequate support at towers), atmospheric corrosion, vandalism, and other obvious signs of improper maintenance;
7. operating conditions of the pipeline (pressure, flow rate, etc.) Exposure of the pipeline to an operating pressure exceeding the established maximum operating pressure;
8. the hydraulic gradient of the pipeline;
9. the diameter of the pipeline, the potential release volume, and the distance between isolation points;
10. potential physical pathways between the pipeline and the high consequence area;
11. response capability (time to respond, nature of response);
12. potential natural forces inherent in the area (flood zones, earthquakes, subsidence areas, etc.).

II. Risk Factors for Establishing Frequency of Assessment.

A. By assigning weights or values to the risk factors, and using the risk indicator tables, an operator can determine the priority for assessing pipeline segments, beginning with those segments that are of highest risk, that have not previously been assessed. This list provides some guidance on some of the risk factors to consider (see §30452.E). An operator should also develop factors specific to each pipeline segment it is assessing, including:

1. populated areas, unusually sensitive environmental areas, National Fish Hatcheries, commercially navigable waters, areas where people congregate;
2. results from previous testing/inspection. (See §30452.H.);

3. leak history. (See leak history risk table.);
4. known corrosion or condition of pipeline. (See §30452.G.);
5. cathodic protection history;
6. type and quality of pipe coating (disbonded coating results in corrosion);
7. age of pipe (older pipe shows more corrosion-may be uncoated or have an ineffective coating) and type of pipe seam. (See Age of Pipe risk table.);
8. product transported (highly volatile, highly flammable and toxic liquids present a greater threat for both people and the environment)(see Product transported risk table.);
9. pipe wall thickness (thicker walls give a better safety margin);
10. size of pipe (higher volume release if the pipe ruptures);
11. location related to potential ground movement (e.g., seismic faults, rock quarries, and coal mines); climatic (permafrost causes settlement-Alaska); geologic (landslides or subsidence);
12. security of throughput (effects on customers if there is failure requiring shutdown);
13. time since the last internal inspection/pressure testing;
14. with respect to previously discovered defects/anomalies, the type, growth rate, and size;
15. operating stress levels in the pipeline;
16. location of the pipeline segment as it relates to the ability of the operator to detect and respond to a leak. (e.g., pipelines deep underground, or in locations that make leak detection difficult without specific sectional monitoring and/or significantly impede access for spill response or any other purpose);
17. physical support of the segment such as by a cable suspension bridge;
18. non-standard or other than recognized industry practice on pipeline installation (e.g., horizontal directional drilling).

B. Example. This example illustrates a hypothetical model used to establish an integrity assessment schedule for a hypothetical pipeline segment. After we determine the risk factors applicable to the pipeline segment, we then assign values or numbers to each factor, such as, high (5), moderate (3), or low (1). We can determine an overall risk classification (A, B, C) for the segment using the risk tables and a sliding scale (values 5 to 1) for risk factors for which tables are not provided. We would classify a segment as C if it fell above 2/3 of maximum value (highest overall risk value for any one segment when compared with other segments of a pipeline), a segment as B if it fell between 1/3 to 2/3 of maximum value, and the remaining segments as A.

i. For the baseline assessment schedule, we would plan to assess 50 percent of all pipeline segments covered by the rule, beginning with the highest risk segments, within the first 3 1/2 years and the remaining segments within the seven-year period. For the continuing integrity assessments, we would plan to assess the C segments within the first two years of the schedule, the segments classified as moderate risk no later than year three or four and the remaining lowest risk segments no later than year five.

ii. For our hypothetical pipeline segment, we have chosen the following risk factors and obtained risk factor values from the appropriate table. The values assigned to the risk factors are for illustration only.

- Age of pipeline:* assume 30 years old (refer to "Age of Pipeline" risk table)-
Risk Value=5
- Pressure tested:* tested once during construction-
Risk Value=5
- Coated:* (yes/no)-yes
- Coating Condition:* Recent excavation of suspected areas showed holidays in coating (potential corrosion risk)-
Risk Value=5
- Cathodically Protected:* (yes/no)-yes-Risk Value=1
- Date cathodic protection installed:* five years after pipeline was constructed (Cathodic protection installed within one year of the pipeline's construction is generally considered low risk.)-Risk Value=3
- Close interval survey:* (yes/no)-no-Risk Value=3
- Close interval survey:* (yes/no)-no-Risk Value=5
- Internal Inspection tool used:* (yes/no)-no-Risk Value=5
- Date of pig run?* In last five years-Risk Value=1
- Anomalies found:* (yes/no)-yes, but do not pose an immediate safety risk or environmental hazard-Risk Value=3
- Leak History:* yes, one spill in last 10 years. (refer to "Leak History" risk table)-Risk Value=2
- Product transported:* Diesel fuel. Product low risk. (refer to "Product" risk table)-Risk Value=1
- Pipe size:* 16 inches. Size presents moderate risk (refer to "Line Size" risk table)-Risk Value=3

iii. Overall risk value for this hypothetical segment of pipe is 34. Assume that we have two other pipeline segments for which we conduct similar risk rankings. The second pipeline segment has an overall risk value of 20, and the third segment, 11. For the baseline assessment we would establish a schedule where we assess the first segment (highest risk segment) within two years, the second segment within five years and the third segment within seven years. Similarly, for the continuing integrity assessment, we could establish an assessment schedule where we assess the highest risk segment no later than the second year, the second segment no later than the third year, and the third segment no later than the fifth year.

III. Safety Risk Indicator Tables for Leak History, Volume or Line Size, Age of Pipeline, and Product Transported

Safety Risk Indicator	Leak History (Time-dependent defects) ¹
High	>3 Spills in last 10 years
Low	<3 Spills in last 10 years

¹Time-dependent defects are those that result in spills due to corrosion, gouges, or problems developed during manufacture, construction or operation, etc.

Line Size or Volume Transported	
Safety Risk Indicator	Line Size
High	18"
Moderate	10"-16" nominal diameters
Low	8" nominal diameter
Age of Pipeline	
Safety Risk Indicator	Age Pipeline Condition Dependent ²
High	>25 years
Low	25 years

²Depends on pipeline's coating and corrosion condition, and steel quality, toughness, welding.

Product Transported		
Safety Risk Indicator	Considerations ³	Product Examples
High	(Highly volatile and flammable)	(Propane, butane, Natural Gas Liquid (NGL), ammonia).
	Highly toxic	(Benzene, high Hydrogen Sulfide content crude oils).
Medium	Flammable-flashpoint<100F	(Gasoline, JP4, low flashpoint crude oils).
Low	Non-flammable-flashpoint 100+F	(Diesel, fuel oil, kerosene, JP5, most crude oils).

³The degree of acute and chronic toxicity to humans, wildlife, and aquatic life; reactivity; and volatility, flammability, and water solubility determine the Product Indicator. Comprehensive Environmental Response, Compensation and Liability Act Reportable Quantity values may be used as an indication of chronic toxicity. National Fire Protection Association health factors may be used for rating acute hazards.

IV. Types of Internal Inspection Tools to Use

An operator should consider at least two types of internal inspection tools for the integrity assessment from the following list. The type of tool or tools an operator selects will depend on the results from previous internal inspection runs, information analysis and risk factors specific to the pipeline segment:

1. Geometry Internal inspection tools for detecting changes to ovality, e.g., bends, dents, buckles or wrinkles, due to construction flaws or soil movement, or other outside force damage;
2. Metal Loss Tools (Ultrasonic and Magnetic Flux Leakage) for determining pipe wall anomalies, e.g., wall loss due to corrosion;
3. Crack Detection Tools for detecting cracks and crack-like features, e.g., stress corrosion cracking (SCC), fatigue cracks, narrow axial corrosion, toe cracks, hook cracks, etc.

V. Methods to Measure Performance

A. General

1. This guidance is to help an operator establish measures to evaluate the effectiveness of its integrity management program. The performance measures required will depend on the details of each integrity management program and will be based on an understanding and analysis of the failure mechanisms or threats to integrity of each pipeline segment.

2. An operator should select a set of measurements to judge how well its program is performing. An operator's objectives for its program are to ensure public safety, prevent or minimize leaks and spills and prevent property and environmental damage. A typical integrity management program will be an ongoing program it may contain many elements. Therefore, several performance measure are likely to be needed to measure the effectiveness of an ongoing program.

B. Performance Measures. These measures show how a program to control risk on pipeline segments that could affect a high consequence area is progressing under the integrity management requirements. Performance measures generally fall into three categories.

1. Selected Activity Measures C Measures that monitor the surveillance and preventive activities the operator has implemented. These measures indicate how well an operator is implementing the various elements of its integrity management program.

2. Deterioration Measures C Operation and maintenance trends that indicate when the integrity of the system is weakening despite preventive measures. This category of performance measure may indicate that the system condition is deteriorating despite well executed preventive activities.

3. Failure Measures C Leak History, incident response, product loss, etc. These measures will indicate progress towards fewer spills and less damage.

C. Internal vs. External Comparisons. These comparisons show how a pipeline segment that could affect a high consequence area is progressing in comparison to the operator's other pipeline segments that are not covered by the integrity management requirements and how that pipeline segment compares to other operator's pipeline segments.

1. Internal C Comparing data from the pipeline segment that could affect the high consequence area with data from pipeline segments in other areas of the system may indicate the effects from the attention given to the high consequence area.

2. External C Comparing data external to the pipeline segment (e.g., OPS incident data) may provide measures on the frequency and size of leaks in relation to other companies.

D. Examples. Some examples of performance measures an operator could use include:

1. a performance measurement goal to reduce the total volume from unintended releases by __% (percent to be determined by operator) with an ultimate goal of zero;
2. a performance measurement goal to reduce the total number of unintended releases (based on a threshold of five gallons) by __-% (percent to be determined by operator) with an ultimate goal of zero;
3. a performance measurement goal to document the percentage of integrity management activities completed during the calendar year;
4. a performance measurement goal to track and evaluate the effectiveness of the operator's community outreach activities;
5. a narrative description of pipeline system integrity, including a summary of performance improvements, both qualitative and quantitative, to an operator's integrity management program prepared periodically;
6. a performance measure based on internal audits of the operator's pipeline system per this Subpart;
7. a performance measure based on external audits of the operator's pipeline system per this Subpart;
8. a performance measure based on operational events (for example: relief occurrences, unplanned valve closure, SCADA outages, etc.) that have the potential to adversely affect pipeline integrity;
9. a performance measure to demonstrate that the operator's integrity management program reduces risk over time with a focus on high risk items;

10. a performance measure to demonstrate that the operator's integrity management program for pipeline stations and terminals reduces risk over time with a focus on high risk items.

VI. Examples of Types of Records an Operator Must Maintain

The Rule requires an operator to maintain certain records. (See §30452.L). This Section provides examples of some records that an operator would have to maintain for inspection to comply with the requirement. This is not an exhaustive list:

1. a process for identifying which pipelines could affect a high consequence area and a document identifying all pipeline segments that could affect a high consequence area;
2. a plan for baseline assessment of the line pipe that includes each required plan element;
3. modification to the baseline plan and reasons for the modification;
4. use of and support for an alternative practice;
5. a framework addressing each required element of the integrity management program, updates and changes to the initial framework and eventual program;
6. a process for identifying a new high consequence area and incorporating it into the baseline plan, particularly, a process for identifying population changes around a pipeline segment;
7. an explanation of methods selected to assess the integrity of line pipe;
8. a process for review of integrity assessment results and data analysis by a person qualified to evaluate the results and data;
9. the process and risk factors for determining the baseline assessment interval;
10. results of the baseline integrity assessment;
11. the process used for continual evaluation, and risk factors used for determining the frequency of evaluation;
12. process for integrating and analyzing information about the integrity of a pipeline, information and data used for the information analysis;
13. results of the information analyses and periodic evaluations;
14. the process and risk factors for establishing continual reassessment intervals;
15. justification to support any variance from the required reassessment intervals;
16. integrity assessment results and anomalies found, process for evaluating and remediating anomalies, criteria for remedial actions and actions taken to evaluate and remediate the anomalies;
17. other remedial actions planned or taken;
18. schedule for evaluation and remediation of anomalies, justification to support deviation from required remediation times;
19. risk analysis used to identify additional preventive or mitigative measures, records of preventive and mitigative actions planned or taken;
20. criteria for determining EFRD installation;

21. criteria for evaluating and modifying leak detection capability;

22. methods used to measure the program's effectiveness.

VII. Conditions that May Impair a Pipeline's Integrity

Section 30452.H requires an operator to evaluate and remediate all pipeline integrity issues raised by the integrity assessment or information analysis. An operator must develop a schedule that prioritizes conditions discovered on the pipeline for evaluation and remediation. The following are some examples of conditions that an operator should schedule for evaluation and remediation:

- A. any change since the previous assessment;
- B. mechanical damage that is located on the top side of the pipe;
- C. an anomaly abrupt in nature;
- D. an anomaly longitudinal in orientation;
- E. an anomaly over a large area;
- F. an anomaly located in or near a casing, a crossing of another pipeline, or an area with suspect cathodic protection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

Chapter 313. Hazardous Liquids Pipeline Enforcement §31301. Scope

A. This regulation prescribes the authority of the assistant secretary of the Office of Conservation and procedures to be utilized by him in carrying out his duties regarding administration and enforcement of R.S. 30:701 et seq., and the rules and regulations promulgated thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§31303. Service

A. Except as herein provided, any order, notice or other documents required to be served under this regulation shall be served personally or by registered or certified mail.

B. Should the assistant secretary elect to make personal service, it may be made by any officer authorized to serve process or any agent or employee of the assistant secretary in the same manner as is provided by law for the service of citation in civil actions in the district courts. Proof of service by an agent or employee shall be by the affidavit of the person making it.

C. Service upon a person's duly authorized representative, officer or agent constitutes service upon that person.

D. Service by registered or certified mail is complete upon mailing. An official U.S. Postal Service receipt from the registered or certified mailing constitutes prima facie evidence of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§31305. Subpoenas

A. The assistant secretary may sign and issue subpoenas either on his own initiative or, upon request and adequate showing by any person participating in any proceeding before the assistant secretary that the information sought is relevant and will materially advance the proceeding.

B. A subpoena may require the attendance of a witness for the purpose of giving testimony, or the production of documents or other tangible evidence in the possession or under the control of the person served, or both.

C. A subpoena may be served by any agent of the Department of Conservation, by the sheriff of the parish where service is to be made or the parish where the action is pending or by any other person authorized by law to serve process in this state.

D. Service of a subpoena upon the person named therein shall be made by delivering a copy of the subpoena to such person. Delivery of a copy of a subpoena may be made by handing them to the person, leaving them at his office with persons in charge thereof, leaving them at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein, or by any method whereby actual notice is given to him.

E. When the person to be served is not a natural person, delivery of a copy of the subpoena may be affected by handing them to a designated agent or representative for service, or to any officer, director, or agent in charge of any office of the person.

F. The original subpoena bearing a certificate of service shall be filed in the assistant secretary's records for the proceedings in connection with which the subpoena was issued.

G. No person shall be excused from attending and testifying or producing books, papers, or records, or from obeying the subpoena of the assistant secretary, or of a court of record on the grounds that the testimony or evidence required of him may tend to incriminate him or subject him to penalty or forfeiture. Pursuant to R.S. 30:8(4), no natural person shall be subject to criminal prosecution or to any penalty or forfeiture on account of anything concerning which he may be required to testify or produce evidence before the assistant secretary or a court of law; however, no person testifying shall be exempt from prosecution and punishment for perjury.

H. In the case of failure or refusal of a person to comply with a subpoena issued by the assistant secretary, or in the case of a refusal of a witness to testify or answer as to a matter regarding which he may be lawfully interrogated, any district court on the application of the assistant secretary may, in term time or in vacation, issue an attachment for the person to compel him to comply with the subpoena and to attend before the assistant secretary with the desired documents and to give his testimony upon whatever matters are lawfully required. The court may punish for contempt those disobeying its orders as in the case of disobedience of a subpoena issued by the court or refusal to testify therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§31307. Inspection, Field Inspection Reports

A. Officers, employees or agents authorized by the assistant secretary, upon presenting proper credentials, are authorized to enter upon, inspect and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent that such records and properties are relevant to determining compliance of such person with R.S. 30:701 et seq. or any rules, regulations or orders issued thereunder.

B. Inspection may be conducted pursuant to a routine schedule, a complaint received from a member of the public, information obtained from a previous inspection, report of accident or incident involving facilities, or whenever deemed appropriate by the assistant secretary.

C. If, after inspection, the assistant secretary believes that further information is needed or required to determine compliance or appropriate action, the assistant secretary may request specific information of the person or operator to be answered within ten days of receipt of said request.

D. The assistant secretary may, to the extent necessary to carry out his responsibilities, require reasonable testing of any portion of a facility in connection with a violation or suspected violation.

E. When information obtained from an inspection indicates that a violation has probably occurred, the inspector shall complete a field inspection report as to the nature of the violation citing the specific provisions which have been violated. Said field inspection report shall be filed with the assistant secretary for review and further action, if appropriate.

F. The assistant secretary or his agent, after review of the field inspection report, and depending upon the severity of the violation and the exigency of the situation, may issue to the operator a letter of non-compliance or initiate one or more enforcement proceedings prescribed by §31311-§31314.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§31309. Letter of Non-Compliance; Relief Therefrom

A. Upon determination that a probable violation of R.S. 30:701 et seq., or any rule, regulation or order issued thereunder has occurred, the assistant secretary may institute enforcement procedures by serving upon the hazardous liquid pipeline operator a letter of non-compliance notifying said operator of said probable violation and directing said operator to correct said violation within a designated period of time to be determined by the assistant secretary or be subject to enforcement action prescribed by §31311-§31319. A copy of the field inspection report or other evidence of violation shall be attached to the letter of non-compliance. The letter of non-compliance may inform the operator of the time at which reinspection of the facility will be conducted to confirm compliance and shall inform the operator of the time delays and procedure available to said operator for securing relief from said letter of non-compliance.

B. Except in cases of emergency action instituted pursuant to §31315, within seven days of receipt of a letter of non-compliance, the operator who believes himself to be

in compliance with the applicable statute and the rules, regulations or orders issued thereunder or who believes the time limits imposed upon him for compliance to be burdensome, may request a conference before the assistant secretary or his designated agent. The operators request for said conference may be verbal or presented in writing.

C. The conference before the assistant secretary or his agent shall be informal without strict adherence to rules of evidence. The operator may submit any relevant information and materials which shall become part of the record and may examine the assistant secretary's files relative to the probable violation. If circumstances are deemed appropriate by the assistant secretary and upon request of the operator, this conference may be held by telephone conference.

D. Upon conclusion of the conference for relief, the assistant secretary may issue to the operator a modified letter of non-compliance extending the time for compliance or containing such other terms and conditions as may be appropriate considering the nature of the probable violation, the circumstances and exigency of the situation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§31311. Reinspection, Show Cause Conference

A. Upon expiration of the delay allowed in the letter of non-compliance or modified letter of non-compliance for correcting said probable violation, the operator's facilities shall be reinspected and if the operator is found to be in compliance, the enforcement file for said violation will be closed.

B. If upon reinspection the operator is found to be in violation of the statute, rule or regulation for which a letter of non-compliance has been issued, the assistant secretary may:

1. re-issue citation to the operator in the form of a letter of non-compliance containing such modifications or extensions of time as the case may warrant;
2. require that the operator attend a show cause conference with the assistant secretary or his agent to review the complaint and the operator's efforts in resolving or correcting the violation and at the conclusion of said conference the assistant secretary may re-issue a modified letter of non-compliance containing such modifications or extensions of time as the case may warrant; or
3. immediately after reinspection or after the show cause conference, initiate one or more enforcement proceedings prescribed by §31313-§31319.

C. The show cause conference shall be conducted informally without strict adherence to the rules of evidence.. The operator may submit any relevant information, call witnesses on his behalf, and examine the evidence and witnesses against him. No detailed record of said conference shall be prepared but said record shall contain the materials in the enforcement case file pertinent to the issues, relevant submissions of the operator and the written recommendations of the assistant secretary or his agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§31313. Show Cause Hearing, Notice, Rules of Procedure, Record, Order of Compliance

A. At any time that the assistant secretary determines that such action is appropriate, he may direct that an operator attend a formal show cause hearing and to show cause at said hearing why he should not be compelled to comply with applicable statutes and the rules and regulations promulgated thereunder.

B. The operator shall be given at least 10 days notice of said show cause hearing in the manner herein provided and shall be required to attend. The assistant secretary may issue such subpoenas as may be necessary for the attendance of witnesses and the production of documents.

C. The show cause hearing shall be conducted in accordance with the procedures for adjudication prescribed by the Administrative Procedure Act (R.S. 49:950 et seq.).

D. The record of the case shall include those items required by R.S. 49:955(E) together with the enforcement file for the violation in question which enforcement file may include inspection reports and other evidence of violation, letters of non-compliance, modified letters of non-compliance, materials submitted by the operator pursuant to §31309 and §31311, all correspondence and orders directed to the operator by the assistant secretary, all correspondence received by the assistant secretary from the operator, and evaluations and recommendations of the assistant secretary or his staff.

E. After conclusion of the show cause hearing the assistant secretary shall issue an order of compliance directed to the operator setting forth findings and determinations on all material issues, including a determination as to whether each alleged violation has been proven, and a statement of the actions required to be taken by the operator and the time by which such actions must be accomplished. The compliance order shall become final as specified by the Administrative Procedure Act.

F. The assistant secretary may tax the operator with all costs of said hearing including but not limited to transcription and service costs and hearing fees in the amount prescribed by R.S. 30:21.

G. The operator and the assistant secretary may consent to waiver of the show cause hearing and enter into a consent order which will become final and non-appealable upon its issuance.

H. If the operator fails to comply with the final order of compliance, the assistant secretary may take whatever civil or criminal action is necessary to enforce said order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§31315. Emergency

A. Should the assistant secretary, the director of pipelines or the chief of pipeline safety find an existing emergency due to non-compliance with law or the rules, regulations or orders issued pursuant thereto or due to leakage or other hazard which in his judgment requires the issuance of an emergency order or an order for the immediate termination of the offending service without first complying with the procedures set forth herein and without having a hearing, he may issue the emergency order or terminate said offending

service and invoke a show cause hearing pursuant to §31313 requiring the operator to show cause why the circumstances giving rise to the emergency should not be corrected. The emergency order or order for termination of the offending service shall remain in force no longer than 15 days from its effective date. In any event, the emergency order shall expire when the order made after notice and hearing with respect to the same subject matter becomes effective. An emergency is defined as any situation where there is a substantial likelihood that loss of life, personal injury, health or property will result before the procedures under this regulation for notice and hearing can be fully complied with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§31317. Hazardous Facility Orders

A. Notwithstanding any self imposed regulatory limitations, if the assistant secretary finds, after reasonable notice and an opportunity to be heard in accordance with §31313, a particular pipeline facility subject to R.S. 30:701 to be hazardous to life or property, he may issue an order requiring the owner or operator of the facility to take corrective action. Corrective action may include suspended or restricted use of the facility, inspection, testing, repair, replacement, or other action as appropriate. The provisions of §31315 shall also be applicable for issuance of hazardous facility orders on an emergency basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§31319. Civil Enforcement, Injunction

A. Whenever it appears to the assistant secretary that any person or operator has engaged, is engaged, or is about to engage in any act or practice constituting a violation of R.S. 30:701 et seq., or any rule, regulation or order issued thereunder, he may bring an action in the court having jurisdiction, to enjoin such acts or practice and to enforce compliance with the applicable statute and the rules, regulations and orders issued pursuant thereto, and upon proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. The relief sought may include a mandatory injunction commanding any person to comply with the applicable law or any rule, regulation or order issued thereunder, and to make restitution of money received in violation of any such rule, regulation or order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§31321. Violation, Penalties

A. After notice and opportunity to be heard, in accordance with §31313, the assistant secretary may, after determining that a person has violated any provision of R.S. 30:701, et seq., or any rule, regulation or order issued pursuant thereto, assess a civil penalty upon or against said person not to exceed the amounts fixed by statute, particularly, but not exclusively, R.S. 30:705. The amount of the penalty shall be assessed by the assistant secretary by

written notice. In determining the amount of penalty, the assistant secretary shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the penalty, and such other matters as justice may require.

B. The assistant secretary may transmit such evidence as may be available concerning acts or practice in violation or R.S. 30:701, et seq. or any rules, regulation or order issued pursuant thereto or any order issued pursuant to this regulation to the district attorney having jurisdiction over same who, in his discretion, may institute necessary proceedings to collect the fines and impose the penalties provided by statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

§31323. Waiver of Compliance with Standards

A. Upon application by any person engaged in the transportation of hazardous liquids or the operation of intrastate pipeline facilities, the assistant secretary shall, by order, after notice and opportunity for hearing and under such terms and conditions and to such extent as the assistant secretary may deem reasonable and proper, waive in whole or in part compliance with any standard established under R.S. 30:701 et seq., if he determines that compliance with such standard works a substantial hardship on an owner or operator of pipeline facilities or is not in the public interest and a waiver of compliance with such standard is not inconsistent with pipeline safety, provided that such waiver shall not be effective until the requirements of 49 U.S.C.A. Section 2001, et seq. relative to such a waiver have first been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:

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 earnings and family budget.

5. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no effect on the functioning of the family.

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 not

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 Mariano G. Hinojosa, Louisiana Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275. Written comments will accepted through August 22, 2003.

James H. Welsh
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Hazardous Liquids Pipeline Safety**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local government units since Louisiana already has Hazardous Liquids Pipeline Safety Rules in effect. The proposed amendments will keep Louisiana's Hazardous Liquids Pipeline Safety Program in conformance with federal regulations. This action amends and adopts recent federal Hazardous Liquids Pipeline Safety regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Louisiana presently receives approximately \$148,000 in federal funds and \$62,000 in pipeline fees to administer the Hazardous Liquids Pipeline Safety Program. Failure to amend the Louisiana Rules to make them consistent with federal regulations would cause the state to lose federal funding.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be negligible cost to directly affected persons or hazardous liquids pipeline operators. Benefits will realized by persons near hazardous liquids pipelines through safer construction and operation standards imposed by the amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule amendment will bring the Louisiana Hazardous Liquids Pipeline Safety Program into conformance with federal regulations and will have no effect of competition and employment.

James H. Welsh
Commissioner
0309#010

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Death Penalty (LAC 22:I.103)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to adopt amendments to the death penalty Rule.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 1. Secretary's Office

§103. Death Penalty

A. - H.2.d. ...

e. Repealed.

I. - I.4. ...

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 Subparagraphs H.1.a.-c and H.1.e, Paragraph H.2, and Subparagraph H.2.c., 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.

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 Public Safety and 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 28:2553 (December 2002), LR 29:

Family Impact Statement

In accordance with the Administrative Procedure Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

The amendment of LAC 22:I.103, Death Penalty, by the Department of Public Safety and Corrections, Corrections Services, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed Rule amendment.

Interested persons may submit oral or written comments to Richard L. Stalder, Department of Public Safety and Corrections, P.O. Box 94304, Capitol Station, Baton Rouge, LA 70804-9304, (225) 342-6741. Comments will be accepted through the close of business at 4:30 p.m. on October 20, 2003.

Richard L. Stalder
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Death Penalty

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The minor amendments to the current Rule will not result in any implementation costs or savings to state or local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups resulting from the amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Robert B. Barbor
Deputy General Counsel
0309#062

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Louisiana Risk Review Panel (LAC 22:I.107)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to adopt amendments to the Louisiana Risk Review Panel Rule.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 1. Secretary's Office

§107. Louisiana Risk Review Panel

A. - D.1.c.iii. ...

iv. sentenced to life imprisonment and has served at least 20 years in actual custody;

1.d. - 2.d. ...

3. An application will be ineligible for Risk Review Panel referral in the following circumstances:

a. - d. ...

e. extensive probation and parole revocation history;

D.3.f. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.22 (as enacted by Act Number 403 of the 2001 Regular Session of the Louisiana Legislature).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 28:94 (January 2002), LR 29:

Family Impact Statement

In accordance with the Administrative Procedure Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

The amendment of LAC 22:I.107, Louisiana Risk Review Panel, by the Department of Public Safety and Corrections, Corrections Services, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed Rule amendment.

Interested persons may submit oral or written comments to Richard L. Stalder, Department of Public Safety and Corrections, P.O. Box 94304, Capitol Station, Baton Rouge, LA 70804-9304, (225)342-6741. Comments will be accepted through the close of business at 4:30 p.m. on October 20, 2003.

Richard L. Stalder
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Louisiana Risk Review Panel

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no significant implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no additional costs or economic benefits directly affecting persons or nongovernmental groups. There are no additional costs on an applicant due to the fact that applications are submitted voluntarily.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Robert B. Barbor
Deputy General Counsel
0309#064

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Telephone Use and Policy on
Monitoring of Calls CJuvenile and Adult
(LAC 22:I.314, 315, and 316)

Editor's Note: LAC 22:I.315, Visitation: Adult Inmates, has been reassigned to Section 316 for topical arrangement.

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to repeal LAC 22:I.314 in its entirety. The Department of Public Safety and Corrections intends to adopt separate Rules for adult and juvenile institutions. The Department of

Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to adopt LAC 22:I.314, Telephone Use and Policy on Monitoring of Calls C Juvenile, and LAC 22:I.315, Telephone Use and Policy on Monitoring of Calls C Adult. The existing LAC 22:I.315, Visitation: Adult Inmates, is hereby renumbered as LAC 22:I.316. The renumbering of this Section is not substantive. The move is purely administrative in nature and is necessary only to allow for the placement of the new LAC 22:I.315.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§314. Telephone Use and Policy on Monitoring of Calls C Juvenile

A. Purpose. To establish the secretary's policy regarding the use of telephones by juveniles and the monitoring of telephone calls at all juvenile institutions.

B. Applicability. Deputy secretary, undersecretary, assistant secretary of the Office of Youth Development and wardens of juvenile facilities. It is the responsibility of each warden to implement this regulation and convey its contents to the juvenile population, employees, and the public.

C. Policy. It is the secretary's policy that uniform telephone procedures C including the ability to monitor and/or record juvenile telephone calls to preserve the security and orderly management of the institution and to protect the public safety C be established and adhered to at all institutions. Each institution will offer juveniles (including the hearing impaired) reasonable access to telephone communication without overtaxing the institution's ability to properly maintain security and to avoid abuse of this privilege on the part of any juvenile.

D. Procedures

1. General

a. Each juvenile will be assigned a personal identification number (PIN), which is not the juvenile's JIRMS number, which must be used when placing outgoing telephone calls.

b. At each juvenile institution, a unique calling number will be used for calling the PZT Hotline.

c. Each juvenile will provide his assigned institution a master list of up to 20 frequently called telephone numbers inclusive of all family, personal, and legal calls. Each juvenile's outgoing telephone calls will be limited to those telephone numbers he has placed on his master list. Changes may be made to the master list at the discretion of the Warden, but no less than once each quarter. These changes may be entered by the contractor or by appropriately trained institutional staff. Changes to the master list of parents and attorneys representing a juvenile are to be expedited. All attempts should be made to institute such changes within six working days. The six days shall begin to run upon receipt by the appropriate institutional staff of the juvenile's written request that the change be made.

d. For new juveniles, PIN and master list numbers will be entered into the telephone system upon intake at the Juvenile Reception and Diagnostic Center.

e. Upon the request of a telephone subscriber, the institution may block a telephone number and prevent the subscriber from receiving calls from a juvenile housed in the facility. To accomplish a block of a particular number, the institution should contact the contractor to request that a universal block be put into place.

2. Telephone access (outgoing calls) shall be as follows.

a. Personal or Family Calls (Routine). Regardless of custody status, juveniles will be provided an opportunity to make telephone calls to their home at the state's expense when the juvenile's case worker determines that the call will promote the goals of the juvenile's intervention plan. Collect telephone access should be made available when not in conflict with school, work or other programming. Specific times for telephone usage in the various living areas shall be established by the warden who shall communicate the telephone schedule to the population.

b. Personal or Family Calls (Emergency). Requests for access outside of normally scheduled hours may be made through the dormitory officer, counselor, or shift supervisor. Upon receiving information of a family emergency, the Warden or designee shall notify the juvenile as soon as possible.

c. Legal Calls. Juveniles will be given meaningful access to telephones for privileged communications with their attorneys, including being advised that their attorney has requested contact.

3. Telephone access (incoming calls) shall be as follows.

a. Personal or Family calls (Routine). Messages may be relayed at the warden's discretion.

b. Personal or Family Calls (Emergency). The warden shall establish a procedure for juvenile notification of legitimate personal or family emergencies communicated to the institution.

c. Legal Calls. Juveniles may be given notice that their attorney has requested contact. Complete verification is required prior to processing.

4. Monitoring

a. Inmates shall be put on notice of the following.

i. Telephone calls in housing areas are subject to being monitored and/or recorded and that "use" constitutes "consent."

ii. It is the juveniles' responsibility to advise all other parties that conversations are subject to being monitored and/or recorded.

iii. A properly placed telephone call to an attorney will not be monitored and/or recorded unless reasonable suspicion of illicit activity has resulted in a formal investigation and such action has been authorized by the secretary or designee.

b. The telephone system will normally terminate a call at the end of the authorized period, (normally 15 minutes); however, the warden or designee may authorize calls of a longer duration as circumstances warrant.

c. The system will automatically broadcast recorded messages indicating that the telephone call is originating from a correctional facility.

d. Juveniles shall not be allowed access to employee home telephone numbers and shall not be allowed to call any staff member of the department.

e. Each institution will advise its population of the proper way to place a legal call.

f. Only personnel authorized by the warden may monitor juvenile telephone calls. Information gained from monitoring calls which affects the security of the institution or threatens the protection of the public will be communicated to other staff members or other law enforcement agencies. Telephone calls to attorneys may not be routinely monitored (see LAC 22:I.314.D.4.a.iii); staff will immediately disconnect from any telephone call if it appears that is the case. All other information shall be held in strict confidence.

g. Juveniles being processed into the system through the Juvenile Reception and Diagnostic Centers will be required to "consent" in writing that their telephone calls are subject to being monitored and/or recorded. A copy of this "consent" shall be placed in the juvenile's institutional record.

h. Each institution's orientation manual must include the information contained in this regulation as a means to notify the population of its contents and verbal notification must be given in the orientation program. Existing juvenile populations shall be put on notice by a sign posted at each telephone. The sign shall reflect the following information:

ATTENTION

This telephone has been electronically programmed to monitor and/or record telephone calls. By using this telephone, you consent to the monitoring and/or recording of your conversation, except for properly placed legal calls.

5. Remote Call Forwarding

a. Remote Call Forwarding (RCF) is a mechanism by which juveniles may employ a local telephone number that automatically forwards the telephone call to a pre-selected number generally located out of the local calling area code or long distance. RCF in essence is an automated 3-way call.

b. RCF is also known as automated call forwarding or PBX call forwarding. Use of this automated and remote mechanism represents significant security risks for several reasons. The telephone call terminated number (the end destination of the call) cannot be readily identified or verified. This number is not a traditional telephone number located at a residence, business or other such location but merely a number within the telephone switching equipment local to the facility where the juvenile is housed.

c. RCF initiated calls to an unidentified terminated number can and are being easily forwarded again to a cell phone and other unauthorized telephones. This forwarding is done through the normal 3-way call hook ups. This in fact negates the security mechanisms achieved by the requirement of approved telephone lists. Safeguards to prevent calls to victims, to blocked or restricted numbers or to prevent other unauthorized call activities are defeated by the use of an RCF number.

d. RCF usage creates an opportunity to conduct criminal or illegal or un-authorized activities since the end call location is not readily being identified, verified or its actual location known. This affords untold opportunity for juveniles to engage in potential scams, to call victims, to

facilitate escape attempts and to engage in other conduct representing significant security risks to the facility.

e. The juvenile population should be put on notice that all third-party telephone calls, including RCF calls, are strictly prohibited and such activity will result in appropriate disciplinary action.

f. Wardens shall develop a monitoring system to analyze the frequency of local calls. High frequency may indicate RCF utilization. When RCF calls are discovered, a system wide block of the number should be initiated pursuant to LAC 22:I.314.D.1.e.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:829.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 29:360 (March 2003), amended LR 29:

§315. Telephone Use and Policy on Monitoring of CallsCAdult

A. Purpose. To establish the secretary's policy regarding the use of telephones by inmates and the monitoring of inmate telephone calls at all adult institutions.

B. Applicability. Deputy secretary, undersecretary, assistant secretary of the Office of Adult Services and all wardens of adult facilities. It is the responsibility of each warden to implement this regulation and convey its contents to the inmate population and unit employees.

C. Policy. It is the secretary's policy that uniform telephone proceduresCincluding the ability to monitor and/or record inmate telephone calls to preserve the security and orderly management of the institution and to protect the public safetyCbe established and adhered to at all institutions. Each institution will offer inmates (including the hearing and/or speech impaired) reasonable access to telephone communication without overtaxing the institution's ability to properly maintain security and to avoid abuse of this privilege on the part of any inmate. Further, inmates with hearing and/or speech disabilities and inmates who wish to communicate with parties who have such disabilities, are also to be afforded access to appropriate equipment which may include a Telecommunications Device for the Deaf or comparable equipment.

D. Procedures

1. General

a. Each inmate will be assigned a personal identification number (PIN) which must be used when placing outgoing telephone calls; the PIN will be the inmate's DOC number.

b. Each inmate will provide his assigned institution a master list of up to 20 frequently called telephone numbers inclusive of all family, personal, and legal calls. Each inmate's outgoing telephone calls will be limited to those telephone numbers he has placed on his master list. Changes may be made to the master list at the discretion of the warden, but no less than once each quarter. These changes may be entered by the contractor or by appropriately trained institutional staff.

c. For new inmates, PIN and master list numbers will be entered into the telephone system upon intake at the Reception and Diagnostic Centers.

d. Upon the request of a telephone subscriber, the institution may block a telephone number and prevent the subscriber from receiving calls from an inmate housed in the

facility. To accomplish a block of a particular number for all state facilities, the institution should contact the contractor to request that a universal block be put into place.

2. Dormitory Housing (Minimum or Medium Custody)

a. Personal or Family Calls (Routine). Collect telephone access should be available on a relatively non-restricted basis. The specific hours in the various living areas at the individual institutions shall be established by the warden of each institution. The warden shall communicate the telephone schedule to the inmate population. A time limit should be established.

b. Personal or Family Calls (Emergency). Requests for access outside of normally scheduled hours may be made through the dormitory officer, shift supervisor, or other appropriate staff.

c. Legal Calls. The warden shall establish a schedule for legal calls. Inmates are generally able to place legal calls during the lunch period or after the afternoon count (when "normal office hours" are in effect for attorneys). The warden should establish an alternate procedure if this is not adequate.

3. Cellblock Housing (Maximum Custody)

a. Personal or Family Calls (Routine). Collect telephone access is generally located in the cellblock lobby. (In those situations where the telephone is on the tier, the inmate may be allowed access during the shower or exercise period.) Lobby placement may restrict inmate access. Therefore, posted policy may limit routine personal calls for inmates assigned to cellblocks. Access may vary by inmate classification status. A time limit should be established.

b. Personal or Family Calls (Emergency). In all subclasses of maximum custody, the inmate is required to request consideration for this type call from the warden's designee (shift supervisor, unit major, or program staff) who decides if the justification the inmate presents warrants the request. That decision is then logged. No frequency for this type call is established as the severity and duration of the emergency may vary.

NOTE: Please refer to the "Emergency Review" provisions of the Administrative Remedy Procedure. Timely review can be solicited by the inmate.

c. Legal Calls. The warden shall establish a procedure for placing legal calls on a reasonable basis during "normal office hours." Each housing unit shall maintain a legal telephone log for the purpose of monitoring the number of legal calls made by inmates on a weekly basis.

4. Incoming Calls

a. Personal or Family Calls (Routine). Messages are not accepted or relayed on a routine basis for any inmate.

b. Personal or Family Calls (Emergency). The warden should establish a procedure for inmate notification of legitimate personal or family emergencies communicated to the institution.

c. Legal Calls. Inmates may be given notice that their attorney has requested contact. Complete verification is required prior to processing. If minimum or medium custody, the inmate may call from the dormitory during lunch or after work. If maximum custody, the inmate may be allowed to call during "normal office hours" at a time which does not interfere with orderly operation of the unit.

5. Monitoring

a. Inmates shall be put on notice of the following.

i. Telephone calls in housing areas are subject to being monitored and/or recorded and that "use" constitutes "consent."

ii. It is the inmate's responsibility to advise all other parties that conversations are subject to being monitored and/or recorded.

iii. A properly placed telephone call to an attorney will not be monitored and/or recorded unless reasonable suspicion of illicit activity has resulted in a formal investigation and such action has been authorized by the secretary or designee.

b. The telephone system will normally terminate a call at the end of the authorized period, (normally 15 minutes); however, the warden or designee may authorize calls of a longer duration as circumstances warrant.

c. The system will automatically broadcast recorded messages indicating that the telephone call is originating from a correctional facility.

d. Inmates shall not be allowed access to employee home telephone numbers and shall not be allowed to call any staff member of the department.

e. Each institution will advise its inmate population of the proper way to place a legal call.

f. Only personnel authorized by the warden or designee may monitor inmate telephone calls. Information gained from monitoring calls which affects the security of the institution or threatens the protection of the public will be communicated to other staff members or other law enforcement agencies. Telephone calls to attorneys may not be routinely monitored (see LAC 22:I.315.D.5.a.iii); staff will immediately disconnect from any inmate telephone call if it appears that is the case. All other information shall be held in strict confidence.

g. Inmates being processed into the system through the Reception and Diagnostic Centers will be required to "consent" in writing that their telephone calls are subject to being monitored and/or recorded. A copy of this "consent" shall be placed in the inmate's institutional record.

h. Each institution's orientation manual must include the information contained in this regulation as a means to notify the inmate population of its contents and verbal notification must be given in their orientation program. Existing inmate populations shall be put on notice by a sign posted at each inmate telephone. The sign shall reflect the following information.

ATTENTION

This telephone has been electronically programmed to monitor and/or record telephone calls. By using this telephone, you consent to the monitoring and/or recording of your conversation, except for properly placed legal calls.

6. Remote Call Forwarding

a. Remote Call Forwarding (RCF) is a mechanism by which inmates may employ a local telephone number that automatically forwards the telephone call to a pre-selected number generally located out of the local calling area code or long distance. RCF in essence is an automated 3-way call.

b. RCF is also known as automated call forwarding or PBX call forwarding. Use of this automated and remote mechanism represents significant security risks for several reasons. The telephone call terminated number (the end

destination of the call) cannot be readily identified or verified. This number is not a traditional telephone number located at a residence, business or other such location but merely a number within the telephone switching equipment local to the facility where the inmate is housed.

c. RCF initiated calls to an unidentified terminated number can and are being easily forwarded again to a cell phone and other unauthorized telephones. This forwarding is done through the normal 3-way call hook ups. This in fact negates the security mechanisms achieved by the requirement of approved telephone lists. Safeguards to prevent calls to victims, to blocked or restricted numbers or to prevent other unauthorized call activities are defeated by the use of an RCF number.

d. RCF usage creates an opportunity to conduct criminal or illegal or un-authorized activities since the end call location is not readily being identified, verified or its actual location known. This affords untold opportunity for inmates to engage in potential scams, to call victims, to facilitate escape attempts and to engage in other conduct representing significant security risks to the facility.

e. The inmate population should be put on notice that all third-party telephone calls, including RCF calls, are strictly prohibited and such activity will result in appropriate disciplinary action.

f. Wardens shall develop a monitoring system to analyze the frequency of local calls. High frequency may indicate RCF utilization. When RCF calls are discovered, a system wide block of the number should be initiated pursuant to LAC 22:I.315.D.1.d.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:829.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 29:360 (March 2003), amended LR 29:

§316. Visitation: Adult Inmates

A. Purpose. The purpose of this regulation is to establish the secretary's policy regarding inmate visiting at all adult institutions of the Department of Public Safety and Corrections.

B. Responsibility. It is the responsibility of the assistant secretary for Adult Services and all wardens of adult institutions to implement this regulation and convey its contents to all inmates, affected employees, and persons applying to visit, or persons approved to visit.

C. General

1. Inmates are to be permitted visitation under reasonable conditions with approved friends, relatives and other persons. Uniform visiting procedures are to be established and adhered to at all institutions under conditions and in a manner which is in keeping with the most recent court decisions on inmate visiting.

2. An inmate may refuse to see a visitor, but the inmate should sign a statement to that effect or a note placed in his file that he refuses to do so. A person may be removed from the approved visiting list at his own request or at the request of the inmate.

3. The guidelines set forth herein as to the treatment of visitors are to be strictly followed. The restrictions on visiting set forth herein are the most severe which may apply to any institution. However, the warden may limit the number of visitors which may be approved to visit each

inmate, the number of visits, and the duration of the visit in accordance with the provisions of this regulation. Each warden is to promulgate the Rules governing visiting at the institution(s) under his control, and such Rules shall be in accordance with this regulation.

D. Procedure

1. Each inmate must apply to the warden or his designee to have a particular person placed on the inmate's approved visiting list. The inmate must supply a correct name, address, birth date and identify the relationship of the person to that inmate. A list shall be kept of those persons approved to visit, and a record may be kept of persons who do visit an inmate.

2. The inmate may not be prohibited, nor limited by number from receiving visits from the following persons except as provided in §316.D.3 and 4:

- a. identifiable parent(s), or if not raised by parents, the person(s) who raised the inmate;
- b. identifiable grandparent(s), if parent(s) not living;
- c. identifiable spouse;
- d. identifiable children;
- e. identifiable sibling(s), if none of the above are on the visiting list;
- f. identifiable religious or spiritual counselor; and
- g. identifiable attorney(s), their employee(s) authorized by the attorney to act on his behalf, and law students engaged in approved clinical programs.

3. Restrictions on visiting may only be imposed in accordance with the following.

a. Any person may be refused approval to visit an inmate until their identity or relationship to the inmate can be established.

b. Any person may be refused approval to visit an inmate on the day that the visitor refuses to submit to a search.

c. Any person may be refused approval to visit an inmate and removed from the approved visiting list if the visitor does not comply with the rules of the institution during a visit.

d. Any person may be permanently refused approval to visit an inmate if the conduct of the visitor amounts to a violation of state and/or federal law, such as assault, battery, disturbing the peace, introduction or attempted introduction of contraband, etc.

e. Any person who is an ex-felon and who has not been finally discharged from an institution or from probation or parole supervision for more than two years without an intervening criminal record or who has pending criminal charges, may be refused approval to visit the inmate, unless the person is an identifiable parent(s), spouse, sibling(s), grandparent(s), or child of the inmate in which case the two year restriction does not apply.

f. Any person who is incarcerated or on probation or parole at the time of the requested visit may be prohibited from visiting with an inmate.

g. Any person, except an identifiable religious counselor or attorney, may be refused approval to visit with an inmate if the inmate has had his visiting privileges restricted as a penalty for a rule infraction involving visiting, or if the inmate is in isolation.

h. No person may be refused approval to visit an inmate solely upon the basis that the person did not know the

inmate prior to his incarceration, unless the person applying to visit is also incarcerated.

i. Any person, except those enumerated in §316.D.2 may be refused approval to visit because the inmate has the number of persons permitted by the institution already on his visiting list, or in the case of visits from nonrelated members of the opposite sex, the inmate is married or lists as a spouse, or has as an approved visitor, a girlfriend or boyfriend who is a person other than the applicant.

j. Any person may be denied permission to visit during the time of a disturbance at the institution, if the secretary has declared that all visiting is suspended during the emergency.

k. All minors (under age of 17) must be accompanied by an adult who is either an identifiable family member of the minor, or his legal guardian; or is on the inmate's approved visiting list. Exceptions:

i. minor spouse;

ii. emancipated minors (judgment of emancipation required as proof);

iii. minors visiting as part of approved institutional programs, such as but not limited to, church groups, parenting groups, etc.

4. Number, Duration and Conditions of Visits

a. Each inmate should be afforded at least two visits per month, preferably on weekends. Each visiting period should be of two hours' duration.

b. The warden of each institution shall promulgate rules governing the number of visitors that may visit an inmate individually at one session, as well as the number of persons which may visit one inmate in a group, and shall submit same to the secretary for his approval. Family visiting, and orderly contact visits are to be permitted to the extent possible.

c. Attorneys, their employees, and law students in approved clinical programs may visit their clients at any time during normal working hours (8 a.m. to 5 p.m., Monday through Friday). Special visits may be arranged in accordance with §316.F. Except in emergency cases, visits by attorneys, their employees and law students in approved clinical programs must be scheduled 24 hours in advance.

d. The areas where visiting occurs shall be clean and well lighted. All visitors are to be informed orally or in writing of the rules and regulations governing visiting.

e. Privacy shall be afforded to the degree security permits when an inmate visits with legal advisors, but in no case will conversations during such visits be monitored.

f. Any visit may be terminated while in progress if the inmate or visitor violates the rules governing visiting.

E. Treatment of Visitors

1. There shall be no discrimination in visiting. All visitors and inmates will be provided equal opportunities in visiting, in accordance with the inmates' security class and housing assignment.

2. Visitors shall be treated with courtesy at all times and should not be subjected to unnecessary delay, inconvenience or embarrassment in accomplishing a visit.

3. Any search of a visitor's person shall be done by someone of the same sex, without force, and in a manner that will not cause embarrassment to the visitor.

F. Special Visits

1. The warden of each institution may approve on a case by case basis, or generally in unusual circumstances, special visits in the following cases:

a. approved visitors who are unable to visit on regular visiting days, or

b. longer visits, more visitors or more visiting periods than institutional regulations allow.

2. If the person applying to visit is otherwise restricted from visiting, the warden may approve a special visit, except when the person applying to visit the inmate is also incarcerated, prior approval from the assistant secretary of Adult Services is required.

G Cancellation. This regulation supersedes Department Regulation Number 30-19A, dated June 20, 1985. This regulation will not operate to remove any person who is currently on an inmate's approved visiting list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 5:2 (January 1979), amended LR 11:1096 (November 1985), repromulgated LR 29:

Family Impact Statement

In accordance with the Administrative Procedure Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Repeal of the current LAC 22:I.314, Telephone Use and Policy on Monitoring of Calls CAdult and Juvenile, and adoption of new Rules, LAC:I.314 (Telephone Use and Policy on Monitoring of Calls CJuvenile) and LAC:I.315 (Telephone Use and Policy on Monitoring of Calls CAdult), and the renumbering of LAC 22:I.315 (Visitation CAdult Inmates) by the Department of Public Safety and Corrections, Corrections Services, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed Rule amendment.

Interested persons may submit oral or written comments to Richard L. Stalder, Department of Public Safety and Corrections, P.O. Box 94304, Capitol Station, Baton Rouge, LA 70804-9304, (225) 342-6741. Comments will be accepted through the close of business at 4:30 p.m. on October 20, 2003.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Telephone Use and Policy on Monitoring of Calls C Juvenile and Adult

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no estimated costs associated with this Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits directly affecting persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Robert B. Barbor
Deputy General Counsel
0309#061

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Video Draw Poker (LAC 42:XI.Chapter 24)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:XI.2403, 2405, 2407, 2409, 2411, 2413, 2417, 2419, and 2421 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

The provisions of the Louisiana Video Draw Poker Devices Control Law relating to the definitions of words, terms, and phrases are hereby incorporated by reference and made a part hereof, and shall apply and govern the interpretation of these regulations, except as otherwise specifically declared or as is clearly apparent from the context of the regulations herein. The following words, terms, and phrases shall have the ascribed meaning indicated below.

* * *

ApplicantCthe person who has completed an application to the division for a license or permit to participate in the video gaming industry in Louisiana.

ApplicationCthe process by which a person requests a license or permit, or the renewal of a license or permit, for participation in the video gaming industry in Louisiana.

* * *

PermitteeCfor purposes of these Rules, shall have the same meaning as *video draw poker employee* as provided in R.S. 27:301.

* * *

WarehouseCa secure and limited access structure or room, approved by the division, utilized for the storage of video gaming devices and/or their components.

* * *

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 29:

§2405. Application and License

A. Initial and Renewal Applications

1. All applications for a license shall be submitted on forms provided by the division and mailed to an address provided by the division.

2. - 15. ...

B. Requirements for Licensing

1.a. No person shall be granted a license, and no license shall be renewed unless the applicant demonstrates to the division that he is suitable for licensing, and thereafter continues to maintain suitability, as provided in the act.

b. All applicants for a license and licensees shall be current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to all appropriate local taxing authorities, the state of Louisiana and the Internal Revenue Service, excluding contested amounts pursuant to applicable statutes, and excluding items for which the Department of Revenue and Taxation and the Internal Revenue Service have accepted a payment schedule of back taxes.

2. - 3.b. ...

4.a. The appropriate annual fee shall be paid by all licensees regardless of the expiration date of the license on or before July 1 of each year.

b. Proof of current tax filings and payments, including tax clearance certificates from the state and all appropriate local taxing authorities shall be submitted to the division along with the annual fee as provided in Subparagraph B.4.a. no later than July 1 of each year.

5. Repealed.

6. All nonrefundable fees required for application/renewal and any administrative fines or penalties shall be made payable to the Department of Public Safety and Corrections and remitted to an address provided by the division.

7. Repealed.

8. - 10. ...

11. Repealed.

12. - 12.e. ...

C. - C.2. ...

D. Change of Ownership of Licensed Establishment

1. If a change in ownership of a licensed establishment occurs, the division shall be notified, in writing within five days, of the act of sale or transfer.

2. When a licensed establishment which requires an alcoholic beverage license as a condition of the receipt of a video gaming license is sold or transferred, the devices shall be allowed to continue to operate under the old license if:

a. the new owner applies for a state Class "A" general retail or restaurant alcohol permit within 15 days of the act of sale or transfer; and

b. upon issuance of a state Class "A" general retail or restaurant alcohol permit, the new owner applies for a video gaming license within 15 days of said issuance.

3. The devices shall only be allowed to continue in operation under the old license until:

a. the issuance of a video draw poker license in the name of the new owner;

b. a determination by the division that the new applicant is unsuitable;

c. denial of the new license application; or

d. the passage of 180 days from submission of the application to the division.

4. The new owner shall provide, at the time of application to the division, a certified copy of the act of sale or transfer, a copy of all appropriate documentation which indicates the date the licensed establishment began the Alcohol and Tobacco Control Commission application process, and a copy of the permit issued by the Alcohol and Tobacco Control Commission.

5. If any of the documents required by this Section are not submitted with the new owner's application, the division may immediately disable the devices.

6. If the 180-day period has elapsed prior to the issuance of a new video gaming license, the devices shall be disabled and the device owner shall immediately make arrangements to remove and transfer the devices from the formerly licensed establishment.

7. Upon the issuance of a license to a new owner or the passage of 180 days, whichever occurs first, the license issued to the prior owner shall expire and be surrendered to the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, 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 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2322 (October 2000), LR 27:61 (January 2001), LR 29:

§2407. Operation of Video Draw Poker Devices

A. Responsibilities of Licensees

1. The licensee or a designated representative of the licensed establishment shall be required to be physically present and available within the licensed establishment at all times during all hours of operation; shall ensure that the devices are not tampered with, abused, or altered in any way; and shall prevent the play of video draw poker devices by persons under the age of 21 and prevent access to the gaming area by persons under the age of 18. The penalty for violation of this subsection shall be \$250 for the first offense, \$500 for the second offense, and \$1,000 for the third offense. The penalty for fourth and subsequent offenses shall be administrative action, including, but not limited to, suspension or revocation.

2 - 7. ...

8. Repealed.

9 - 12. ...

13. Repealed.

14. ...

a. The signs shall be placed at the entrances to device areas with lettering at least 3 inches in height stating that there are gaming devices inside, no one under 18 allowed in gaming area, and no one under the age of 21 allowed to play gaming devices.

15 - 15.c. Repealed.

16 - 17. ...

B. Video Draw Poker Employees and Permits

1. The division shall issue a video draw poker employee permit to persons determined to be suitable pursuant to the provisions of the Act and Rules adopted by

the Louisiana Gaming Control Board pursuant to the Administrative Procedure Act.

2. All video draw poker employees shall possess a valid video draw poker employee permit in addition to a valid state issued driver's license, identification card or United States military identification card. The penalty for violation of this subsection shall be \$25 for the first offense, \$50 for the second offense, and \$75 for the third offense. The penalty for fourth and subsequent offenses shall be administrative action, including, but not limited to, suspension or revocation of the permit.

3. All video draw poker employee applications must be submitted on forms prescribed by the Louisiana Gaming Control Board.

a. All applications shall be submitted to the division via delivery by the United States Postal Service certified or registered mail, return receipt requested, or a commercial interstate carrier.

b. All applications shall contain a telephone number and permanent address for receipt of correspondence and service of documents by the division.

c. All video draw poker employees shall submit a renewal application to the division at least sixty days prior to expiration of their permit to avoid a lapse in their ability to work as video draw poker employees.

4. All applicants shall provide all additional information requested by the division. If applicants fail to provide all additional information requested by the division, the application shall be denied.

5. All video draw poker employees or applicants shall notify the division in writing of all changes of address, phone numbers, and other required information in the application within 10 calendar days of the effective date of the change.

6. No person shall be granted a permit and no permit will be renewed unless the applicant demonstrates to the division that he is suitable for permitting and thereafter continues to maintain suitability, as provided in the Act.

7. All applicants and video draw poker employees shall attend all hearings, meetings, seminars, and training sessions required by the division. The division shall not be responsible for any cost incurred by the applicants and/or video draw poker employees.

8. Permittees employed as a designated representative shall have the ability to locate all records and documents of the licensed establishment and possess the knowledge of all day to day operations of the licensed establishment.

9. All video draw poker employees shall have knowledge of these Rules and the provisions of the act.

C. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, 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 25:85 (January 1999), LR 27:205 (February 2001), LR 29:

§2409. Revenues

A. - A.4. ...

B. Device Operation Fees

1. ...
2. The division shall prorate the device operation fee that is required for each enabled video gaming device on a quarterly basis in accordance with the following schedule of dates of enrollment. For devices enrolled:
 - a. July 1 through September 30, the whole operation fee is due;
 - b. October 1 through December 31, three quarters of the operation fee is due;
 - c. January 1 through March 31, one half of the operation fee is due;
 - d. ...
3. The annual device operation fee may be paid in quarterly installments as prescribed by the act.

4. - 6.d. ...

C. Franchise Payments

1. ...
2. All device owners shall establish and maintain a single bank account exclusively for the electronic funds transfer (sweep) of franchise payments to the designated bank of the state treasurer.
 - a. - c. Repealed.
 - d. The payments shall be transferred electronically into the designated bank of the state treasurer semi-monthly or as otherwise prescribed by the division. Licensees shall authorize the division to initiate these transfers.
 - e. The funds shall be electronically transferred (swept) no later than the tenth day after the fifteenth and last day of every month. Any account found with insufficient funds shall constitute a violation of this Section.
 - f. Electronic funds transfers shall be calculated based upon device polling from the first through the fifteenth, and the sixteenth through the last day of every month.
 - g. Any delinquent monies not forwarded to the bank designated by the state treasurer by electronic funds transfers at the time of the transfer shall be subject to an interest penalty of 0.000575 per day (21 percent per annum). The interest penalty shall be in addition to any other penalties imposed by the division.

3. A device owner who has a nonsufficient fund return within the past three years shall be required to maintain a minimum balance at all times in the video gaming sweep account, or the account shall at all times be secured by a line of credit or bond issued by a bank or security company acceptable to the state treasurer. For purposes of this Rule the term "bond" shall include cash, cash equivalent instruments or such other instruments as the division determines provide immediate liquidity.

- a. The minimum balance and the security shall be equivalent to at least 15 percent of the previous month's net device revenues of all video gaming devices of the device owner.
- b. No withdrawals at any time from the device owner's video gaming account, including electronic funds transfers, shall cause the account balance to be less than the minimum balance requirement prescribed above.

4. All licensed device owners shall be liable for that portion of net device revenues from such times as the funds are received into the device until said funds are deposited into the designated bank of the state treasurer.

D. Supplemental Purses for Horsemen

1. Repealed.
2. Forms provided by the division shall be used to record amounts earned for purse supplements and shall be filed with the division, the Horsemen's Benevolent and Protective Association, and the Louisiana State Racing Commission by the twentieth day of every month.
 - 2.a. - 3.b. Repealed.
4. The division may at all times oversee any and all operations pertaining to video gaming and may review and/or audit any account or fund used for receipt and/or disbursement of any of the aforementioned income.

E. - E.2.h. ...
 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 29:

§2411. Regulatory, Communication, and Reporting Responsibilities

A. General Provisions

1. - 11. ...
12. All licensed manufacturers and distributors shall maintain a current record of devices received, devices sold, and devices in inventory, and if requested, must provide this information to the division.
13. ...
14. All licensed manufacturers and distributors shall provide the division with a current list of authorized service entities and other personnel that they have certified. The list, which shall be updated and provided quarterly in a format specified by the division, shall include, but not be limited to, the following information:

A.14.a. - C.5. ...

D. Licensed Device Owners

1. - 3. ...
4. Repealed.
5. Except as otherwise provided in this Section, all licensed device owners shall only purchase or lease video gaming devices from, or sell or lease video gaming devices to, licensed distributors, or other licensed device owners.
6. Repealed.

7. - 9. ...

E. Licensed Establishments

1. - 2.c. ...
3. All licensed establishments that are qualified truck stop facilities shall provide to the division all necessary diesel and gasoline fuel sales data consisting of beginning and ending pump meter readings and summaries of all diesel and gasoline fuel sales, in gallons. Such information shall be given to the division on a monthly basis, on a form supplied by the division.
4. ...
5. The division shall evaluate each monthly report to establish the average monthly fuel sales for the quarter in question. This shall determine the number of electronic video draw poker devices that can be legally operated at the truck stop facility during the next quarterly period. The division shall disable or enable devices in accordance with the act.

6. Repealed.

E.7. - F.4. ...

G Required Forms

1. - 2. ...

3. If applicable, all licensees shall provide the division with all required device-related reports, to include, but not be limited to, the following:

a. ...

b. GAMING DEVICE OWNERSHIP TRANSFER NOTIFICATION, which shall be submitted for any change of ownership of any device within five business days of the change of ownership;

G.3.c. - 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 29:

§2413. Devices

A. Device Specifications

1. All devices shall include all of the specifications and features as provided in R.S. 27:302. In addition, all devices shall include the following specifications and features:

a. - c. ...

d. accept only United States coins and/or currency.

e. - h. ...

i. permanent serial numbers not to exceed nine alpha and/or numeric characters. The serial number plate shall be located in the upper (front) right side panel of the device, unless otherwise approved by the division, and shall contain the following information:

1.i.i. - 4. ...

5. Devices shipped to and transported through Louisiana shall at all times remain in the demonstration mode. In addition, no device operating in demonstration mode shall accept coin or currency.

A.6. - C.2. ...

D. Enrollment Procedures

1. - 2. ...

3. Validation decals shall be issued by the division for devices and shall be promptly affixed by a division representative to an enrolled device. The validation decal shall be affixed to the upper (front) right side of the device, or as otherwise approved by the division.

E. - G.3. ...

H. Devices Permanently Removed from Service

1. - 3. ...

4. For purposes of this Section, devices permanently removed from service shall mean devices:

a. that are sold back or otherwise returned, and shipped to the distributor or manufacturer;

b. that are damaged beyond repair due to theft, vandalism, or natural disasters; or

c. that are completely dismantled for parts or destroyed and properly discarded as waste.

H.5. - J.2. ...

K. Warehouses

1. Devices stored in a warehouse shall be stored in a manner which easily displays the device serial number plate and/or the state issued permit sticker.

2. Device owners who wish to share warehouse space must execute a written lease agreement outlining the conditions and method of the space sharing. A copy of the lease agreement, along with a diagram indicating the method of device separation, must be sent to the division within five calendar days from the date of execution.

a. The shared warehouse must be partitioned in such a manner as to visually distinguish each device owner's video gaming devices.

b. Device owners shall not commingle their video gaming devices.

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 18:196 (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), amended by the Department of Public Safety, Gaming Control Board, LR 25:85 (January 1999), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 29:

§2417. Code of Conduct of Licensees and Permittees

A. - A.3. ...

B. Unsuitable Conduct

1. - 3. ...

4. Any person required to be found suitable or approved in connection with the granting of any license or permit shall have a continuing duty to notify the division of his/her/its arrest, summons, citation or charge for any criminal offense or violation including D.W.I.; however, minor traffic violations need not be included. All licenses and permittees shall have a continuing duty to notify the division of any fact, event, occurrence, matter or action that may affect the conduct of gaming or the business and financial arrangements incidental thereto or the ability to conduct the activities for which the licensee or permittee is licensed or permitted. Such notification shall be made within ten calendar days of the arrest, summons, citation, charge, fact, event, occurrence, matter or action.

5. ...

C. Additional Causes for Disciplinary Action

1. Further instances of conduct by a licensee or permittee where the division or board may sanction a licensee or permittee shall include but not be limited to when:

a. - i. ...

j. unavailability of the licensees or permittees, their designated representatives, or any agents of the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq., R.S. 27:15 and 24.

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 27:59 (January 2001), LR 29:

§2419. Investigations

A. - A.4. ...

B. Inspections

1. - 1.d. ...

2. Inspection of Records

a. - a.iii.(d). ...

b. The division may require a licensee to submit any and all video gaming records or documents that are necessary for the facilitation and/or completion of an investigation pertaining to a violation of these Rules or the act.

3. - 3.c. ...

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 29:

§2421. Miscellaneous

A. Required Meetings

1. The division may summon a licensee or permittee to appear for a consultation, explanation, discussion, clarification, training session, or other meeting considered by the division to be of potential benefit, or otherwise aid in the effective regulation of the video gaming industry.

A.2. - G.3. ...

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 29:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953.A, the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of adopting amendments to LAC 42:XI.2403, 2405, 2407, 2409, 2411, 2413, 2417, 2419, and 2421.

It is accordingly concluded that adopting amendments to LAC 42:XI.2403, 2405, 2407, 2409, 2411, 2413, 2417, 2419, and 2421 would appear to have no direct 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) 342-2465, and may submit comments relative to these proposed Rules, through September 9, 2003, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Video Draw Poker

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
LAC 42:XI.2407.A.1 incorporates a penalty for violation of the Rule which could potentially result in revenues to the state in the event of a violation; however the amount of any penalties cannot be estimated with any degree of certainty.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
LAC 42:XI.2407.A.1 incorporates a penalty for violation of the Rule which could potentially result in costs to licensees in the event of a violation; however the amount of any penalties cannot be estimated with any degree of certainty.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment is anticipated.

Hillary J. Crain
Chairman
0309#056

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of Charitable Gaming

Progressive Pull-Tabs
(LAC 42:I.1775)

The Department of Revenue, Office of Charitable Gaming, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), proposes to adopt this Rule to implement the provisions of R.S. 4:725.1 to provide guidance regarding progressive pull-tabs for organizations licensed to hold, operate, or conduct charitable games of chance.

Act 736 of the 2003 Regular Session of the Louisiana Legislature enacted R.S. 4:725.1 to authorize progressive pull-tabs during sessions licensed by the Office of Charitable Gaming. The Act established the jackpot limit and the contribution per deal of pull-tabs for the progressive jackpot. The office is proposing this Rule in order to establish guidelines related to progressive pull-tabs and to require that certain documentation and information be maintained and submitted to the office.

Title 42

LOUISIANA GAMING

Part I. Charitable Bingo, Keno, Raffle Subpart 1. Bingo

Chapter 17. Charitable Bingo, Keno and Raffle Subchapter E. Pull Tabs

§1775. Progressive Pull-Tabs

A. Each progressive pull-tab jackpot must be established only through the play of deals bearing a licensed manufacturer's form number. Each jackpot must use the identical form number for each deal contributing to the prize jackpot. Pull-tab deals must meet all requirements as set

forth in R.S. 4:725 and 725.1 and in LAC 42:I.1715, 1719, 1771, and 1773.

B. **Accountability.** Organizations participating in a progressive pull-tab jackpot must maintain all required forms as prescribed by the Office.

1. For each progressive pull-tab jackpot, the organization must maintain, at a minimum, the following records for a period of three years from the date that the progressive game prize was awarded or the game was considered closed:

- a. date the progressive jackpot started;
- b. method or rules of determining a potential jackpot winner;
- c. method or rules of determining how a player wins the jackpot;
- d. dollar amount of contribution into the jackpot per deal;
- e. dollar amount of the jackpot cap;
- f. accumulated jackpot totals including any backup jackpots;
- g. serial number and date sold of the pull tab deals contributing to the jackpot; and
- h. name and identification of the winner with the date and amount won.

2. The organization must maintain a separate non-interest bearing charitable gaming progressive pull-tab checking account. All checks on this account must have preprinted consecutive numbers and have the words "Progressive Pull-Tab Account" and the licensee's state charitable gaming license number printed on the face of the checks. All progressive jackpot winners, regardless of the amount, must be paid by check written from this separate progressive pull-tab account. Checks made payable to cash are prohibited.

3. The amount of contribution into the jackpot per deal must be deposited into this progressive pull-tab account no later than the next banking day following the sale of a complete deal.

4. The organization must maintain a minimum balance in their progressive pull-tab account that is at least \$500 greater than the advertised accumulated jackpot total at the beginning of the session. If an organization offers more than one progressive pull-tab game, the organization must maintain a minimum balance in their progressive pull-tab account that is at least \$500 greater than the combined jackpot totals of all progressive pull-tab games offered at the beginning of each session.

C. **Multiple Locations.** If an organization offers progressive pull-tabs at multiple locations, the organization must offer separate progressive pull-tabs at each location.

D. **Payout Percentage.** Progressive pull-tab deals must meet the payout percentage as described in LAC 42:I.1773. The percentage payout per a progressive pull-tab deal must include any contribution into the progressive jackpot from a particular deal.

E. **Posting of Progressive Jackpot.** Organizations must conspicuously post all progressive jackpot totals, including any backup amounts, in order for the players to determine the amount of jackpots offered at any one time. Organizations must also conspicuously post house rules in

complete view of the players describing the means by which specific progressive jackpots will be awarded. Postings must be visible during the entire session offering the progressive pull-tabs.

F. **Jackpot Cap Amount.** Prior to a jackpot win, the organization may raise, but not lower, a pull-tab progressive jackpot cap.

G. **Continuous Play.** Once an organization offers a progressive pull-tab for play, the organization must continue to offer that particular progressive pull-tab at every subsequent session at that location until the jackpot and any backup jackpots are won.

H. **Cease Play.** If an organization ceases playing charitable gaming or wishes to stop playing a progressive jackpot pull-tab game, the organization must, with prior approval from the Office, transfer the current jackpot(s) to another progressive game or determine a method to award all progressive jackpots to the players. With prior approval from the Office, an organization may alter the suggested rules of the manufacturer to determine a winner.

I. **Prohibitions.** The following persons are strictly prohibited from playing, directly or indirectly, any progressive pull-tab games:

1. all members or volunteers holding, operating, or conducting or assisting in the holding, operating, or conducting any part of a particular charitable gaming session that offers a progressive pull-tab game;
2. licensed distributors or manufacturer owners, their shareholders, or directors at any site;
3. any employees of licensed distributors or manufacturers while on official duty during any part of a particular charitable gaming session that offers a progressive pull-tab game.

J. **Submission to the Office.** The manufacturer must submit, within fifteen calendar days of the progressive pull-tabs being shipped into the state, information on all progressive pull-tabs being offered. The submission of each type of progressive pull-tab must include the following:

1. form number;
2. total number of pull-tabs per deal;
3. total amount of prizes per deal including jackpot contribution; and
4. full set of rules or alternative rules for the progressive pull-tab including the method to determine winners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:725.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Charitable Gaming, LR 29:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the Louisiana Register.

1. **The Effect on the Stability of the Family.** Implementation of this proposed Rule 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 this proposed Rule 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 this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed Rule 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 this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, arguments, information, or comments on this proposed rule, in writing, to Michael Legendre, Director, Office of Charitable Gaming, Post Office Box 98502, Baton Rouge, LA 70884 or by fax to (225) 925-7069. All written comments must be submitted by 4:30 p.m., October 27, 2003. A public hearing will be held at 6 p.m., Tuesday, October 28, 2003, in the United Plaza Auditorium located at 8549 United Plaza, Suite 100, Baton Rouge, LA.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Progressive Pull-Tabs**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no implementation costs associated with the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there may be an increase in revenue collections from the fee on pull-tabs in the event the playing of progressive pull-tabs increases the sales of pull-tabs. However, the sale of progressive pull-tabs may be in lieu of regular pull-tabs, thereby offsetting some of the potential revenue gain.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that participating charitable organizations may experience an increase in gaming revenues as a result of progressive pull-tabs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The authority granted by the statute to offer progressive pull-tabs may create some slight competition between nonprofit charitable organizations offering progressive pull-tabs in the same geographical area and at similar times; however, this proposed rule should have no effect on employment.

Cynthia Bridges
Secretary
0309#030

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Electronic Funds Transfer
(LAC 61:I.4910)

Under the authority of R.S. 47:1511 and 47:1519 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.4910 to implement changes to the electronic funds transfer requirement threshold enacted by Acts 2003, No. 112.

Act 112 amended R.S. 47:1519 to reduce the electronic funds transfer payment requirement threshold for tax payments incrementally from \$20,000 to \$15,000 beginning January 1, 2004; from \$15,000 to \$10,000 beginning January 1, 2006; and from \$10,000 to \$5,000 beginning January 1, 2008, and provide that electronic fund transfers delivered after the payment's due date will be considered timely if the transfer was initiated on the due date.

Title 61

REVENUE AND TAXATION

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

Chapter 49. Tax Collection

§4910. Electronic Funds Transfer

A. Electronic Funds Transfer Requirements

1. For taxable periods beginning on or after January 1, 2004, taxpayers are required to remit their tax payments by electronic funds transfer under any of the following circumstances:

a. the payments made in connection with the filing of any business tax return or report averaged, during the prior 12-month period, more than \$15,000 per reporting period; or

b. any business tax return or report is filed more frequently than monthly and the average total payments during the prior 12-month period were more than \$15,000 per month; or

c. any company who files withholding tax returns and payments on behalf of other taxpayers and payments during the previous 12-month period averaged more than \$15,000 per month for all tax returns filed.

2. For taxable periods beginning on or after January 1, 2006, taxpayers are required to remit their tax payments by electronic funds transfer under any of the following circumstances:

a. the payments made in connection with the filing of any business tax return or report averaged, during the prior 12-month period, more than \$10,000 per reporting period; or

b. any business tax return or report is filed more frequently than monthly and the average total payments during the prior 12-month period were more than \$10,000 per month; or

c. any company who files withholding tax returns and payments on behalf of other taxpayers and payments

during the previous 12-month period averaged more than \$10,000 per month for all tax returns filed.

3. For taxable periods beginning on or after January 1, 2008, taxpayers are required to remit their tax payments by electronic funds transfer under any of the following circumstances:

a. the payments made in connection with the filing of any business tax return or report averaged, during the prior 12-month period, more than \$5,000 per reporting period; or

b. any business tax return or report is filed more frequently than monthly and the average total payments during the prior 12-month period were more than \$5,000 per month; or

c. any company who files withholding tax returns and payments on behalf of other taxpayers and payments during the previous 12-month period averaged more than \$5,000 per month for all tax returns filed.

4. Any taxpayer may voluntarily remit amounts due by electronic funds transfer with the approval of the secretary. After requesting to electronically transfer tax payments, the taxpayer must continue to do so for a period of at least 12 months.

B. ...

C. Taxes Required to be Electronically Transferred. Tax payments required to be electronically transferred may include corporation income and franchise taxes including declaration payments; income tax withholding; sales and use taxes; severance taxes; excise taxes; and any other tax or fee administered or collected by the Department of Revenue except for individual income tax. A separate transfer shall be made for each return.

D. - D.3. ...

E. Failure to Timely Transfer Electronically

1. Remittances transmitted electronically are considered timely paid if the payment transaction's confirmation time and date stamp is on or before the due date. However, if the payment is not timely paid, the date of receipt by the secretary will govern for purposes of determining the amount of any late payment penalties.

2. Failure to make payment or remittance in immediately available funds in a timely manner, or failure to provide such evidence of payment or remittance in a timely manner, shall subject the affected taxpayer or obligee to penalty, interest, and loss of applicable discount, as provided by state law for delinquent or deficient tax, fee or obligation payments. If payment is timely made in other than immediately available funds, penalty, interest, and loss of applicable discount shall be added to the amount due from the due date of the tax, fee or obligation payment to the date that funds from the tax, fee, or obligation payment subsequently becomes available to the state.

3. When the statutory filing deadline, without regard to extensions, falls on a Saturday, Sunday, or Federal Reserve holiday, the payments must be electronically transferred by the next business day.

4. If a taxpayer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519 and this Rule, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the

delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, taxpayers must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

5. Tax return must be filed.

a. A tax return or report must be filed separately from the electronic transmission of the remittance.

b. Exception. Payments remitted by electronic funds transfer for income tax withholding will be accepted in lieu of a withholding tax return, Form L-1, and a separate return is not required to be filed.

c. Failure to timely file a tax return or report shall subject the affected taxpayer or obligee to penalty, interest, and loss of applicable discount, as provided by state law.

6. In situations involving extenuating circumstances as set forth in writing by the taxpayer and deemed reasonable by the secretary of the Department of Revenue, the secretary may grant an exception to the requirement to transmit funds electronically.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 19:1032 (August 1993), repromulgated LR 19:1340 (October 1993), amended LR 20:672 (June 1994), LR 23:448 (April 1997), amended by the Department of Revenue, Office of the Secretary, LR 25:2442 (December 1999), LR 28:866 (April 2002), amended by the Department of Revenue, Policy Services Division, LR 29:

Interested persons may submit data, views, or arguments, in writing to Linda Denney, Senior Policy Consultant, Policy Services Division, Department of Revenue, 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., Wednesday, October 29, 2003. A public hearing will be held on Thursday, October 30, 2003 at 10 a.m. in the River Room, 17 North 3rd Street, Baton Rouge, LA 70802-5428.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed Rule 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 this proposed Rule 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 this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed Rule 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 this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Electronic Funds Transfer**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These proposed amendments should result in reduced agency processing costs. Tax payments made by electronic funds transfer save the Department the manual payment processing costs estimated to be 34 cents per payment. Based on our data, as the threshold is lowered, the additional number of payments that would be made by electronic funds transfer and the cost savings are estimated to be as follows:

Fiscal Year	Total Number of Additional Electronic Payments	Estimated Savings
FY04	31,112	\$10,578
FY05	62,224	\$21,200
FY06	117,761	\$40,038
FY07	173,298	\$58,921
FY08	293,040	\$99,633

The additional number of payments were calculated based on the effective dates of the lowered thresholds, which fall in the middle of fiscal years. The first full year of implementation is FY09. In that year a total of 412,783 additional payments will be transferred electronically that would have been processed manually. This will result in an estimated savings of \$140,346 per year. It should be noted that the cost savings are employee man-hour savings and not actual agency dollar savings. The reduced paper payment processing will allow employees to complete other processing tasks more timely.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These proposed amendments will result in additional interest earnings on monies on deposit overnight. Payments received by electronic funds transfer are available to the state three to four days sooner than paper deposited checks. The state earns 1.25 percent annual interest on monies on deposit overnight. Based on the Department's tax payment data, the additional interest earnings from incrementally lowering the threshold from \$20,000 to \$5,000 would be as follows:

Fiscal Year	Total Amount of Additional Electronic Payments	Interest Earned
FY04	\$38,056,522	\$3,910
FY05	\$76,113,045	\$7,820
FY06	\$124,038,349	\$12,744
FY07	\$171,963,653	\$17,667
FY08	\$232,638,913	\$23,901

These amounts were computed based on the lowered threshold effective dates, which occur in the middle of fiscal years. The first full year of implementation is FY09. In that year an estimated \$293 million in payments will be received three days earlier resulting in approximately \$30,134 in additional interest earnings.

The proposed amendments also provide that electronic fund transfers received in the bank after the payment's due date will be considered timely if the transfer was initiated on the due date, which could result in a one-day delay in availability of the funds and the loss of interest earnings for one day. Currently, payments of \$1.1 billion are electronically transferred. It is not

known how much of these payments may be received one day later or the amount of the lost interest earnings.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Taxpayers that make payments less than \$20,000 and more than \$5,000 will be affected by these proposed amendments. The cost to these affected taxpayers should be negligible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments should not effect competition or employment.

Cynthia Bridges
Secretary
0309#031

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

**Partial Repay of Refund and Secondary Plan Change
(LAC 58:I.1709 and 3901)**

Under the authority of R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) advertises its intent to amend and reenact LAC 58:I.1709 to remove the sunset provision to comply with Act 196 of 2003 and to enact Chapter 39, LAC 58:I.3901 to provide members of the "public safety services secondary component" as defined at R.S. 11:601.B a retirement benefit from the Louisiana State Employees' Retirement System under R.S. 11:602 that the Attorney General opined is available to these members in Opinion Number 03-0143. The proposed amendments and enactments have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972

Title 58

RETIREMENT

Part I. State Employees' Retirement

Chapter 17. Purchases of Service by Reinstated Employees

§1709. Partial Repayment of Refund of Contributions

A. If a member elects to repay part of a refund, he must repay the contributions for the most recent service credit first. For example, if a member received a refund for service from January 1, 1991 through December 31, 1993, and elects to repay one year of service, he/she must repay the contributions for 1993 first.

B. Partial payments must be made in increments based on service within a calendar year with the most recent year(s) repaid first. Example: A member worked from June 1, 1990 through April 30, 1993 then received a refund. The refund may be repaid in the following order:

1. January 1, 1993 through April 30, 1993;
2. January 1 through December 31, 1992;
3. January 1 through December 31, 1991; then
4. June 1 through December 31, 1990.

C. If a member has both full time and part time service credit that was refunded, the years of full time service must be repaid first. When there is both full time and part time

service within the calendar year(s), LASERS shall have the authority to determine the calendar year of service credit that must be repaid first. As a general rule, the year(s) with the most full time service must be repaid before the year(s) with more part time service.

D. Upon receipt of the partial payment, the service credit for the calendar year repaid will be restored to the member.

E. A member may receive three invoices in a 12-month period at no cost. Each additional invoice within the 12-month period will cost \$75 each.

F. Interest at the actuarial rate will be calculated from the date of the refund was issued to the date of the repayment. Interest will be compounded on an annual basis.

G. The partial repayment must be made in a single payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 25:2467 (December 1999), amended LR 29:

Chapter 39. Public Safety Services Secondary Component

§3901. Additional Retirement Eligibility

A. Regardless of the provisions of R.S. 11:602 members of the Public Safety Services Secondary Component defined at R.S. 11:601.B shall be eligible to retire when a member has 10 years or more of service credit at age 60 or thereafter in accordance with Attorney General Opinion Number 03-0143.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 29:

Interested persons may submit written opinions, suggestions or data to Kevin P. Torres, General Counsel, Louisiana State Employees' Retirement System, 8401 United Plaza Boulevard, Room 145, Baton Rouge, LA 70809 by 4:30 p.m. through October 20, 2003.

Robert L. Borden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Partial Repay of Refund and Secondary Plan Change

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation cost to the state or local governmental units are anticipated because of the proposed Rules, but there would be future funding cost to the state. However, the Rule is designed to attempt to save the state money by limiting the Attorney General Opinion No. 03-0143 to only one benefit (10 years at age 60), but over time there will be cost to the system for funding this benefit that must be paid by the state, however, the system is unable to estimate that funding impact at this time.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These regulations will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated cost and/or economic benefits that should effect any persons or nongovernmental group as a result of these Rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment as a result of these Rules.

Robert L. Borden
Executive Director
0309#029

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Removal of Abandoned Crab Traps (LAC 76:VII.367)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a Rule, LAC 76:VII.367, which provides for an abandoned crab trap removal program. Authority to establish these regulations is vested in the commission by R.S. 56:332(M). Said Rule is attached and made a part of this Notice of Intent.

In accordance with Act No. 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).

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§367. Removal of Abandoned Crab Traps

A. The use of crab traps shall be prohibited for a 16-day period from 6 a.m., February 28, 2004 through 6 a.m., March 14, 2004 within that portion of Lafourche and Terrebonne Parishes as described below.

1. From a point originating from the southern boundary of the Pointe-aux-Chenes Wildlife Management Area at the South Lafourche Hurricane Protection Levee, thence west along the southern boundary of the Pointe-aux-Chenes Wildlife Management Area to the Humble Canal, thence west along the northern shoreline of Humble Canal to its intersection with Bayou Terrebonne, thence south along the western shoreline of Bayou Terrebonne to its intersection with Bush Canal, thence west along the northern shoreline of Bush Canal to its intersection with Bayou Little Caillou, thence north along the eastern shoreline of Bayou Little Caillou to the Gulf South/South Coast Natural Gas Pipeline in Chauvin, thence northwest along the Gulf South/South Coast Natural Gas Pipeline to LA Highway 57, thence south and then southeast along LA Highway 57 to its intersection with LA Highway 56, thence south along LA Highway 56 to Latitude 29 17=00@N, thence east along Latitude 29 17=00@N to LA Highway 1, thence north along LA Highway 1 to the

South Lafourche Hurricane Protection Levee, thence north along the South Lafourche Hurricane Protection Levee and terminating at the southern boundary of the Pointe-aux-Chenes Wildlife Management Area.

B. The use of crab traps shall be prohibited in a portion of Vermilion Bay as described later for a 14-day period beginning at 6 a.m. five days prior to the opening of the 2004 Spring inshore shrimp season in Vermilion Bay and ending at 6 a.m. nine days following the opening of the 2004 Spring inshore shrimp season in Vermilion Bay. In the event that the Wildlife and Fisheries Commission approves opening the 2004 Spring inshore shrimp season in Vermilion Bay before a five-day minimum notice can be provided for the crab trap closure, then the use of crab traps shall be prohibited for a nine-day period beginning at 6 a.m. on the opening of the 2004 Spring inshore shrimp season in Vermilion Bay and ending at 6 a.m. nine days following the opening of the 2004 Spring inshore shrimp season in Vermilion Bay as described below.

1. From a point originating from the intersection of the Acadiana Navigational Channel and the Gulf Intracoastal Waterway, thence southwest along the Acadiana Navigational Channel red buoy line to the red navigational marker number 12 on the Marsh Island shoreline near Southwest Pass, thence south along the eastern shore of Southwest Pass to a position which intersects the inside/outside shrimp line as defined in R.S. 56:495, thence west along the inside/outside shrimp line to the western shore of Freshwater Bayou, thence north along the western shore of Freshwater Bayou to its intersection with the Gulf Intracoastal Waterway, thence east along the northern shore of the Gulf Intracoastal Waterway to the intersection of the Gulf Intracoastal Waterway and the eastern shore of the Acadiana Navigational Channel.

C. All crab traps remaining in the closed areas during the specified periods shall be considered abandoned. For the winter closure only, crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Anyone is authorized to remove these abandoned crab traps within the closed areas, however, no person removing crab traps from the designated closed areas shall possess these traps outside of the closed areas. However, nonserviceable traps may be possessed by a shrimp fisherman outside of the closed area when in compliance with R.S. 56:332. The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(M).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 29:

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 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 relative to the proposed Rule to Martin Bourgeois, Marine Fisheries Program Manager, Marine Fisheries Division, Box 98000, Baton Rouge, LA 70898-9000, prior to Friday, November 7, 2003.

Terry D. Denmon
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Removal of Abandoned Crab Traps**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Total cost to implement the proposed Rule is estimated to be \$115,000 of which \$57,5000 will come from federal funds (NOAA Community Based Restoration Program grant received in 2003), \$29,712 from State Conservation funds and \$27,788 from in-kind match. Rule development an oversight of the abandoned crab trap removal program will utilize existing staff. No local governmental implementation costs are anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule is expected to have little or no effect on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule prohibits the use of crab traps in two specified locations during designated periods in 2003. Crab trap fishermen, who have traps within the proposed area closures, will experience lost fishing time and incur additional costs of having to temporarily remove their trap from these areas. They may choose to move their traps from the fishery for the duration of the closures, 14-16 days. Local seafood dealers and processors may experience a decrease in availability of fresh crabs during the closures. This impact, however, is expected to be minimal, since it is anticipated that most fishermen will likely elect to continue to fish. The crab resource will not be lost or harmed in any way and will be available for harvest when the closed areas are reopened. Recreational saltwater anglers, shrimp fishermen and individuals who operate a vessel within the proposed area closures would benefit from the removal of abandoned crab traps because encounters with abandoned traps often result in lost fishing time, damage to the vessel's lower unit and gear.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Effects on competition and employment are expected to be negligible since adjacent waters will remain open for crab harvest and crabbers are expected to continue to fish.

James L. Patton
Undersecretary
0309#032

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given December 8-9, 2003, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, Louisiana. The deadline for sending the application and fee is as follows.

New Candidates:	September 5, 2003
Re-Take Candidates:	September 19, 2003
Reciprocity Candidates:	November 14, 2003

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 5, 2003. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0309#028

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

Plaquemines Parish Lake Washington 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 trustees, namely the National Oceanic and Atmospheric Administration (NOAA), and 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 March 2, 2003, discharge of crude oil from facilities owned and operated 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 March 2, 2003, a pipeline, owned and operated by EMPCo, discharged 995 barrels of crude oil into Lake Grande Ecaille and surrounding coastal waters, Plaquemines 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 currently identified as 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), R.S. 30:2451 *et seq.*

Lake Grande Ecaille and the adjacent areas are part of a shallow estuarine bay system characterized by soft organic sediment and tidal range generally less than three feet. Lake Grande Ecaille 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 Lake Grande Ecaille area also includes bayous, channels, and small islands. 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 Lake Grande Ecaille 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 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 U.S. Department of the Interior, through the involvement of the U.S. Fish and Wildlife Service, 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 the DOI. 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 OPA, 33 U.S.C. §2702 and 2706(c) and OSPRA, R.S. 30:2451 *et seq.* The trustees have further determined that the discharge of crude oil into the area of Lake Grande Ecaille on March 2, 2003, was an incident, as defined in 15 C.F.R. §990.30 and L.A.C. 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 L.A.C. 43:XXIX.101 to proceed with preassessment. EMPCo, at the invitation of the trustees, pursuant to 15 C.F.R. §990.14(c) and L.A.C. 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 L.A.C. 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 L.A.C. 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 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 may 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 L.A.C. 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 Restoration Plan when completed.

For more information, please contact the Louisiana Oil Spill Coordinator's Office, State Office Building, 150 N. 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, DOI/USFWS, and NOAA, pursuant to the determinations made above and in accordance with 15 C.F.R. §990.44(d) and L.A.C. 43:XXIX.135, hereby provides (EMPCo) Pipeline Company, this Intent to Conduct Restoration Planning and invites its participation in conducting the restoration planning for this incident.

Roland J. Guidry
Louisiana Oil Spill Coordinator

0309#036

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

Terrebonne Parish Terrebonne Bay 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 trustees, namely the National Oceanic and Atmospheric Administration (NOAA), and 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 January 30, 2003, discharge of crude oil from facilities owned and operated by Shell Pipeline Company LP (Shell), over which such trustees have jurisdiction, warrant conducting a natural resource damage assessment that will include restoration planning.

Site and Release Information

On January 30, 2003, a pipeline, owned and operated by Shell, discharged crude oil into Terrebonne Bay, Terrebonne Parish, Louisiana. The initial volume of crude oil released was reported, to the Department of Transportation, as 160 barrels. The exact time and duration of the release, as well as other factors, once conclusively determined, may affect the final estimate of the discharged volume of crude oil. An undetermined amount of salt marsh flora and fauna inhabiting this area may have been exposed to crude oil as a result of this discharge. Shell, as owner and operator of the

source pipeline, is currently identified as 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), R.S. 30:2451 *et seq.*

Terrebonne Bay and the adjacent areas are part of a shallow estuarine bay system characterized by soft organic sediment and have primarily wind driven tides. Terrebonne 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 Terrebonne Bay area also includes bayous, channels and small islands. 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 Terrebonne Bay area include, but are not limited to, resident and migratory birds, furbearers, marine mammals and sea turtles. The Terrebonne Bay area also provides habitat for species with 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 U.S. Department of the Interior, through the involvement of the U.S. Fish and Wildlife Service, 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 the DOI. 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 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 OPA, 33 U.S.C. §2702 and 2706(c), and OSPRA, R.S. 30:2451 *et seq.* The trustees have further determined that the discharge of crude oil into Terrebonne Bay and surrounding marsh on January 30, 2003, was an incident, as defined in 15 C.F.R. §990.30 and L.A.C. 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 toxic to aquatic organisms, birds, wildlife and vegetation. Vegetation, birds, and or 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 L.A.C. 43:XXIX.101 to proceed with preassessment. Shell, at the invitation of the trustees, pursuant to 15 C.F.R. §990.14(c) and L.A.C. 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 L.A.C. 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 L.A.C. 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 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 and Habitat Equivalency Analysis, respectively, to determine compensation for injuries to birds and marsh habitats. 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 L.A.C. 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 N. 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, DOI/USFWS, and NOAA, pursuant to the determinations made above and in accordance with 15 C.F.R. §990.44(d) and L.A.C. 43:XXIX.135, hereby provides Shell Pipeline Company LP, this Intent to Conduct Restoration Planning and invites its participation in conducting the restoration planning for this incident.

Roland J. Guidry
Louisiana Oil Spill Coordinator

0309#035

POTPOURRI

Department of Health and Hospitals, Office of Public Health

WIC Program's State Plan for 2003-2004

In accordance with Public Laws 99-500 and 99-591 the Louisiana Special Nutrition Program for Women, Infants and Children (WIC) is soliciting comments from the general public on the WIC Program's State Plan for 2003-2004. The plan describes in detail the goals and the planned activities of the WIC Program for the next year. Interested persons may find copies of the state plan at the Central Nutrition/WIC Office (address below) or they may apply directly to the Nutrition/WIC office for copies of the plan at 25 cents per page. Interested individuals should submit their requests for copies or their comments on the plan to the following address.

State of Louisiana
Department of Health and Hospitals
Office of Public Health
Nutrition Section - Room 406
P.O. Box 60630
New Orleans, LA 70160
Attn: State Plan

Additional information may be gathered by contacting Debbie Luthy, Director of WIC-Nutrition Section, (504) 568-5065.

David W. Hood
Secretary

0309#112

POTPOURRI

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

Public Hospitals Reimbursement Methodology Upper Payment Limit

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established a prospective reimbursement methodology for inpatient services provided in non-state operated acute care hospitals (*Louisiana Register, Volume 20, Number 6*). The reimbursement methodology was subsequently amended in a Rule adopted in January of 1996 which established a weighted average per diem for each hospital peer group (*Louisiana Register, Volume 22, Number 1*). The January 1996 Rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register, Volume 25, Number 5*).

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in August 2001 which utilized the revised upper payment limit for non-state government-owned or operated hospitals as set forth in the 42 CFR §447.272(c) and §447.321(c). The hospital payment differential for any year shall be the difference between the upper limit of aggregate payments to non-state government-owned or operated hospitals, as defined in the 42 CFR §447.272(c) and §447.321(c), and the aggregate Medicaid per diem reimbursement paid to these hospitals for the year (*Louisiana Register, Volume 27, Number 8*).

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services adopted a Rule effective May 14, 2002 to reduce the maximum aggregate Medicaid payments from 150 percent to 100 percent of a reasonable estimate of the amount that would be paid for the services furnished by the non-state government-operated hospitals under Medicare payment principles. As a result of allocation of funds by the legislature during the 2003 Regular Session, the bureau proposes to amend the calculation of the Medicare upper payment limit amount and the definition of qualifying hospitals for enhancement pool payments contained in the Medicaid State Plan. This action is being taken to maximize the intergovernmental transfers generated for state fiscal year 2003-2004.

Effective September 20, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will submit an amendment to the Louisiana Medicaid State Plan to the Centers for Medicare and Medicaid Services amending the calculation of the inpatient Medicare upper payment limit to utilize hospitals' claims data to determine the reasonable amount that would have been paid in using Medicare Diagnosis Related Groups (DRG's). The definition of qualifying hospitals shall be amended to include additional hospitals for enhancement pool payments. A qualifying hospital for enhancement pool payments is a hospital that:

1. is not recognized as a small rural hospital as defined in Section D.3.b. of the State Plan; and

2. has greater than 12,500 Medicaid inpatient days per the hospital's latest filed cost report.

Implementation of this definition for a qualifying hospital shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0309#113

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Riverside Oil Company	Wildcat	L	LA Furs Corp.	001	73379
John C. Newsham	Port Barre	L	The Sibille Co., Inc	A-1	60867
Southland-Dynamic	Sherburne	L	LA Central Land Co.	001	149454 (30)
Southland-Dynamic	Sherburne	L	LA Central Land Co.	001-D	150754 (30)
John E. Yerger	Port Barre	L	Devallier-Ballard	001	40771 (30)
Mcmanus & Edwards	Port Barre	L	Gaudet	001	94724 (30)
J. L. Rothchild, Trustee	Greenwood-Waskom	S	Rothchild Enterprises	004	077210
Brown & Wheeler-Texas Pacific	Glenmora	L	Gill-Dempsey Unit	001	42513
Tommy Neal	Port Barre	L	Haas-Hirsch	001-D	76698
Capco Resources Corporation	Kaplan	L	Broussard	001	225571
Stratco Operating Co., Inc.	Bayou Chauvin	L	X 1 RA SUA; Laterre	001	187158
Stratco Operating Co., Inc.	Bayou Chauvin	L	Y RB SUB; Laterre	003	194134
Stratco Operating Co., Inc.	Bayou Chauvin	L	Tenneco Laterre	004	198456
Stratco Operating Co., Inc.	Bayou Chauvin	L	X RA SUA; Laterre	005	200014
Stratco Operating Co., Inc.	Bayou Chauvin	L	Tenneco Laterre	003-D	201095
Stratco Operating Co., Inc.	Bayou Chauvin	L	W RB SUA; Laterre	004-D	201953
Stratco Operating Co., Inc.	Bayou Chauvin	L	Tenneco Laterre SWD	006	202590
Stratco Operating Co., Inc.	Bayou Chauvin	L	Tenneco Laterre	007	204070
Stratco Operating Co., Inc.	Bayou Jean La Croix	L	LL&E Fee SWD	001	156885
Stratco Operating Co., Inc.	Bayou Jean La Croix	L	LL&E Fee	001-D	157893
Stratco Operating Co., Inc.	Bayou Jean La Croix	L	LL&E Fee	003	168455
Stratco Operating Co., Inc.	Bayou Jean La Croix	L	LL&E Fee	004	173522
Stratco Operating Co., Inc.	Bayou Raphael	L	A. F. Stone	001	138992
Stratco Operating Co., Inc.	Bethany Longstreet	S	Hoss SU49; Talbert Heirs A	001	207945
Stratco Operating Co., Inc.	Cut Off	L	Tex W 7 RB SUA; E. P. Braud et al.	001	159006 (30)
Stratco Operating Co., Inc.	Cut Off	L	M. P. Badeaux SWD	001	163315
Stratco Operating Co., Inc.	East Fenris	L	Read B	001	145199
Stratco Operating Co., Inc.	Horseshoe Bayou	L	SL 7968	002	190557
Stratco Operating Co., Inc.	Horseshoe Bayou	L	SL 7968	002-D	191238
Stratco Operating Co., Inc.	Horseshoe Bayou	L	SL 13661	002	213527
Stratco Operating Co., Inc.	Kings Bayou	L	SL 10938	001	194527
Stratco Operating Co., Inc.	Lake Chicot	L	SL 411	002	83302
Stratco Operating Co., Inc.	Lake Chicot	L	J. SUD; SL 411	009	99222
Stratco Operating Co., Inc.	Livingston	L	Weyerhaeuser 19	001	220018
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Commissioner

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Resident game hunting, 494N, 1122R, 1521R

Sharks, 1801ER

Shrimp, 541ER, 115ER, 668ER, 1059ER, 1060ER

1456ER, 1456ER

Turkey, 285ER, 1397N

Waterfowl, 1061ER

Wild nuisance quadrupeds, 51R, 196R

WMA hunting, 496N, 1124R, 1522R

Tangipahoa Parish School Board, 1459ER