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EXECUTIVE ORDER MJF 02-58

Advisory Task Force on Funding and Efficiency of the Louisiana Department of Environmental Quality

WHEREAS, Executive Order No. MJF 2002 -12, issued on June 21, 2002, established the Advisory Task Force on Funding and Efficiency of the Louisiana Department of Environmental Quality (hereafter "Task Force"), within the Louisiana Department of Environmental Quality, (hereafter "Department") to review the funding structure of the Department's funding sources, the allocation of the funds among the Department's regulatory programs, the costs-benefits of the Department's regulatory programs that have state mandated standards which exceed those required by federal law, and the effectiveness of the Department's reporting, monitoring, permitting, and enforcement programs; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2002-12 in order to change the membership of the Task Force;

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

SECTION 1: Section 4 of Executive Order No. MJF 2002 - 12, issued on June 21, 2002, is amended to read as follows:

The Task Force shall be composed of a maximum of thirty (30) members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the governor.

A. The voting members of the Task Force shall be selected as follows:

1. the governor, or the governor's designee;
2. the secretary of the Louisiana Department of Environmental Quality, or the secretary's designee;
3. the president of the Louisiana Senate, or the president's designee;
4. the speaker of the Louisiana House of Representatives, or the speaker's designee;
5. the director of the Petro Chemical and Environmental Technology Cluster of the Department of Economic Development, or the director's designee;
6. the chair of the Governor's Task Force on Environmental Protection and Preservation;
7. the chair of the House Committee on the Environment, or the chair's designee;

8. the chair of the Senate Committee on Environmental Quality, or the chair's designee;

9. a representative of the Louisiana Association of Business and Industry;

10. a representative of the Louisiana Environmental Action Network;

11. a representative of the Louisiana Farm Bureau Association;

12. a representative of the Louisiana Forestry Association;

13. a representative of the Louisiana Independent Oil and Gas Association;

14. a representative of the Louisiana Municipal Association;

15. a representative of the League of Women Voters;

16. a representative of the Louisiana Nature Conservancy;

17. a representative of the Louisiana Police Jury Association;

18. a representative of the Public Affairs Research Council;

19. a representative of the Louisiana Electric Utility Association;

20. a representative of the Louisiana Pulp and Paper Association;

21. a representative of the Council for a Better Louisiana;

22. a representative of the Alliance for Affordable Energy;

23. a representative of the Coalition to Restore Coastal Louisiana;

24. a representative of the Louisiana Chemical Association;

25. a representative of the Midcontinent Oil and Gas Association;

26. a representative of the Louisiana Wildlife Federation; and

27. three (3) members at-large.

B. The non-voting member of the Task Force shall be selected as follows:

1. the legislative auditor, or the legislative auditor's designee.

SECTION 2: All other sections, subsections, and paragraphs of Executive Order No. MJF 2002-12 shall remain in full force and effect.

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

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

Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of November, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0212#008

EXECUTIVE ORDER MJF 02-59

Executive Branch Contingency Cuts In Appropriations

WHEREAS, R.S. 39:75(A)(1) directs the Division of Administration to submit a monthly budget status report to the Joint Legislative Committee on the Budget (hereafter "Committee") indicating the balance of the budget for the state general fund and dedicated funds by comparing the official forecast for these funds to the total authorized appropriations from each fund; once approved by the Committee, the most recent budget status report becomes the official budget status of the state;

WHEREAS, if the most recently approved budget status report indicates that the total appropriation from any fund will exceed the official forecast for that fund, R.S. 39:75(B) mandates the Committee shall immediately notify the governor that a projected deficit exists for that fund;

WHEREAS, by letter dated October 22, 2002, received on October 24, 2002, the Committee notified the governor that it approved a budget status report at its October 18, 2002 meeting, indicating a projected deficit of eighty-six million three hundred eighty-seven thousand dollars (\$86,387,000) exists in the state general fund for fiscal year 2002-2003, based on the revised revenue forecast adopted by the Revenue Estimating Conference on October 10, 2002;

WHEREAS, once notified that a projected deficit exists, pursuant to R.S. 39:75(C)(1)(a) and/or Section 8 of Act No. 13 of the 2002 Regular Session of the Louisiana Legislature, the governor has interim budget balancing powers to adjust the budget, and if the governor does not make necessary adjustments in the appropriations within thirty (30) days of the determination of the projected deficit in a fund to eliminate the projected deficit, R.S. 39:75(D) mandates the governor call a special session of the Louisiana Legislature for that purpose;

WHEREAS, pursuant to R.S. 39:87 and R.S. 39:94, by letter dated November 8, 2002, the governor requested that the secretary of the Senate and the clerk of the House of Representatives prepare and submit a ballot to each elected member of the Louisiana Legislature of a proposition to make available for appropriation from the Budget Stabilization Fund (hereafter "Rainy Day Fund") a sum not to exceed one-third (1/3) of the balance of the Rainy Day Fund or eighty-six million three hundred eighty-seven thousand dollars (\$86,387,000), whichever is less, for the

purpose of obtaining written consent approving the proposition from at least two-thirds (2/3) of the elected members of both houses of the Louisiana Legislature;

WHEREAS, the secretary of the Senate and the clerk of the House of Representatives transmitted the ballots setting forth the proposition to each elected member of the Louisiana Legislature by certified mail with return receipt requested on Friday, November 8, 2002; after casting a vote, each member is to sign the ballot and return it to sender by facsimile or mail received no later than 5:00 p.m. on Saturday, November 23, 2002, in accordance with R.S. 39:87 and R.S. 39:94;

WHEREAS, in an abundance of caution to ensure budget adjustments to eliminate the projected deficit are made within the required thirty (30) day period, this Order is being issued to have a contingency plan in place in case written consent of two-thirds (2/3) of the elected members of both houses of the Louisiana Legislature approving the use of the Rainy Day Fund is not obtained as required by R.S. 39:87 and R.S. 39:94, under such circumstances, in addition to the expenditure freeze ordered by Executive Order No. MJF 2002-29, issued on September 24, 2002, appropriations for fiscal year 2002-2003 from the state general fund shall be reduced and/or cut throughout the executive branch of state government commencing at 12:01 a.m. on December 13, 2002, in the amount of eighty-six million three hundred eighty-seven thousand dollars (\$86,387,000); and

WHEREAS, if it becomes necessary to implement the appropriations cuts set forth in this Order, on or about December 10, 2002, the date the proposed constitutional amendment of Article VII, Section 10(F) of the Louisiana Constitution of 1974, approved on November 5, 2002, becomes effective and the provisions of Act No. 1063 of the 2001 Regular Session of the Louisiana Legislature become operative, the allocation of reductions and/or cuts to appropriations set forth in this Order may be modified and/or amended to reflect these constitutional and/or statutory changes;

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: If written consent approving the proposition to make available for appropriation from the Budget Stabilization Fund the sum of eighty-six million three hundred eighty-seven thousand dollars (\$86,387,000), not to exceed one-third (1/3) of the balance of the Budget Stabilization Fund as certified by the Revenue Estimating Conference pursuant to R.S. 39:95, is not obtained from the elected members of two-thirds (2/3) of both houses of the Louisiana Legislature in accordance with the polling procedure set forth in R.S. 39:87 and R.S. 39:94, commencing at 12:01 a.m. on December 13, 2002, appropriations to the following departments, agencies, and/or budget units of the executive branch of the state of Louisiana, described in and/or funded by appropriations in Act No. 13 of the 2002 Regular Session of the Louisiana Legislature, (hereafter "Unit" and/or "Units") shall be

reduced in the amounts shown below (hereafter "appropriations cuts"):

<u>Executive Department</u> Schedule 01	<u>State General Fund</u> \$ 5,330,645
<u>Secretary of State</u> Budget Unit 04-139	\$ 239,458
<u>Office of the Attorney General</u> Budget Unit 04-141	\$ 753,875
<u>Commissioner of Elections</u> Budget Unit 04-144	\$ 316,530
<u>Lieutenant Governor</u> Budget Unit 04-146	\$ 71,883
<u>State Treasurer</u> Budget Unit 04-147	\$ 83,126
<u>Agriculture and Forestry</u> Budget Unit 04-160	\$ 1,894,227
<u>Department of Culture, Recreation and Tourism</u> Schedule 06	\$ 2,569,723
<u>Department of Transportation and Development</u> Schedule 07	\$ 95,452
<u>Department of Public Safety and Corrections</u> <u>Corrections Services</u> All Corrections Services Budget Units in Schedule 08	\$ 5,136,462
<u>Department of Health and Hospitals</u> Schedule 09	\$ 55,774,391
<u>Department of Social Services</u> Schedule 10	\$ 2,537,652
<u>Department of Natural Resources</u> Schedule 11	\$ 545,147
<u>Department of Revenue</u> Schedule 12	\$ 191,991
<u>Department of Labor</u> Schedule 14	\$ 215,733
<u>Department of Civil Service</u> Schedule 17	\$ 30,624
<u>Department of Education</u> All Department of Education Budget Units in Schedule 19 (except 19-695 & 19-699)	\$ 9,558,033
<u>Louisiana State University Health Science Center</u> Health Care Services Division Budget Unit 19-610	\$ 32,560
<u>Other Requirements</u> Schedule 20	\$ 1,009,488

SECTION 2:

A. If the contingency plan for appropriations cuts is implemented at 12:01 a.m. on December 13, 2002, no later than December 31, 2002, the head of each Unit listed in Section 1 of this Order shall submit to the commissioner of administration (hereafter "commissioner") a supplemental mid-year budget adjustment plan, on the BA-7 form and questionnaire revised January 30, 2001, which reflects the Unit's proposed allocation of the appropriations cuts ordered in Section 1 of this Order (hereafter "supplemental mid-year budget adjustment plan"), and a description of the methodology used to formulate the supplemental mid-year budget adjustment plan.

B. In the event that positions of employment will be affected by the supplemental mid-year budget adjustment plan, the description of the methodology used to formulate the supplemental mid-year budget adjustment plan shall include, at a minimum, the following information for each position of employment proposed to be affected:

1. the type of position of employment affected, including job title;

2. the job function of the position of employment and an analysis of how it meets or serves the role, scope, and/or mission of the Unit; and

3. a description of why the particular position of employment was selected as part of the unit's supplemental mid-year budget adjustment plan.

C. No Unit shall implement the appropriations cuts mandated by Section 1 of this Order without the commissioner's prior written approval of the Unit's supplemental mid-year budget adjustment plan.

D. After the commissioner has given approval of a Unit's supplemental mid-year budget adjustment plan, any change to the supplemental mid-year budget adjustment plan requires prior written approval from the commissioner.

SECTION 3: The commissioner is authorized to develop additional guidelines as necessary to facilitate the administration of this Order.

SECTION 4: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 5: 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 14th day of November, 2002.

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

ATTEST BY
THE GOVERNOR
FoxMcKeithen
Secretary of State
0212#001

EXECUTIVE ORDER MJF 02-60

Bond AllocationCLouisiana Housing Finance Agency

WHEREAS, Executive Order No. MJF 2002-21, issued on August 20, 2002, granted a private activity bond allocation from the 2002 private activity bond volume limit to Louisiana Housing Finance Agency in accordance with the requirements of Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2002-21 in order to extend the time period in which the bonds may be delivered to initial purchasers;

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

SECTION 1: Section 3 of Executive Order No. MJF 2002-21, issued on August 20, 2002, is hereby amended to provide as follows:

The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before December 20, 2002.

SECTION 2: All other sections of Executive Order No. MJF 2002-21 shall remain in full force and effect.

SECTION 3: The provisions of this Order are 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 18th day of November, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0212#009

EXECUTIVE ORDER MJF 02-61

Bond AllocationCShreveport Home Mortgage Authority

WHEREAS, Executive Order No. MJF 2002-20, issued on August 20, 2002, granted a private activity bond allocation from the 2002 private activity bond volume limit to Shreveport Home Mortgage Authority in accordance with the requirements of Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2002-20 in order to extend the time period in which the bonds may be delivered to initial purchasers;

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

SECTION 1: Section 3 of Executive Order No. MJF 2002-20, issued on August 20, 2002, is hereby amended to provide as follows:

The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before December 20, 2002.

SECTION 2: All other sections of Executive Order No. MJF 2002-20 shall remain in full force and effect.

SECTION 3: The provisions of this Order are 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 18th day of November, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0212#010

EXECUTIVE ORDER MJF 02-62

Bond AllocationCLouisiana Housing Finance Agency

WHEREAS, Executive Order No. MJF 2002-16, issued on August 20, 2002, granted a private activity bond allocation from the 2002 private activity bond volume limit to Louisiana Housing Finance Agency in accordance with the requirements of Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2002-16 in order to extend the time period in which the bonds may be delivered to initial purchasers;

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

SECTION 1: Section 3 of Executive Order No. MJF 2002-16, issued on August 20, 2002, is hereby amended to provide as follows:

The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before December 20, 2002.

SECTION 2: All other sections of Executive Order No. MJF 2002-16 shall remain in full force and effect.

SECTION 3: The provisions of this Order are 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 18th day of November, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0212#011

EXECUTIVE ORDER MJF 02-63

Bond AllocationCThe Finance Authority of New Orleans

WHEREAS, Executive Order No. MJF 2002-17, issued on August 20, 2002, granted a private activity bond allocation from the 2002 private activity bond volume limit to The Finance Authority of New Orleans in accordance with the requirements of Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2002-17 in order to extend the time period in which the bonds may be delivered to initial purchasers;

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

SECTION 1: Section 3 of Executive Order No. MJF 2002-17, issued on August 20, 2002, is hereby amended to provide as follows:

The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before December 20, 2002.

SECTION 2: All other sections of Executive Order No. MJF 2002-17 shall remain in full force and effect.

SECTION 3: The provisions of this Order are 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 18th day of November, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0212#012

EXECUTIVE ORDER MJF 02-64

Bond AllocationCLouisiana Local Government Environmental Facilities and Community Development 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 2002 (hereafter "the 2002 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and

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

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 2002 Ceiling to be used in connection with a project to finance the acquisition, construction, and installation of certain solid waste and sewage disposal facilities at the Geismar plant complex of BASF Corporation located at 8404 Highway 75, city of Geismar, parish of Ascension, 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. AMIKE@ 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 2002 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$8,100,000	Louisiana Local Government Environmental Facilities and Community Development Authority	BASF Corporation

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 2002, provided that such bonds are delivered to the initial purchasers thereof on or before December 20, 2002.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day of November, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0212#013

EXECUTIVE ORDER MJF 02-65

Bond Allocation
Louisiana Local
Government Environmental Facilities
and Community Development 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 2002 (hereafter "the 2002 Ceiling");
- (2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and
- (3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 2002 Ceiling to be used in connection with a project to finance the acquisition, construction, and installation of certain solid waste and sewage disposal facilities at the Shreveport plant complex of BASF Corporation located at 8800 Line Avenue, city of Shreveport, parish of Caddo, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2002 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$1,900,000	Louisiana Local Government Environmental Facilities and Community Development Authority	BASF Corporation

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before December 20, 2002.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day of November, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0212#014

EXECUTIVE ORDER MJF 02-66

Office of Group Benefits Study Commission

WHEREAS, Executive Order No. MJF 2002-24, issued on September 5, 2002, established the Office of Group Benefits Study Commission within the executive department, Office of the Governor (hereafter "Commission");

WHEREAS, Executive Order No. MJF 2002 - 26, issued on September 13, 2002, added an additional member to the Commission; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2002-24, as amended by Executive Order No. MJF 2002-26, in order to extend the Commission's deadline for submitting a report to the governor;

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

SECTION 1: Section 3 of Executive Order No. MJF 2002-24, issued on September 5, 2002, is amended to provide as follows:

The Commission shall submit a comprehensive written report to the governor which addresses the issues set forth in Section 2 of this Order by January 15, 2003.

SECTION 2: All other paragraphs, sections, and subsections of Executive Order No. MJF 2002-24, as amended by Executive Order No. MJF 2002-26, issued on September 13, 2002, shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 4th day of December, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0212#045

EXECUTIVE ORDER MJF 02-67

Bond AllocationCParish of Ascension, State of Louisiana

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 2002 (hereafter "the 2002 Ceiling");
- (2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and
- (3) a system of central record keeping for such allocations; and

WHEREAS, the parish of Ascension, state of Louisiana, has requested an allocation from the 2002 Ceiling to be used in connection with a project to finance the acquisition, construction, and installation of a solid waste and disposal facility at the Geismar plant of Shell Chemical, LP, located in the unincorporated area of the parish of Ascension, 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 2002 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$8,000,000	Parish of Ascension, State of Louisiana	Shell Chemical, LP

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 2002, provided that such bonds are delivered to the initial purchasers thereof on or before December 24, 2002.

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 6th day of December, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0212#046

EXECUTIVE ORDER MJF 02-68

Bond AllocationCLouisiana Public Facilities Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. 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 2002 (hereafter "the 2002 Ceiling");
- (2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and
- (3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Public Facilities Authority has requested an allocation from the 2002 Ceiling to be used in connection with a project to finance the acquisition, construction, and installation of equipment for solid waste disposal facilities, recycling facilities, resource recovery facilities and/or industrial sewage and wastewater treatment facilities at Air Products and Chemicals, Inc., located in the parish of Orleans, 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. AMIKE@ 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 2002 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$14,000,000	Louisiana Public Facilities Authority	Air Products and Chemicals, Inc.

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the 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 2002, provided that such bonds are delivered to the initial purchasers thereof on or before December 24, 2002.

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 6th day of December, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0212#047

EXECUTIVE ORDER MJF 02-69

Bond AllocationCIndustrial Development Board of the Parish of Calcasieu, Inc.

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 2002 (hereafter the 2002 Ceiling@);
- (2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and
- (3) a system of central record keeping for such allocations; and

WHEREAS, the Industrial Development Board of the Parish of Calcasieu, Inc., has requested an allocation from the 2002 Ceiling to be used in connection with a project to finance the acquisition, construction, and installation of certain wastewater treatment facilities at the refinery of CITGO Petroleum Corporation located in the parish of Calcasieu, 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 2002 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$6,000,000	Industrial Development Board of the Parish of Calcasieu, Inc.	CITGO Petroleum Corporation

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before December 23, 2002.

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 6th day of December, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0212#048

EXECUTIVE ORDER MJF 02-70

Bond AllocationCLouisiana Local Government Environmental Facilities and Community Development 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 2002 (hereafter ~~the~~ 2002 Ceiling@);

(2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and

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

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 2002 Ceiling to be used in connection with a project to finance the construction and installation of certain solid waste disposal facilities at the Honeywell plant located in the parish of Ascension, 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 2002 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$6,000,000	Louisiana Local Government Environmental Facilities and Community International, Inc.	Honeywell Development Authority

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 ~~the~~ Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling@ submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before December 20, 2002.

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 6th day of December, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0212#049

EXECUTIVE ORDER MJF 02-71

Bond Allocation ~~C~~The Finance Authority of New Orleans

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 2002 (hereafter ~~the~~ 2002 Ceiling@);

(2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and

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

WHEREAS, The Finance Authority of New Orleans has requested an allocation from the 2002 Ceiling to be used in connection with a program providing mortgage financing for qualified purchasers of single-family, owner-occupied residences in the city of New Orleans, parish of Orleans, 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 2002 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$5,000,000	The Finance Authority of New Orleans	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 ~~the~~ Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling@ submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before December 23, 2002.

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 6th day of December, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0212#050

Emergency Rules

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV. 501, 503, and 803)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs (R.S. 17:3021-3026, 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. The commission has, therefore, 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 November 20, 2002, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part IV. Student Financial Assistance Higher

Education Scholarship and Grant Programs

Chapter 5. Application; Application Deadlines and Proof of Compliance

§501. Application

A. Initial Application

1. Except as provided in Subparagraph A.2 below, all new applicants for Louisiana scholarship and grant programs must apply for federal aid by completing the Free Application for Federal Student Aid (FAFSA) for the academic year following the year the student graduated from high school. For example, if the student will graduate from high school in school year 2000-2001, submit the 2001-2002 version of the FAFSA.

2. All new applicants for TOPS Opportunity, Performance, Honors and TOPS Tech Awards who graduate from high school during or after the 2001-2002 Academic Year (High School) must apply for federal aid by completing the Free Application for Federal Student Aid (FAFSA) for the Academic Year (College) the applicant will be a First Time-Full Time Student. For example, if the applicant will graduate from high school in the 2002-2003 Academic Year (High School) and intends to enroll as a First Time-Full Time Student in the fall semester of 2004, he must submit the 2004-2005 version of the FAFSA.

a. All applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards (except those students who can demonstrate that they do not

qualify for federal grant aid because of their family's financial condition) must complete all applicable sections of the initial FAFSA.

b. Applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition must complete all applicable sections of the initial FAFSA except those sections related to the income and assets of the applicant and the applicant's parents.

c. In the event of a budgetary shortfall, applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards who do not complete all sections of the FAFSA will be the first denied a TOPS award.

B. - 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 24:635 (April 1998), amended LR 24:1900 (October 1998), LR 26:1994 (September 2000), repromulgated LR 27:1846 (November 2001), amended LR 29:

§503. Application Deadlines

A. - A.4. ...

B. Final Deadline for Full Award

1.a. Except as provided in Subparagraph B.1.b below, in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA application is July 1st of the Academic Year (High School) in which a student graduates. For example, for a student graduating in the 2000-2001 Academic Year (High School), the student must submit the initial FAFSA in time for it to be received by the federal processor by July 1, 2001.

b. For applicants graduating from high school during or after the 2001-2002 Academic Year (High School), in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA application is the July 1st immediately preceding the Academic Year (College) in which the applicant will be a First Time-Full Time Student.

c. Examples

i. If an applicant graduates in the 2002-2003 Academic Year (High School) and will be a First Time-Full Time student in the fall semester of 2003, the applicant must submit the initial FAFSA in time for it to be received by the federal processor by July 1, (2003).

ii. If an applicant graduates in the 2002-2003 Academic Year (High School) and will be a First Time-Full Time student in the fall semester of 2004, the applicant must submit the initial FAFSA in time for it to be received by the federal processor by July 1, (2004).

d. Students must also apply in time to meet the First Time Freshman enrollment deadlines specified in §703.A.4 (TOPS Opportunity, Performance and Honors) and §803.A.4 (TOPS Tech).

B.2. - 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 25:2396 (December 1999), LR 25:1994 (September 2000), repromulgated LR 27,1847 (November 2001), amended LR 28:447 (March 2002), LR 28:1760 (August 2002), LR 29:

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.2. ...

3. submit the completed initial Free Application for Federal Student Aid (FAFSA) or renewal FAFSA in accordance with §501 by the applicable state aid deadline in accordance with the requirements of §503; and

4. - 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 29:

George Badge Eldredge
General Counsel

0212#005

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Office of the Commissioner**

Educational Leave for Unclassified Employees
(LAC 4:I.901, 903, and 905)

In accordance with the Administrative Procedure Act, R.S., 49:953.B and Executive Order MJF 98-23, the Office of the Governor, Division of Administration is exercising the emergency provisions of the Administrative Procedure Act in implementing the following Emergency Rule governing the granting of educational leave to unclassified employees.

This Emergency Rule is necessary to allow the Division of Administration to effectively administer Executive Order MJF 98-23, Section 18(D), Education Leave. A delay in promulgating this Rule will have an adverse impact on the financial welfare of employee participants.

This Emergency Rule will become effective upon signature, November 20, 2002, and will remain in effect for 120 days, or until promulgation of the final Rule.

Title 4

ADMINISTRATION

Part I. General Provisions

Chapter 9. Educational Leave for Unclassified Employees

§901. Unpaid Educational Leave

A. An appointing authority may grant an unclassified officer or employee educational leave without pay for an

approved educational purpose, for a maximum period of 12 months.

B. Consecutive periods of leave without pay may be granted to the officer or employee by the appointing authority.

AUTHORITY NOTE: Promulgated in accordance with Executive Order MJF 98-23.

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

§903. Paid Educational Leave

A. Upon the approval of the commissioner, an appointing authority may grant an unclassified officer or employee educational leave with pay for a maximum period of 30 calendar days during 1 calendar year.

B. For any request of paid educational leave in excess of that covered under §903.A, the appointing authority may present a request, with adequate justification, to the commissioner of administration for his approval.

AUTHORITY NOTE: Promulgated in accordance with Executive Order MJF 98-23.

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

§905. Educational Stipend

A. An appointing authority may grant a stipend to an unclassified officer or employee who has been granted educational leave if:

1. funds are available for such purposes;
2. the commissioner of administration approves the stipend; and
3. the commissioner of administration finds the stipend will be used for a proper, designated purpose and its proper use is clearly supported with appropriate documentation.

AUTHORITY NOTE: Promulgated in accordance with Executive Order MJF 98-23.

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

Mark C. Drennen
Commissioner of Administration

0212#002

DECLARATION OF EMERGENCY

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

Licensure as Advanced Practice Registered Nurse
(LAC 46:XLVII.4507)

The Louisiana State Board of Nursing in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted the board by R.S. 37:918 et seq., R.S. 37:920 adopts the following Emergency Rule effective December 20, 2002, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

This Rule is being adopted on an emergency basis to diminish the potential disruption to Advanced Practice Registered Nurse (APRN) services in the state. This Rule

provides a mechanism for the Advanced Practice Registered Nurse to obtain a temporary license while obtaining minimum clinical practice requirements for reinstatement. Effective January 31, 2003, APRNs who do not meet minimum clinical practice requirements will not be eligible for reinstatement. Current rules do not provide a mechanism for the APRNs to subsequently obtain the practice requirement to reinstate. The APRN would need to leave the state to obtain the practice hours or retain an inactive license, thus losing valuable services to Louisiana citizens. Proposed Rule provides a safe mechanism for effected APRNs to retain licensure.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses

§4507. Licensure as Advanced Practice Registered Nurses

A. - F.1.b. ...

c. evidence of current certification/recertification by a national certifying body accepted by the board; or

d. APRN's initially licensed in accordance with R.S. 37:912.B(3)(4) or 920.A.(2) and §4507.A.2 whose specialty and/or functional role does not provide for certification/recertification shall apply for a six-month temporary permit and practice under the temporary permit and current practice standards set forth by the respective advanced practice nursing specialty and/or functional role; and submit the following documentation with the application for reinstatement for each year of inactive or lapsed status:

i. a minimum of 300 hours of practice in advanced practice registered nursing as defined in R.S. 37:913.3a for each year of inactive or lapsed status up to a maximum of 800 hours; and

ii. a minimum of 2 college credit hours per year of relevance to the advanced practice role; or

iii. a minimum of 30 continuing education (C.E) contact hours approved by the board each year. Of the 30 contact hours, a maximum of 10 C.E. contact hours may be approved Continuing Medical Education (CMEs); and

e. the required fee as specified in LAC 46:XLVII.3341.

2. - 2.g. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996), amended LR 27:724 (May 2001), LR 29:

Barbara L. Morvant
Executive Director

0212#058

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital
Payment Methodologies CFinal Payment

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 Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule May 20, 1999 governing the disproportionate share payment methodologies for hospitals (*Louisiana Register, Volume 25, Number 5*). This Rule was adopted pursuant to Act 19 of the 1998 Legislative Session and Act 1485 (the Rural Hospital Preservation Act) of the 1997 Legislative Session. The May 20, 1999 Rule was subsequently amended to revise the disproportionate share qualification criteria for small rural hospitals in compliance with Senate Concurrent Resolution Number 48 and Act 1068 of the 1999 Regular Session of the Louisiana Legislature (*Louisiana Register, Volume 26, Number 3*).

Act 1074 of the 2001 Regular Session of the Louisiana Legislature amended the Rural Hospital Preservation Act to add certain hospitals to the definition of rural hospitals. In compliance with Act 1074, the Bureau amended the March 20, 2000 rule by revising the disproportionate share qualification criteria for small rural hospitals (*Louisiana Register, Volume 28, Number 8*).

Qualification for disproportionate share payment is based on the hospital's latest year end cost report for the year ended during the specified period of the previous year. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports are assumed to be ineligible for disproportionate share (DSH) payments. In response to provider inquiries, the Bureau amended the August 20, 2002 Rule in order to clarify the policy governing final payments and adjustments (*Louisiana Register, Volume 28, Number 9*). This Emergency Rule is being adopted to continue the provisions contained in the September 7, 2002 Rule. This action is being taken to avoid a budget deficit.

Emergency Rule

Effective for dates of service on or after January 6, 2003, the Department of Health and Hospitals, Office of the

Secretary Bureau of Health Services Financing amends the August 20, 2002 Rule governing the disproportionate share payment methodologies for hospitals by incorporating the following clarifications.

I. General Provisions

A. - D. ...

E. Qualification is based on the hospital's latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports will be assumed to be ineligible for disproportionate share (DSH) payments. Hospitals will only be considered for DSH payments if their disproportionate share qualification documentation is returned timely. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

F. - I. ...

III. Reimbursement Methodologies

B. Small Rural Hospitals

1. - 3. ...

4. A pro rata decrease necessitated by conditions specified in I.B. above for rural hospitals described in this section will be calculated using the ratio determined by dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals described in this section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state appropriated DSH amount. No additional payments shall be made after the final payment for the state fiscal year is disbursed by the Department. Recoupments 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.

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

David W. Hood
Secretary

0212#098

DECLARATION OF EMERGENCY

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

Durable Medical Equipment Program
Motorized Wheelchairs

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

promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., 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 manual and motorized wheelchairs under the Durable Medical Equipment Program. The Bureau promulgated an Emergency Rule to adopt new policy governing recipient qualifications for motorized wheelchairs (*Louisiana Register, Volume 28, Number 9*). This Emergency Rule is being promulgated to continue the provisions contained in the September 21, 2002 Rule. This action is being taken to promote the health and welfare of Medicaid recipients by facilitating access to medically necessary motorized wheelchairs and thereby avoiding further deterioration of their physical functioning.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XVII. Durable Medical Equipment

Subpart 1. Prosthetics

Chapter 148. Wheelchairs/Wheelchair Accessories and Strollers

Subchapter A. (Reserved)

Subchapter B. Wheelchairs, Customized and/or Motorized

§14821. Recipient Criteria

A. Motorized Wheelchairs

1. Effective for dates of service on or after January 20, 2003, the recipient must meet all of the following criteria in order to be considered for a motorized wheelchair.

a. Recipient must be non-ambulatory and have severe weakness of the upper extremities due to a neurological or muscular disease/condition; and

b. recipient's condition is such that without the use of a wheelchair the recipient would otherwise be bed or chair confined; and

c. recipient's condition is such that a wheelchair is medically necessary and he/she is unable to operate a wheelchair manually; and

d. recipient is capable of safely operating the controls for a motorized wheelchair.

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:

§14823. Motorized Wheelchair Prior Authorization

A. All requests for a motorized wheelchair must include the following documentation:

1. a completed PA -01 form;

2. a physician's prescription for the wheelchair. Wheelchairs with specialized seating or individualized features must contain medical documentation from the physician to support the modifications;

3. a written evaluation by a physical therapist or occupational therapist. The evaluation must include documentation of the appropriateness of the specific wheelchair requested and all modifications and/or attachments to the specific wheelchair and its ability to meet the recipient's long-term medical needs. Options that are beneficial primarily in allowing the recipient to perform leisure or recreational activities are not covered; and

4. documentation that the recipient can safely operate the wheelchair and that he/she does not have the upper extremity function necessary to operate a manual wheelchair.

B. A motorized wheelchair is covered if the recipient's condition is such that the requirement for a motorized wheelchair is long term (at least six months). Approval will be made for only one wheelchair at a time. Backup chairs, either motorized or manual, will be denied as not medically necessary.

C. All wheelchairs and modifications required to meet the needs of a particular recipient are subject to prior authorization.

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:

§14825. Covered Services

A. Motorized wheelchairs as specified in Paragraphs 1 - 3 below are considered for reimbursement:

1. standard-weight frame;
2. standard-weight frame with:
 - a. programmable control parameters for speed adjustment;
 - b. tremor dampening;
 - c. acceleration control; and
 - d. braking;
3. lightweight portable.

B. Motorized wheelchairs are characterized by:

1. seat width: 14" B 18";
2. arm style: fixed height, detachable;
3. seat depth: 16";
4. footplate extension: 16" B 21";
5. seat height: 19" – 21";
6. footrests: fixed or swingaway detachable;
7. back height: sectional 16" or 18";

C. A lightweight motorized wheelchair is characterized by:

1. weight: less than 80 pounds without battery;
2. folding back or collapsible frame.

D. Wheelchair "poundage" (pounds) represents the weight of the usual configuration of the wheelchair without front riggings.

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: 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

0212#099

DECLARATION OF EMERGENCY

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

Medicaid Eligibility

Expansion of Coverage for Low-Income Pregnant Women

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.

Section 1902(a)(10)(A)(i)(IV) and 1905(n)(2) of the Social Security Act requires states to provide Medicaid coverage to pregnant women whose pregnancy has been medically verified and whose family income is at or below 133 percent of the federal poverty level. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides coverage to low-income pregnant women in compliance with the minimum federal poverty level income allowed by regulations for pregnant women coverage. Income eligibility is based upon the current federal poverty level for the household size. Medicaid coverage for pregnant women is limited to prenatal care, delivery, 60 days of postpartum care and treatment for other conditions that may complicate the pregnancy.

Act 13 of the 2002 Regular Session of the Louisiana Legislature allocated funding for the eligibility determination costs associated with the expansion of Medicaid and the Louisiana Children's Insurance Program to provide coverage for pregnant women with family income not greater than 200 percent of the federal poverty level. Under general Medicaid regulations, the department has the option to provide coverage to low-income pregnant women whose family income is up to, but no higher than, 185 percent of the federal poverty level. In compliance with Act 13 and pursuant to Sections 1902(a)(10)(A)(i)(I), 1902(1)(1)(A) of the Social Security Act, the department proposes to amend the current provisions governing the eligibility income levels for coverage for low-income pregnant women.

This action is being taken to protect the health and well being of pregnant women and infants by facilitating access to prenatal care and thereby improving birth outcomes. It is estimated that implementation of this Emergency Rule will increase program expenditures by approximately \$2,072,998 for state fiscal year 2002-2003.

Emergency Rule

Effective January 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the current provisions governing eligibility for low-income pregnant women and expands coverage to include low income pregnant women with family income greater than 133 percent, but less than or equal to 185 percent of the federal poverty level (Sections

1902(a)(10)(A)(i)(I), 1902(1)(1)(A) of the Social Security Act).

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

0212#094

DECLARATION OF EMERGENCY

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

Medicaid Eligibility Income Disregards for Low Income Pregnant Women

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 LA. 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 currently utilizes the income methodologies of the former Aid to Families with Dependent Children (AFDC) Program to determine Medicaid eligibility for families and children. Under general Medicaid rules, States are required to follow the same rules and processes used by the most closely related cash assistance program to determine Medicaid eligibility.

Section 1902(r)(2) of the Social Security Act allows States to use less restrictive income and resource methodologies in determining eligibility for most Medicaid eligibility groups than are used by the cash assistance program. Under current Medicaid eligibility policy for low-income pregnant women, income eligibility is based upon the current federal poverty level for the household size. The total countable income of all members of the income unit is compared to the appropriate income standard for the income unit size.

Act 13 of the 2002 Regular Session of the Louisiana Legislature provided additional funding for eligibility determination costs associated with the expansion of Medicaid and the Louisiana Children's Insurance Program to provide coverage for pregnant women with family income not greater than 200 percent of poverty level. In compliance with Act 13 and pursuant to Sections 1902(a)(10)(A)(i)(I), 1902(1)(1)(A) of the Social Security Act, the Department proposes to amend the provisions contained in Section I of the May 20, 1996 rule governing the treatment of income in the eligibility determination process.

This action is being taken to protect the health and well being of low-income pregnant women and infants by facilitating access to prenatal care and thereby improving

birth outcomes. It is estimated that implementation of this Emergency Rule will increase expenditures for services by approximately \$333,376.38 for state fiscal year 2002-2003.

Emergency Rule

Effective January 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions contained in the May 20, 1996 rule governing countable income in the determination of Medicaid eligibility for low-income pregnant women.

Utilizing provisions allowed under Section 1902(r)(2) of the Social Security Act, the department disregards the first 15 percent of monthly gross income under the federal poverty level standards when determining Medicaid eligibility for low-income pregnant women (Sections 1902(a)(10)(A)(i)(I), 1902(1)(1)(A) of the Social Security Act).

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 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

0212#095

DECLARATION OF EMERGENCY

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

Outpatient Hospital Laboratory Services Reimbursement Increase (LAC 50:XIX.4333)

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in April of 1997 that established a uniform reimbursement methodology for all laboratory services subject to the Medicare Fee Schedule regardless of the setting in which the services are performed, outpatient hospital or a non-hospital setting. Outpatient laboratory services are reimbursed at the same reimbursement rate as laboratory services performed in non-hospital setting (*Louisiana Register*, Volume 23, Number 4).

Act 13 of the 2002 Regular Session of the Louisiana Legislature allocated additional funds to the Department of Health and Hospitals for the enhancement of the

reimbursement rates paid to hospitals for outpatient services. In compliance with Act 13, the Bureau promulgated an Emergency Rule increasing the reimbursement rates for outpatient hospital laboratory services (*Louisiana Register, Volume 28, Number 9*). This Emergency Rule is being promulgated to continue the provisions contained in the September 16, 2002 Rule. This action is being taken to promote the health and well being of Medicaid recipients by encouraging the continued participation of hospitals providing outpatient laboratory services in the Medicaid Program.

Emergency Rule

Effective for dates of service on or after January 15, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the May 20, 2002 Rule governing the reimbursement methodology for outpatient laboratory services as follows.

TITLE 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 3. Laboratory and X-Ray

Chapter 43. Billing and Reimbursement

Subchapter B. Reimbursement

§4333. Outpatient Hospital Laboratory Services

Reimbursement

A. Hospitals are reimbursed for outpatient laboratory services as follows.

1. The reimbursement rates paid to outpatient hospitals for laboratory services subject to the Medicare Fee Schedule shall be increased to ten percent of the rate on file as of September 15, 2002.

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 28:1026 (May 2002), amended LR 28:

Implementation of this Emergency Rule shall be contingent upon: the certification of matching funds by non-state public hospitals (except small rural hospitals as defined in R.S. 40:1300.143); or the completion of cooperative endeavor agreements to make public agency transfers to the department as set forth in Act 13 of the 2002 Regular Session of the Louisiana Legislature; and the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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

David W. Hood
Secretary

0212#101

DECLARATION OF EMERGENCY

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

Outpatient Hospital Rehabilitation Services Reimbursement Increase

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1997 which established a uniform reimbursement methodology for all rehabilitation services regardless of the setting in which the services are performed, outpatient hospital or a free-standing rehabilitation center (*Louisiana Register, Volume 23, Number 6*). Rehabilitation services include physical therapy, occupational therapy, and speech/hearing and language therapy.

Act 13 of the 2002 Regular Session of the Louisiana Legislature allocated funds to the Department of Health and Hospitals to increase the reimbursement paid for physical therapy, occupational therapy, and speech/language and hearing therapy services provided to children under three years of age. As the result of the allocation of additional funds, the bureau promulgated an Emergency Rule increasing the reimbursement rates for rehabilitation services provided to children age birth through three years old (*Louisiana Register, Volume 28, Number 7*).

Act 13 also allocated additional funds to the Department for enhancement of the reimbursement rates paid to hospitals for outpatient services. In compliance with Act 13 directive, the Bureau promulgated an Emergency Rule increasing the reimbursement rates for outpatient hospital rehabilitation services (*Louisiana Register, Volume 28, Number 9*). This Emergency Rule is being adopted to continue the provisions contained in the September 16, 2002 Rule. This action is being taken to promote the health and well being of Medicaid recipients by encouraging the continued participation of hospitals providing outpatient rehabilitation services in the Medicaid Program.

Emergency Rule

Effective for dates of service on or after January 15, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rates for outpatient hospital rehabilitation services rendered to Medicaid recipients age three and older.

This rate increase is not applicable to rehabilitation services rendered to recipients up to the age of three as the reimbursement rate increase for those services were addressed in the July 6, 2002 Emergency Rule. The new reimbursement rates will be as follows.

DECLARATION OF EMERGENCY

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

Professional Services Program
Physician Services
Reimbursement Increase

Service Description	New Fee
Physical Therapy, evaluation	\$68.31
Occupational therapy evaluation	\$64.52
Speech Evaluation	\$56.93
Hearing Evaluation	\$56.93
Wheelchair Seating Evaluation	\$64.52
Physical Therapy, 1 modality	\$25.30
Physical Therapy, 2 or more modalities	\$37.95
P.T.-1 or more procedure/modality, 15 min.	\$12.65
P.T.-with procedures, 20 min.	\$17.08
P.T.-with procedures, 30 min.	\$25.30
P.T.-with procedures, 45 min.	\$37.95
P.T.-with procedures, 60 min.	\$50.60
P.T.-with procedures and mod., 60 min.	\$50.60
P.T.-with procedures, 75 min.	\$63.25
P.T.-with procedures, 90 min.	\$75.90
Occupational therapy, 15 min.	\$10.12
Occupational therapy, 20 min.	\$13.92
Occupational therapy, 30 min.	\$20.24
Occupational therapy, 45 min.	\$30.36
Occupational therapy, 60 min.	\$40.48
Speech and hearing therapy, 15 min.	\$9.49
Speech and hearing therapy, 20 min.	\$12.65
Speech therapy, 30 min	\$18.98
Speech therapy, 45 min.	\$28.46
Speech therapy, 60 min.	\$37.95

This increase in outpatient hospital rehabilitation reimbursement rates is not applicable to home health rehabilitation services. Home health rehabilitation services will continue to be reimbursed at the rate paid for outpatient hospital rehabilitation services as of September 15, 2002, except for those services that were addressed in the July 6, 2002 Rule.

Implementation of this Emergency Rule shall be contingent upon the certification of matching funds by non-state public hospitals (except small rural hospitals as defined in R.S. 40:1300.143); or the completion of cooperative endeavor agreements to make public agency transfers to the Department as set forth in the Act 13 of the 2002 Regular Session of the Louisiana Legislature; and the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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

David W. Hood
Secretary

0212#100

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

The Bureau promulgated an Emergency Rule in February 2000 reducing the reimbursement paid to physicians by 7 percent for specific procedure codes, including surgery procedure codes, as a result of a budgetary shortfall (*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 a rule 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 consultations with pediatric surgeons around the state, the Bureau has determined that it is necessary to increase the reimbursement rate for designated CPT surgical procedure codes for services rendered to recipients within a specific age range. This action is being taken to protect the health and welfare of Medicaid recipients within the specified age range by ensuring continued access to surgery services and encouraging continued physician participation in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$1,685,173 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after January 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement 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 and procedure codes for newborn circumcisions (54150) and (54160).

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

Interested persons may submit written comments to Ben A. Bearden at Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, 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

0212#097

DECLARATION OF EMERGENCY

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

Qualified Individuals Medicare Part B Buy-In

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

Section 4732 of the Balanced Budget Act of 1997 required the Medicaid Program to establish a mechanism for payment of Medicare Part B premiums for two new mandatory eligibility groups of low-income Medicare beneficiaries called Qualifying Individuals (QIs). This provision amended section 1902(a)(10)(E) of the Social Security Act concerning Medicare cost-sharing for Qualified Medicare Beneficiaries and Specified Low-Income Medicare Beneficiaries. It also amended section 1905(b) of the Act concerning the Federal Medical Assistance Percentage by incorporating reference to and establishing a new section 1933 for Qualifying Individuals.

The bureau promulgated a Rule in July 1998 adopting the provisions of Section 4732 of the Balanced Budget Act of 1997 governing the payment of Medicare Part B premiums for QIs in the two mandatory eligibility groups (*Louisiana Register*, Volume 24, Number 7). The provisions were effective for premiums payable beginning January 1, 1998

and ending December 31, 2002. Payment for the Medicare premiums is provided by 100 percent federal funds, which are provided as a capped annual grant. The number of QIs certified is limited by availability of these funds. Individuals in the first group of QIs (QI-1s) were eligible if their incomes were above 120 percent of the Federal poverty line, but less than 135 percent. The Medicaid benefit for QI-1s consisted of payment of the full Medicare Part B premium. Individuals in the second group of QIs (QI-2s) were eligible if their incomes were at least 135 percent of the federal poverty line, but less than 175 percent. The Medicaid benefit for this group consisted of partial payment of Medicare Part B premiums.

Federal statutory authority for the payment of Medicare Part B premiums benefits for QIs was originally intended to expire on December 31, 2002. However, a Continuing Resolution (Public Law No. 107-229, as amended by Public Law Nos. 107-240 and 107-244) has been enacted to extend the QI-1 benefits at the current funding levels through January 21, 2003. Therefore, the bureau proposes to amend the July 20, 1998 Rule to extend the QI-1 benefits. This action is being taken to avoid federal sanctions by complying with changes in federal regulations. It is estimated that the implementation of this emergency rule has no fiscal impact for state fiscal year 2002-2003 other than the administrative cost of promulgating the rule.

Emergency Rule

Effective January 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions of the July 20, 1998 Rule and extends payment of Medicare Part B premiums for Qualifying Individuals -1 through January 21, 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 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

0212#096

DECLARATION OF EMERGENCY

**Department of Natural Resources
Office of Conservation**

Fees (LAC 43:XIX.703)

In accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953.B, and under the authority of R.S. 30:21 et seq., the Commissioner of Conservation of the Office of Conservation, declares that an

emergency action is necessary in order to collect additional application fees for public hearings, which are necessary to pay operating expenses for the Office of Conservation during FY 02/03. The Emergency Rule is effective on November 20, 2002, and shall remain in effect for a maximum of 120 days or until the final Rule is promulgated, whichever occurs first.

Act No. 97 of the First Extraordinary Session of 2002 authorized an increase of application fees of up to eight and one-half percent in the collections by the Office of Conservation. In order to invoice these authorized increases during the current fiscal year, this Emergency Rule is being implemented. The Office of Conservation will propose a Rule that reflects the provisions of this Emergency Rule, and will amend LAC 43:XIX, Chapter 7, by increasing the established application fees for public hearings.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation General Operations

Subpart 2. Statewide Order No. 29-R

Chapter 7. Fees

§703. Fee Schedule for Fiscal Year 2002-2003

A. Fee Schedule

Application Fees	Amount

Application for Public Hearing	\$755

B. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:1528 (July 2000), LR 26:2304 (October 2000), LR 27: 1430 (August 2001), LR 27:1897 (November 2001), LR 28:2368 (November 2002), LR 29:

James H. Welsh
Commissioner

0212#004

Chapter 7. Watercraft

§703. Tables Watercraft

A. Floating Equipment Motor Vessels

Floating Equipment Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2002	0.997	1	94	.94
2001	1.003	2	87	.87
2000	1.011	3	80	.81
1999	1.029	4	73	.75
1998	1.033	5	66	.68
1997	1.042	6	58	.60
1996	1.058	7	50	.53
1995	1.074	8	43	.46

DECLARATION OF EMERGENCY

**Department of Revenue
Tax Commission**

Ad Valorem Tax

(LAC 61:V.303, 703, 907, 1503, 2503, 2705, and 2707)

The Louisiana Tax Commission, at its meeting of December 5, 2002, exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions, deletions and amendments to the Real/Personal Property Rules and Regulations.

This Emergency Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2003. Cost indexes required to finalize these assessment tables are not available to this office until late October, 2002. The effective date of this Emergency Rule is January 1, 2003.

Title 61

REVENUE AND TAXATION

Part V. Ad Valorem Taxation

Chapter 3. Real and Personal Property

§303. Real Property

A. - B.2. ...

C. The Louisiana Tax Commission has ordered all property to be reappraised in all parishes for the 2004 tax year. Property is to be valued as of January 1, 2003, in Orleans Parish the same as applies to property in all other parishes.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:312 (February 1999), LR 26:506 (March 2000), LR 29:

1994	1.113	9	36	.40
1993	1.144	10	29	.33
1992	1.167	11	24	.28
1991	1.181	12	22	.26
1990	1.205	13	20	.24

B. Floating EquipmentCBarges (Nonmotorized)

Floating EquipmentCBarges (Nonmotorized)				
Cost Index (Average)		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2002	0.997	1	97	.97
2001	1.003	2	93	.93
2000	1.011	3	90	.91
1999	1.029	4	86	.88
1998	1.033	5	82	.85
1997	1.042	6	78	.81
1996	1.058	7	74	.78
1995	1.074	8	70	.75
1994	1.113	9	65	.72
1993	1.144	10	60	.69
1992	1.167	11	55	.64
1991	1.181	12	50	.59
1990	1.205	13	45	.54
1989	1.237	14	40	.49
1988	1.303	15	35	.46
1987	1.359	16	31	.42
1986	1.378	17	27	.37
1985	1.392	18	24	.33
1984	1.412	19	22	.31
1983	1.451	20	21	.30
1982	1.477	21	20	.30

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186

(February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:

Chapter 9. Oil and Gas Properties
§907. Tables Oil and Gas

A. ...

1. Oil, Gas and Associated Wells; Region 1C North Louisiana

Table 907.A-1 Oil, Gas and Associated Wells Region 1C North Louisiana				
Producing Depths	CostC New by depth, per foot		15 percent of CostC New by depth, per foot	
	\$Oil	\$Gas	\$Oil	\$Gas
0 - 1,249 ft.	11.39	26.81	1.71	4.02
1,250 - 2,499 ft.	11.32	16.00	1.70	2.40
2,500 - 3,749 ft.	13.38	15.23	2.01	2.28
3,750 - 4,999 ft.	15.27	17.02	2.29	2.55
5,000 - 7,499 ft.	20.42	21.47	3.06	3.22
7,500 - 9,999 ft.	30.67	29.05	4.60	4.36
10,000 -12,499 ft.	38.41	37.00	5.76	5.55
12,500 -Deeper ft.	N/A	73.50	N/A	11.03

2. Oil, Gas and Associated Wells; Region 2CSouth Louisiana

Table 907.A-2				
Oil, Gas and Associated Wells				
Region 2CSouth Louisiana				
Producing Depths	CostCNew by depth, per foot		15% of CostCNew by depth, per foot	
	\$Oil	\$Gas	\$Oil	\$Gas
0 - 1,249 ft.	81.27	81.14	12.19	12.17
1,250 - 2,499 ft.	78.45	85.94	11.77	12.89
2,500 - 3,749 ft.	63.64	80.01	9.55	12.00
3,750 - 4,999 ft.	46.08	55.56	6.91	8.33
5,000 - 7,499 ft.	55.60	54.73	8.34	8.21
7,500 - 9,999 ft.	62.03	62.08	9.30	9.31
10,000 -12,499 ft.	63.47	73.83	9.52	11.07
12,500 -14,999 ft.	77.82	93.73	11.67	14.06
15,000 -17,499 ft.	110.56	118.93	16.58	17.84
17,500 -19,999 ft.	93.73	153.50	14.06	23.03
20,000 -Deeper ft.	125.55	213.22	18.83	31.98

3. Oil, Gas and Associated Wells; Region 3C Offshore State Waters

Table 907.A-3				
Oil, Gas and Associated Wells				
Region 3C Offshore State Waters*				
Producing Depths	CostCNew by depth, per foot		15% of CostCNew by depth, per foot	
	\$Oil	\$Gas	\$Oil	\$Gas
0 - 1,249 ft.	N/A	N/A	N/A	N/A
1,250 - 2,499 ft.	317.22	433.06	47.58	64.96
2,500 - 3,749 ft.	238.49	321.73	35.77	48.26
3,750 - 4,999 ft.	247.08	258.15	37.06	38.72
5,000 - 7,499 ft.	204.54	175.70	30.68	26.36
7,500 - 9,999 ft.	191.42	168.06	28.71	25.21
10,000 -12,499 ft.	188.72	169.44	28.31	25.42
12,500 -14,999 ft.	179.89	164.02	26.98	24.60
15,000 -17,499 ft.	162.60	222.99	24.39	33.45
17,500 -Deeper ft.	462.60	332.74	69.39	49.91

A.4. - B.1. ...

2. Serial Number to Percent Good Conversion Chart

Table 907.B-2			
Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	25 Year Life Percent Good
2002	226717	Higher	96
2001	225352	226716	92
2000	223899	225351	88
1999	222882	223898	84
1998	221596	222881	80
1997	220034	221595	76
1996	218653	220033	72
1995	217588	218652	68
1994	216475	217587	64
1993	215326	216474	60
1992	214190	215325	56
1991	212881	214189	52
1990	211174	212880	48
1989	209484	211173	44
1988	207633	209483	40
1987	205211	207632	36
1986	202933	205210	32
1985	Lower	202932	30*
VAR.	900000	Higher	50

* Reflects residual or floor rate.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February

1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2002	0.997	1	92	.92
2001	1.003	2	84	.84
2000	1.011	3	76	.77
1999	1.029	4	67	.69
1998	1.033	5	58	.60
1997	1.042	6	49	.51
1996	1.058	7	39	.41
1995	1.074	8	30	.32
1994	1.113	9	24	.27
1993	1.144	10	21	.24
1992	1.167	11	20	.23

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission,

LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:

Chapter 25. General Business Assets

§2503. Tables Ascertaining Economic Lives, Percent Food and Composite Multipliers of Business and Industrial Personal Property

- A. ...
- B. Cost Indices

Table 2503.B Cost Indices				
Year	Age	National Average 1926 = 100	January 1, 2002 = 100*	
2002	1	1100.0	0.997	
2001	2	1093.4	1.003	
2000	3	1084.3	1.011	
1999	4	1065.0	1.029	
1998	5	1061.8	1.033	
1997	6	1052.7	1.042	
1996	7	1036.0	1.058	
1995	8	1020.4	1.074	
1994	9	985.0	1.113	
1993	10	958.0	1.144	
1992	11	939.8	1.167	
1991	12	928.5	1.181	
1990	13	910.2	1.205	
1989	14	886.5	1.237	
1988	15	841.4	1.303	
1987	16	806.9	1.359	
1986	17	795.4	1.378	
1985	18	787.9	1.392	
1984	19	776.4	1.412	
1983	20	755.8	1.451	
1982	21	742.4	1.477	
1981	22	709.2	1.546	
1980	23	642.8	1.706	
1979	24	584.4	1.876	
1978	25	534.7	2.050	
1977	26	497.1	2.206	

*Reappraisal Date: January 1, 2002 - 1096.4 (Base Year)

C.1. - 4. ...
D. Composite Multipliers

Table 2503.D Composite Multipliers 2003 (2004 Orleans Parish)								
Age	3 Yr	5 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.70	.85	.90	.92	.94	.95	.97	.98
2	.49	.69	.79	.84	.87	.90	.93	.95
3	.34	.53	.68	.77	.81	.86	.91	.94
4	.21	.35	.56	.69	.75	.81	.88	.93
5		.24	.44	.60	.68	.75	.85	.90
6		.21	.34	.51	.60	.71	.81	.88
7			.28	.41	.53	.66	.78	.86
8			.24	.32	.46	.59	.75	.84
9			.22	.27	.40	.55	.72	.83
10				.24	.33	.49	.69	.81
11				.23	.28	.43	.64	.79
12					.26	.37	.59	.76
13					.24	.31	.54	.72
14						.28	.49	.69
15						.27	.46	.68
16						.27	.42	.65
17							.37	.61
18							.33	.54
19							.31	.48
20							.30	.44
21							.30	.38
22								.36
23								.36
24								.38
25								.41
26								.44

Data sources for tables are:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:

Chapter 27. Guidelines For Application, Classification and Assessment of Land Eligible To Be Assessed At Use Value

§2705. Classification

A. - B. ...

Bienville	Plaquemines

Jefferson Davis	Vernon

C. ...

AUTHORITY NOTE: Promulgated in accordance with LSA - Constitution of 1974, Article VII, '18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:318 (February 1999), LR 26:510 (March 2000), LR 27:428 (March 2001), LR 28:521 (March 2002), LR 29:

§2707. Map Index Table

Table 2707 Map Index Listing of General Soil Maps & Modern Soil Surveys For The State of Louisiana Published By U. S. Dept. of Agriculture, Natural Resources Conservation Service In Cooperation With Louisiana Agricultural Experiment Station			
Parish	Date (General)	Map No. (General)	Date Published or Status (Modern)

Beauregard	Nov., 1971	4-R-28744-A	September, 2002

East Feliciana	Nov., 1971	4-R-17441-A	November, 2001

West Feliciana	Sept., 1975	4-R-29109-A	November, 2001

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 and R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:290 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:946 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:511 (March 2000), LR 27:428 (March 2001), LR 28:521 (March 2002), LR 29:

Malcolm B. Price, Jr.
Chairman

0212#088

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Child Care Assistance Program
Repair and Improvement
Grant Program and Definition of Disabled Adult
(LAC 67:III.5102, 5103 and 5107)

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 the following changes in the Child Care Assistance Program effective December 30, 2002. This Emergency Rule will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of September 1, 2002, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule regarding the Early Childhood Supports and Services will be published in January 2003.)

Current regulations governing child care assistance for low-income households restrict the definition of disability of an adult household member to someone receiving Social Security Administration Disability benefits, Supplemental Security Income, or Veterans Administration Disability benefits for a disability of at least 70 percent. In an effort to assist more low-income households with child care, the agency is expanding the definition of a disabled adult to include an adult household member who is unable to care for his/her child(ren) as verified by a doctor's statement or by worker determination.

Whereas, the possibility exists that a working parent would have to give up employment or job training, forcing the client to go on welfare because child care assistance was denied when another adult household member is unable to care for his/her children but does not meet the current definition of disabled, and whereas the possibility of danger exists if children are left alone with a disabled adult household member who cannot provide adequate care for these children or, in extreme situations, may be left unattended. Therefore, an emergency rule is needed to effect changes to provide child care assistance to families when there is an adult household member who is disabled, but does not receive Social Security Administration Disability benefits, Social Security Income, or Veteran's Administration

Disability benefits and is unable to care for his/her child(ren) and another household member is working or attending a job training or educational program or engaged in a combination of both.

Additionally, the agency is amending the definition of Household to define a disabled adult parent. Head of Household and Training or Employment Mandatory Participant definitions are being amended for grammatical reasons only. An eligibility criterion is being added to the FIND Work Child Care participant to clarify that the household must include a child under the age of 13, and to expand on who is considered a disabled adult household member.

Pursuant to Act. 13 of the 2002 Regular Session of the Louisiana Legislature, to further the goals and intentions of the federal Temporary Assistance for Needy Families (TANF) Block Grant the agency will expand the Repair and Improvement Grant Program in an effort to assist more providers with the cost of repairs and improvements that are needed to improve the quality of child care to either licensed or registered providers, or to those who have applied to become licensed or registered.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance

Subchapter B. Child Care Assistance Program

§5102. Definitions

Head of Household Can an individual who may apply for child care assistance for a child that customarily resides more than half the time with him/her. The individual may be the parent of a child needing child care assistance or may be the adult household member with primary responsibility for the child's financial support and care if the child's parent is not living in the home, or is living in the home but is under age 18 and not emancipated by law, or is disabled and is unable to care for himself/herself and his/her child(ren) as verified by a doctor's statement or worker determination.

Household Ca group of individuals who live together, consisting of the head of household, that person's legal spouse or non-legal spouse (if the parent of a child in the household), the disabled adult parent who is unable to care for himself/herself and his/her child(ren) who are in need of care, and all children under the age of 18 who are dependent on the head of household and/or spouse, including the minor unmarried parent (MUP) who is not legally emancipated and the MUP's children.

Training or Employment Mandatory Participant (TEMP) Ca household member who is required to be employed or attending a job training or educational program, including the head of household, the head of household's legal spouse or non-legal spouse (if the parent of a child in the household), the MUP age 16 or older whose child(ren) need child care assistance, and the MUP under age 16 whose child(ren) lives with a disabled parent/guardian who is unable to care for the MUP's child(ren) while the MUP goes to school/work.

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 26:2826 (December

2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:

§5103. Conditions of Eligibility

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

1. The household must include a child in current need of child care services who is under the age of 13, or age 13 through 17 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or by receipt of Supplemental Security Income (SSI), or who is under court supervision.

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:

B.4.a. - 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:

§5107. Child Care Providers

A. - F. ...

G The Child Care Assistance Program offers Repair and Improvement Grants to either licensed or registered providers, or to those who have applied to become licensed or registered, to assist with the cost of repairs and improvements necessary to comply with DSS licensing or registration requirements and/or to improve the quality of child care services.

1. Effective September 1, 2002 the program will pay for 75 percent of the cost of such a repair or improvement, up to the following maximums:

a. for Class A centers the maximum grant amount will be equal to \$100 times the number of children listed in the licensed capacity, or \$10,000, whichever is less.

b. for Family Child Day Care Home (FCDCH) providers the maximum grant amount will be \$600.

2. A provider can receive no more than one such grant for any state fiscal year. To apply, the provider must submit an application form indicating that the repair or improvement is needed to meet DSS licensing or registration requirements, or to improve the quality of child care services. Two written estimates of the cost of the repair or improvement must be provided and the provider must certify that the funds will be used for the requested purpose. If the

provider has already paid for the repair or improvement, verification of the cost in the form of an invoice or cash register receipt must be submitted. Reimbursement can be made only for eligible expenses incurred no earlier than six months prior to the application.

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 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:

Gwendolyn P. Hamilton
Secretary

0212#077

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Early Childhood Supports and Services Program (LAC 67:III.5559)

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 §5559 effective December 3, 2002. This Emergency Rule will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of August 2, 2002, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule regarding the Early Childhood Supports and Services will be published in January 2003.)

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature, the Office of Family Support will adopt the TANF Initiative, Early Childhood Supports and Services Program (ECSS), to further the goals and intentions of the Temporary Assistance For Needy Families (TANF) Block Grant to Louisiana. The ECSS Program will function as a multi-agency network that identifies, screens, and refers eligible young children to the ECSS network for potential services in an effort to foster secure child/family relationships. The program will also develop effective means of prevention, assessment, and intervention related to developmental, social, and emotional factors affecting young children and their families.

The authorization for emergency action is contained in Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

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

Chapter 55. TANF Initiatives

§5559. Early Childhood Supports and Services Program Effective August 2, 2002

A. The Department of Social Services, Office of Family Support, shall enter into a Memorandum of Understanding or contracts to create programs to identify and provide supports and services to young children, ages 0-5, and their

families who are at risk of developing cognitive, behavioral, and relationship difficulties, effective November 30, 2002. Services may include but are not limited to:

1. referral to appropriate supports and services provided by network members and other resources in the community;

2. case management;
3. clinical case management;
4. behavior modification;
5. counseling;
6. parent support groups;
7. training and technical assistance;
8. consultation to other providers and agencies;
9. infant mental health screening;
10. infant mental health assessment;

11. non-recurrent, short-term emergency intervention funds for use in a crisis situation; and

12. other services as specified in the Individualized ECSS Family Services Plan.

B. Services provided by providers meet one or more of the following TANF goals:

1. to provide assistance to needy families so that children can be cared for in their own home or the home of a relative;

2. to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage; and

3. to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to at-risk families that include a child age 05 years, and who have earned income at or below 200 percent of the federal poverty level.

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

E. Services will be offered in the following parishes: Desoto, East Baton Rouge, Lafayette, Ouachita, St. Tammany, and Terrebonne. Services may be expanded into other parishes at the discretion of the assistant secretary based on the availability of funds and a determination of need.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Regular Session.

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

Gwendolyn Hamilton
Secretary

0212#007

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives C Child-Parent
Enrichment Services Program
(LAC 67:III.5561)

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 §5561 effective December 30, 2002. This Emergency Rule will remain in effect for a period of 120 days. This declaration is

necessary to extend the original Emergency Rule of September 1, 2002, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule regarding the Early Childhood Supports and Services will be published in February 2003.)

Pursuant to Act 152 of the 2002 First Extraordinary Session of the Louisiana Legislature, Act 12 of the 2001 Regular Session of the Louisiana Legislature, and Act 13 of the 2002 Regular Session of the Louisiana Legislature, the Office of Family Support will implement the TANF Initiative, Child-Parent Enrichment Services Program, to further the goals and intentions of the Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana. The Child-Parent Services Program will provide age-appropriate services during the school year, school holidays, before and after school, and the summer months to children at various sites, such as schools, Head Start Centers, churches, and Class A Day Care Centers. Additionally, parents, legal guardians, or caretaker relatives of children may be provided with parenting and adult/family educational services to pursue their own educational goals or increase their effectiveness as caregivers.

The authorization for emergency action is contained in Act 12 of the 2001 Regular Session of the Louisiana Legislature and Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

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

Chapter 55. TANF Initiatives

§5561. Child-Parent Enrichment Services Program Effective September 1, 2002

A. The Department of Social Services, Office of Family Support, shall enter into Memoranda of Understanding or contracts to create quality, early childhood education and parenting programs at various sites, such as schools, Head Start Centers, churches, and Class A Day Care Centers to provide children with age-appropriate services during the school year, school holidays, summer months and before-and-after school and to provide parents, legal guardians, or caretaker relatives of children with parenting and adult/family educational services.

B. Services offered by providers meet the TANF goals to prevent and reduce the incidence of out-of-wedlock births by providing supervised, safe environments for children thus limiting the opportunities for engaging in risky behaviors, and to encourage the formation and maintenance of two-parent families by providing educational services to parents or other caretakers to increase their own literacy level and effectiveness as a caregiver.

C. Eligibility for services is limited to needy families. A needy family is a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial and

non-custodial parents, legal guardians, or caretaker relatives of minor children.

D. 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; Act 13, 2002 Reg. Session.

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

Gwendolyn Hamilton
Secretary

0212#076

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives Substance Abuse Treatment
Program for Needy Families
(LAC 67:III.5563)

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 §5563 effective January 8, 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 September 10, 2002, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule regarding the Early Childhood Supports and Services will be published in February 2003.)

Pursuant to Act 12 of the 2001 Regular Session of the Louisiana Legislature, the Office of Family Support will adopt a new TANF Initiative, Substance Abuse Treatment for Needy Families to further the goals and intentions of the Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana.

The authorization for emergency action in the expenditure of TANF funds is contained in Act 12 of the 2001 Regular Session of the Louisiana Legislature and Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

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

Chapter 55. TANF Initiatives

§5563. Substance Abuse Treatment Program for Needy Families

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of members of needy families to the extent that funds are available commencing June 1, 2002.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family 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, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family includes a non-custodial parent, caretaker relative, or legal guardian who has earned income at or below 200 percent of the federal poverty level.

D. 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; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Gwendolyn Hamilton
Secretary

0212#075

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2002 Fall Commercial Red Snapper Season

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department, by the commission in its resolution of January 3, 2002, to close the 2002 fall commercial red snapper season in Louisiana state waters when he is informed that the designated portion of the commercial red snapper quota for the Gulf of Mexico has been filled, or projected to be filled, the Secretary hereby declares:

Effective 12 noon, December 7, 2002, the commercial fishery for red snapper in Louisiana waters will close and remain closed until 12 noon, February 1, 2003. Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen once the recreational season opens. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Effective with closure, no person shall possess red snapper in excess of a daily bag limit, which may only be in possession during the open recreational season as described above. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing red snapper 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 National Marine Fisheries Service that the commercial red snapper season in federal waters of the Gulf of Mexico will close at 12 noon, December 7, 2002. Closing the season in state waters is necessary to provide effective rules and efficient

enforcement for the fishery, to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.
Secretary

0212#006

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Game Breeder's License (LAC 76:V.107)

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, and under the authority of LSA Const. Art. IX Sec. 7; LSA 56:6(10), (13) and (15) and 20 and 171 et seq., the Wildlife and Fisheries Commission (LWFC) hereby adopts the following Emergency Rule.

This Emergency Rule is effective January 2, 2003 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule.

The reasons for the promulgation of this Declaration of Emergency are as follows.

Chronic Wasting Disease (CWD) is a neurodegenerative disease that has been found in captive and free-ranging deer and elk herds in nine states. In 1998, the LWFC prohibited importation of white-tailed deer from Wyoming and Colorado, states with endemic CWD in certain populations of free-ranging deer. Since that time, cases of CWD have been found in at least 21 captive deer or elk herds in Colorado, South Dakota, Oklahoma, Nebraska, Montana, Kansas, and the Canadian provinces of Saskatchewan and Alberta. In addition to the CWD cases in captive deer and elk, and those in the CWD endemic area of southeastern Wyoming and north-central Colorado, the disease has been found in free-ranging deer in Nebraska, South Dakota, New Mexico, and Wisconsin. The cases in Wisconsin, found in March 2002, are the first east of the Mississippi River. Recently, CWD has been found in free-ranging deer in western Colorado. These are the first CWD cases found outside of the endemic area in the northeastern part of that state. Several of the CWD outbreaks in wild deer appear to be associated with captive elk herds.

CWD is a poorly understood disease related to other transmissible spongiform encephalopathies such as Bovine Spongiform Encephalopathy (Mad Cow Disease) of cattle, Creutzfeld-Jakob Disease of humans, and scrapie of sheep. Mutant proteins, called prions, are believed to be the infectious agent responsible for CWD. Current information suggests that the disease is limited to deer and elk, and is not naturally transmitted to livestock or humans. The means by which CWD is transmitted is not known, but it is probably transmitted from animal to animal. Maternal transmission from infected does to fawns is also thought to occur. There is no cure or treatment for CWD, and it is always fatal.

CWD is a particularly difficult disease to detect and control. The incubation period (time from which the animal

is infected until it exhibits symptoms) is at least 18 months and may be as long as 35 years. Until symptoms appear, infected animals appear normal. Symptoms of CWD include weight loss, excessive salivation, depression, dehydration, general weakness, and behavioral changes. There is no live animal test for CWD. Examination of brain tissue from dead animals is the only means of positive diagnosis. The agent that causes CWD is extremely resistant to traditional disinfection techniques. It is not known how long the infectious agent can persist in the soil or other media, but some evidence indicates that the infectious agent can persist for an extended period of time.

Interstate and intrastate movement of infected captive deer and elk can quickly spread CWD beyond those areas where it already occurs. Strong circumstantial evidence suggests that CWD outbreaks in free ranging deer in Colorado, Nebraska, and South Dakota are related to captive elk enclosures.

Trade in captive deer and elk lend itself to the spread of CWD. Deer and elk are frequently transferred from one owner to another. For example, at least 109 elk movements which occurred during 1982-97, were indirectly or directly traced back to a single CWD positive captive elk herd in Montana. Elk from this herd were sent to at least 12 states and 2 Canadian provinces. Elk from a CWD infected Colorado herd were sent to 19 states and introduced into 45 herds. A CWD outbreak in Saskatchewan, Canada that affected 39 elk herds was traced back to a single elk from South Dakota. Exotic animal auctions are another source of concern. At these auctions, a large number of animals come into contact with each other and then are dispersed across the United States. Accurate and verifiable records of where animals have been, and what animals they have been in contact with, are seldom available. Enclosures are not escape-proof and escapes or fence to fence contact with free ranging wild deer can be expected.

The Louisiana Department of Wildlife and Fisheries licenses about 115 non-commercial game breeders that possess deer. These game breeders are usually small, non-commercial operations that keep deer for exhibit or pets. The Louisiana Department of Agriculture and Forestry licenses commercial deer and elk facilities. The deer and elk farming industry in Louisiana is relatively small.

In contrast, recreation associated with wild deer and wild deer hunting has significant economic impact in Louisiana. In 2001, there were approximately 172,000 licensed deer hunters in Louisiana. There were also an undetermined number that were not required to have a license (under age 16 or over age 60). The *1996 National Survey of Fishing, Hunting and Wildlife Associated Recreation* reports that deer hunting in Louisiana has an economic impact of \$603,909,581 per year and provides over 8,500 jobs. Many landowners receive income from land leased for deer hunting. Recreation has been the driving force maintaining rural and timberland real estate values during the last several years.

The cost of a CWD outbreak in Louisiana could be substantial. State government could incur considerable costs in order to effectively contain and monitor a CWD outbreak.

By way of example, the Governor of Wisconsin has estimated that approximately \$22,000,000 will be needed over the next 3 years to address the CWD outbreak in that state. The Colorado Division of Wildlife has requested an additional \$2,300,000 in FY 2002/03 to address CWD outbreaks in their state.

In addition to the cost to government, the private sector would be affected by a CWD outbreak in Louisiana. Interest in deer hunting would likely decline if significantly lower deer populations result. Additionally, hunter concerns regarding contact with, or consumption of, infected animals could also reduce deer hunting activity. Lower hunting lease values and fewer hunting related retail purchases would therefore be likely. In Wisconsin, Department of Natural Resources personnel report that a significant decline in land value in the CWD affected area has already occurred. A significant reduction in deer hunting activity could also have deleterious effects on agriculture, horticulture, and forestry resulting from increased deer depredation of crops, ornamentals, and trees if the reduction in hunting mortality is not offset by CWD mortality.

The primary means of containing a CWD outbreak involves depopulating an area surrounding the infection site(s). By way of example, Wisconsin Department of Natural Resources personnel and landowners are attempting to kill 25,000 deer in a 374 square mile area. In Colorado, the Division of Wildlife is killing as many deer and elk as possible in a 5-mile radius of the CWD outbreak in western Colorado. These types of depopulation efforts are offensive to wildlife agencies, hunters, and other citizens. However, this is the only available means to control CWD outbreaks in wild free-ranging deer.

In recognition of the CWD threat, and lack of a coordinated eradication/control effort, the United States Department of Agriculture enacted a declaration of emergency in September 2001 to authorize funding of a CWD indemnification and eradication program in the United States. Prohibitions on the importation of deer and elk have been instituted in at least 28 states including Texas, Arkansas, and Mississippi. Other states have developed rules that require that imported deer and elk originate from herds that have been certified free of CWD for at least 5 years. However, because few, if any, herds in the United States can meet that standard, this Rule is effectively an importation prohibition.

In May 2002, the Louisiana Wildlife and Fisheries Commission by Declaration of Emergency and accompanying Notice of Intent, prohibited the importation into, or transport through, Louisiana of deer and elk. However, CWD infected animals could have entered Louisiana prior to this action, or may have been imported in violation of this action. Continued issuance of new game breeder licenses for deer increases the potential exposure of wild deer to CWD. Allowing captive deer herds to proliferate and expand into new areas of Louisiana increases the opportunity for unwanted contact between wild and captive deer. In the event of a CWD outbreak in Louisiana, the presence of captive deer could hinder CWD control and eradication efforts. For these reasons and those outlined

above, the Louisiana Wildlife and Fisheries Commission believes that an immediate prohibition on the issuance of new game breeder licenses for deer is warranted. This prohibition will remain in effect until no longer necessary.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§107. Game Breeder's License

A. - B.7. ...

8. White-Tailed Deer or Other North American Deer

a. Except as specified herein, licenses will not be issued. Licenses will not be issued unless pens are completed and complete applications are received in the Wildlife Division Baton Rouge Office by 4:30 p.m. October 4, 2002. Pens must be inspected before a license will be issued. If at the time of inspection, pens do not meet the requirements of this rule, a license will not be issued and the application will not be reconsidered. Persons with valid licenses issued prior to this prohibition will be "grandfathered" and licenses may be renewed if all requirements are met. Licenses cannot be transferred beyond immediate family (father, mother, brother, sister, husband, wife, son and daughter). A license may be transferred to an immediate family member only if the pen remains in the original location. Qualified zoos, educational institutions and scientific organizations may be exempted on a case by case basis.

b. No license will be issued in metropolitan or urban areas. A rural environment is required to keep these animals. Qualified zoos, educational institutions and scientific organizations will be exempted on a case by case basis.

c. Single Animal. 5,000 square feet paddock or corral (For example: 50 feet wide by 100 feet long); increase corral size by 2,500 square feet for each additional animal; shelter required. Pen site must be well drained so as to prevent extended periods of standing water.

d. Materials. Chain link or other satisfactory woven wire, 12 gauge minimum, 8 feet high minimum. Welded wire is not acceptable.

e. Licensed game breeders are required to report all deaths of deer to a regional Wildlife Division office within 48 hours of the time of death and preserve the carcass as instructed by the Wildlife Division, but are encouraged to report the death sooner if possible.

B.9. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:171.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:631 (September 1988), amended LR 18:1134 (October 1992), LR 21:1355 (December 1995), LR 28:

Thomas M. Gattle, Jr.
Chairman

0212#060

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Office of Fisheries**

Iatt Lake Reopening

In accordance with the emergency provisions of R.S. 49:953.B and R.S. 49:967.D of the Administrative Procedure Act, and under the authority of R.S. 56:317, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Iatt Lake will reopen to all legal fishing beginning on November 21, 2002.

The Department had previously declared a Declaration of Emergency and closed all fishing in Iatt Lake while the lake was in drawdown. The purpose of the drawdown was to

control submerged aquatic plants and the purpose of closing the lake to fishing was to protect the fish that were concentrated in the remaining water. The lake was scheduled to reopen to fishing on or after January 15, 2003. Unfortunately, rainfall has been above normal this year and the lake is currently above pool stage. Lake dewatering is hampered by high water in Red River and the waterways connecting Red River to Iatt Lake. This situation will prevent a successful drawdown from occurring this year.

James H. Jenkins, Jr.
Secretary

0212#003

Rules

RULE

Board of Elementary and Secondary Education

BESE Bulletins and Regulations
Removal from the Louisiana Administrative Code
Bulletin 1868
(LAC 28:I:Chapter 9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Title 28, Education. The revision will change the status of Bulletin 1868, "*Personnel Manual of the State Board of Elementary and Secondary Education*," from a regulatory bulletin to a manual.

Title 28 EDUCATION

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

List of Bulletins to be Removed from the Louisiana Administrative Code

Bulletin Number	Bulletin Name
1868	Personnel Manual of the State Board of Elementary and Secondary Education

Weegie Peabody
Executive Director

0212#040

RULE

Board of Elementary and Secondary Education

BESE Bulletins and Regulations
Removal from the Louisiana Administrative Code
Bulletin 1905
(LAC 28:I:Chapter 9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Title 28, Education. The revision will remove from the Louisiana Administrative Code Bulletin 1905, *Reading, Writing, Speaking, and Listening Activities for Louisiana Technology Education Program*, which is obsolete.

Title 28 EDUCATION

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

List of Bulletins to be Removed from the Louisiana Administrative Code

Bulletin Number	Bulletin Name
1905	Reading, Writing, Speaking, and Listening Activities for Louisiana Technology Education Programs.

Weegie Peabody
Executive Director

0212#041

RULE

Board of Elementary and Secondary Education

Vocational and Vocational-Technical Education
(LAC 28:I.1501-1529)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has repealed Chapter 15, Vocational and Vocational-Technical Education, from the *Louisiana Administrative Code*. This action is necessary because Vocational Education and Vocational-Technical Education is no longer under the jurisdiction of the Board of Elementary and Secondary Education.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 15. Vocational and Vocational-Technical Education

Subchapter A. Vocational Education

§1501. General Policies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:4, R.S. 17:6(A), R.S. 17:7(5), R.S. 17:10(A), R.S. 17:22(2), R.S. 17:1992, R.S. 17:2031-2036.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:541 (December 1975), amended LR 8:644 (December 1982), LR 16:297 (April 1990), repealed LR 28:2497 (December 2002).

Subchapter B. Vocational-Technical Education

§1503. Purpose; Objectives

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:4, R.S. 17:6(A), R.S. 17:7(5), R.S. 17:10(A), R.S. 17:1991-2007.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:541 (December 1975), amended LR 11:1137 (December 1985), LR 16:297 (April 1990), repealed LR 28:2497 (December 2002).

§1505. Office of Vocational Education

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(B), R.S. 17:1992, R.S. 17:1993, R.S. 17:1995, R.S. 39:330.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 2:317 (October 1976), amended LR 16:297 (April 1990), repealed LR 28:2497 (December 2002).

§1507. State Advisory Council

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 20 USC 2322.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 3:404 (October 1977), amended LR 16:297 (April 1990), repealed LR 28:2498 (December 2002).

§1509. Regional Management System

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1994, R.S. 17:1995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:310 (July 1975), amended LR 13:84 (February 1987), LR 16:297 (April 1990), repealed LR 28:2498 (December 2002).

§1511. Local Advisory Bodies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:1998, SCR 77 of 1974.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 16:297 (April 1990), repealed LR 28:2498 (December 2002).

§1515. Commission on Occupational Education

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 21:259 (March 1995), repealed LR 28:2498 (December 2002).

§1517. Staffing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:7(6), R.S. 17:1993(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 3:404 (October 1977), amended LR 11:685 (July 1985), LR 12:830 (December 1986), LR 16:297 (April 1990), repealed LR 28:2498 (December 2002).

§1521. Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:2003, R.S. 17:2006.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 3:404 (October 1977), amended LR 4:359 (October 1978), LR 8:234 (May 1982), LR 12:763 (November 1986), LR 13:94 (February 1987), LR 14:11 (January 1988), LR 15:962 (November 1989), LR 16:297 (April 1990), LR 21:676 (July 1995), repealed LR 28:2498 (December 2002).

§1523. Students

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and (11); R.S. 17:1997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 3:404 (October 1977), amended LR 4:240 (July 1978), LR 6:650 (November 1980), LR 8:323 (July 1980), LR 9:209 (April 1983), LR 10:200 (March 1984), LR 11:617 (June 1985), LR 11:1065 (November 1985), LR 11:1138 (December 1985); LR 12:14 (January 1986), LR 12:92 (February 1986), LR 12:667 (October 1986), LR 12:830 (December

1986), LR 13:84 (February 1987), LR 13:160 (March 1987), LR 14:11, 12 (January 1988), LR 14:409 (July 1988), LR 14:704 (October 1988), LR 14:790 (November 1988), LR 16:297 (April 1990), LR 16:768 (September 1990), LR 17:589 (June 1991), LR 17:957 (October 1991), LR 18:29, 30 (January 1992), LR 19:1550, 1551 (December 1993), LR 1:464 (May 1995), LR 22:809 (September 1996), LR 24:297 (February 1998), LR 25:425 (March 1999), repealed LR 28:2498 (December 2002).

§1525. Institute/Regional Management Center Calendars

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:1992, R.S. 17:1993, R.S. 17:3902.B(4).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 9:635 (December 1983), amended LR 16:297 (April 1990), LR 21:462 (May 1995), repealed LR 28:2498 (December 2002).

§1527. Courses; Classes; Programs; Visits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1994.1, R.S. 17:1995, R.S. 17:2002, R.S. 17:2007.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 3:404 (October 1977), amended LR 5:96 (May 1979), LR 8:314 (May 1982), LR 8:323 (July 1982), LR 9:255 (April 1983), LR 9:411 (June 1983), LR 9:614 (September 1983), LR 10:661 (September 1984), LR 11:686 (July 1985), LR 11:1137 (December 1985), LR 16:297 (April 1990), LR 17:879 (September 1991), LR 17:957 (October 1991), LR 18:27 (January 1992), LR 18:602 (June 1992), LR 19:614 (May 1993), LR 19:739 (June 1993), LR 19:1309 (October 1993), LR 19:1417 (November 1993), LR 20:161 (February 1994), LR 21:168 (February 1995), LR 21:677 (July 1995), repealed LR 28:2498 (December 2002).

§1529. JTPA Projects

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24, 29 USCA 1501 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 4:489 (December 1978), amended LR 16:297 (April 1990), repealed LR 28:2498 (December 2002).

Weegie Peabody
Executive Director

0212#042

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School
Administrators C Alternative Schools (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 revision will provide a more efficient and timely approval process for establishing new public alternative schools/programs; the approval process will not significantly change for non-public entities.

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 by the Board of Elementary and Secondary Education in LR 27:694 (May 2001), LR 27:695 (May 2001), LR 27:815 (June 2001), LR 28:2499 (December 2002).

System Policies and Standards
Operation and Administration

Philosophy and Need for Alternative Schools/Programs

1.150.00 If alternative school programs are to be developed and established, they shall respond to particular educational needs within the community.

1.150.01 The local educational governing authority shall pass a resolution establishing the need for the alternative school/program and setting forth its goals and objectives.

1.150.03 The educational school/program shall be designed to implement the stated goals and objectives which shall be directly related to the unique educational requirements of its student body.

Approval of Alternative Schools/Programs

1.151.00 Alternative schools/programs shall comply with prescribed policies and standards for regular schools except for those deviations granted by the State Board Elementary and Secondary Education.

1.151.01 Approval to operate an Alternative School/Program shall rest with the local education authority (LEA).

A school system choosing to implement an Alternative School/Program shall submit to the Division of Family, Career and Technical Education by September 1st of each school year a list of their approved Alternative Schools/Programs.

Refer to the Alternative Education Handbook.

The State Department of Education will provide the SBESE with a listing of approved alternative schools/programs in October of each year.

1.151.02 An approved alternative school/program shall be described in the LEA's Pupil Progression Plan.

1.151.03 An annual school report based upon the standards for approval of alternative schools shall be made to the State Department of Education (SDE) on or before the date prescribed by the Department.

School Policies and Standards

Philosophy and Need for Alternative Schools/Programs

2.150.02 Each alternative school/program shall develop and maintain a written statement of its philosophy and the major purposes to be served by the school/program.

The statement shall reflect the individual character of the school/program and the characteristics and needs of the students it serves.

2.150.03 The educational school/program shall be designed to implement the stated goals and objectives which shall be directly related to the unique educational requirements of its student body.

Approval of Alternative Schools/Programs

2.151.00 Alternative schools/programs shall comply with prescribed policies and standards for regular schools except for those deviations granted by the State Board of Elementary and Secondary Education.

2.151.01 Approval to operate an Alternative School/Program shall rest with the local education authority (LEA).

A school system choosing to implement an Alternative School/Program shall submit to the Division of Family, Career and Technical Education by September 1st of each school year a list of their approved Alternative Schools/Programs.

Refer to the Alternative Education Handbook.

The State Department of Education will provide the SBESE with a listing of approved alternative schools/programs in October of each year.

2.151.03 An annual school report based upon the standards for approval of alternative schools shall be made to the State Department of Education (SDE) on or before the date prescribed by the Department.

Operation and Administration

Philosophy and Need for Alternative Schools/Programs

6.150.03 The educational school/program shall be designed to implement the stated goals and objectives which shall be directly related to the unique educational requirements of its student body.

6.151.01 Initial Approval to Operate. Initial approval to operate shall be obtained from the State Department of Education prior to the establishment of the alternative school/program.

A narrative proposal describing the alternative school/program shall be submitted and shall include the following information:

1. purpose;
2. needs assessment;
3. type (alternative within regular education or alternative to regular education placement);
4. list of the *Bulletin 741: Louisiana Handbook for School Administrators*, policy and standard deviations;
5. anticipated date of implementation;
6. student eligibility;
7. entrance and exit criteria;
8. total number of students;
9. individual class sizes;
10. detailed outline of curriculum;
11. methods of instruction to meet individual student needs;
12. type and number of staff including qualifications/certification;
13. plan for awarding Carnegie units, when applicable;
14. grading and reporting procedures;
15. plan for parental and community involvement;
16. Educational support services;
17. In-service (professional development for personnel);
18. Type and location of physical facility;
19. Procedure for program evaluation.

A school system choosing to implement an alternative school/program shall submit the above proposal to the Division of Family, Career and Technical Education by May 1st for fall semester implementation and November 1st for spring semester implementation .

Refer to the Alternative Education Handbook.

The State Department of Education will provide the SBESE with a listing of approved alternative schools/programs twice annually, in June and December of each year.

Final Approval to Operate

6.151.03 Prior to final approval, the school shall be visited by State Department of Education (SDE) representatives, who will determine the school's suitability for SDE approval.

An annual school report based upon the standards for approval of alternative schools shall be made to the State Department of Education (SDE) on or before the date prescribed by the Department. Final approval is contingent upon review and satisfactory compliance with the requirements of the annual school report.

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Weegie Peabody
Executive Director

0212#033

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Non-Masters/Certification-Only ProgramC Alternative Path to Certification (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy provides a new structure for the Non-Master's/Certification-Only Program for alternate certification. The initial structure for this new alternate certification route was found to be deficient by a team of outside evaluators, who recommended its restructuring.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825 (June 2001), LR 27:827 (June 2001), LR 27:828 (June 2001), LR 28:2500 (December 2002).

Non-Masters/Certification-Only Program Alternative Path to Certification

This program is designed to serve those candidates who may not elect participation in or be eligible for certification under either the Practitioner Teacher Alternate Certification Program or the Master's Degree Alternate Certification Program. The program may also be accessible in some areas of the state in which the other alternate certification programs are not available. A college or university may offer this program only in those certification areas in which that institution has a State-approved teacher education program. Non-Master's/Certification-Only Programs may offer certification in PK-3, 1-6, 4-8, 7-12, or Mild-Moderate Special Education.

Admission to the Program

To be admitted, individuals should:

1. possess a baccalaureate degree from a regionally accredited university;
2. have a 2.2 GPA, or higher, on undergraduate coursework. (An overall 2.5 GPA is required for certification. Those candidates with a GPA lower than 2.5 may have to take additional courses in the program to achieve a 2.5 GPA.);
3. pass the PRAXIS Pre-Professional Skills Test (PPST); and
4. pass the PRAXIS content-specific subject area examination.
 - a. Candidates for PK-3 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty exam.
 - b. Candidates for Grades 1-6 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty exam.
 - c. Candidates for Grades 4-8 (regular and special education): pass the Middle School Education: Content Knowledge (#0146) specialty exam.
 - d. Candidates for Grades 7-12 (regular and special education): pass the content specialty examination(s) (e.g. English, Mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach.

Program Requirements

This program will provide the same rigor as other certification routes provided by aligning with such empirically-based standards as National Council for the Accreditation of Teacher Education (NCATE), Interstate New Teacher Assessment and Support Consortium (INTASC), Louisiana Components of Effective Teaching (LCET), and the Louisiana Content Standards. This program will also emphasize collaboration between the university and the school districts in order to share and exchange strategies, techniques, and methodologies; and integrate field-based experiences into the curriculum.

Program Structure

1. Knowledge of Learner and the Learning Environment* 12 hours

Grades PK-3, 1-6, 4-8, and 7-12:

Child/adolescent development/psychology, the diverse learner, classroom management/organization/environment, assessment, instructional design, and reading/instructional strategies that are content- and level-appropriate.

Mild/Moderate Special Education 1-12:

Special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, vocational and transition services for students with disabilities

*All courses for regular and special education will integrate effective teaching components, content standards, technology, reading, and portfolio development. Field-based experiences will be embedded in each course.

- 2. Methodology and Teaching 6 hours

Methods courses to include case studies and field experiences

- 3. Internship 6 hours

Will include methodology seminars that are participant-oriented

- 4. Prescriptive Plan

The candidate for this program who demonstrates areas of need will complete an individualized prescriptive plan, not to exceed 9 semester hours

Total 24-33 hours

Certification Requirements

Colleges or universities will submit signed statements to the Louisiana Department of Education that indicate the student completing the Non-Degree/Certification-Only alternative certification path met the following requirements:

- 1. passed the PPST components of the PRAXIS. (Note: This test was required for admission.)

- 2. Completed all coursework (including the certification program) with an overall 2.5 or higher GPA.

- 3. Passed the specialty examination (PRAXIS) for the area(s) of certification.

a. Grades PK-3: Elementary Education: Content Knowledge specialty exam (Note: This test was required for admission.)

b. Grades 1-6: Elementary Education: Content Knowledge specialty examination (Note: This test was required for admission.)

c. Grades 4-8: Middle School Education: Content Knowledge specialty examination (Note: This test was required for admission.)

d. Grades 7-12: Specialty content test in areas to be certified. (Note: This test was required for admission.)

e. Mild/Moderate Special Education 1-12: Special Education

- 4. Passed the Principles of Learning and Teaching examination (PRAXIS)

a. Grades PK-3: Principles of Learning and Teaching K-6

b. Grades 1-6: Principles of Learning and Teaching K-6

c. Grades 4-8: Principles of Learning and Teaching 5-9

d. Grades 7-12: Principles of Learning and Teaching 7-12

Universities offering the Non-Master's/Certification-Only alternative certification option are required to begin implementation of the newly adopted paths on or before January 2003.

No students should be accepted into the "old" post-baccalaureate alternate certification program after January 2003. Candidates already in the "old" alternative certification program would be given until January 2006 to complete their programs.

Weegie Peabody
Executive Director

0212#034

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Practitioner Teacher Licensure Policy (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. This policy prescribes conditions under which the Practitioner Teacher License can be issued to candidates who enter new alternate certification programs. The policy provides revisions to the original Practitioner Teacher Licensure Policy, as follows.

In addition to candidates in the Practitioner Teacher Program, originally the only holders of this license, the new license can be issued to candidates in other new alternate routes C the Master's Degree Program, and the Non-Master's/Certification-Only Program.

All holders of this license will be granted special employment status so that districts will not have these individuals count for or against the district on the Annual School Report or for District Accountability purposes.

The policy is revised to reflect the new licensure structure that became effective July 1, 2002, with Level 1 as the initial license and Level 2 as the next stage of licensure. The old licensure policy had language that reflected the old licensure structure, with Type C as the initial license and Type B as the next stage of licensure.

Title 28

EDUCATION

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

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825 (June 2001), LR 27:827 (June 2001), LR 27:828 (June 2001), LR 28:2501 (December 2002).

Practitioner Teacher Licensure Policy

A Practitioner Teacher license, renewable yearly for a maximum of three years, will be granted to those candidates who meet all entrance requirements and who are accepted

into and enrolled in a State-approved Practitioner Teacher Program, Master's Degree Program, or Non-Master's/Certification-Only Program. Issuance of Practitioner Teacher licenses will require verification from the program provider and the employing system/school. Minimum admission requirements for the Practitioner Teacher Program, the Master's Degree Program, and the Non-Master's/Certification-Only Program stipulate that the candidate hold an undergraduate degree from a regionally accredited university, possess a minimum of a 2.2 GPA, and pass the Pre-Professional Skills Test and Content Specialty Exam of the PRAXIS. Additionally, Practitioner Teacher Program participants must have a teaching assignment in a State-approved Louisiana school in the area of certification being studied.

Practitioner Teacher Program Candidates will complete an intensive summer training experience prior to assuming a full-time teaching position in a Louisiana classroom. To allow for the summer training experience, employing systems/schools may offer contracts to Practitioner Teacher candidates as early as the spring preceding the school year in which the practitioner will assume a full-time position. It is a responsibility of the employing system/school, working in close collaboration with the program provider, to facilitate and coordinate the placement of practitioner teachers in State-approved schools in teaching areas in which there is an identified need. The participant signs a one-year renewable contract with the school system and/or approved school. The practitioner teacher would be placed, at a minimum, on the same salary schedule as a regularly certified, salaried teacher.

Practitioner Teacher Program, Master's Degree Program, and Non-Master/Certification-Only Program. Practitioner teachers are issued a one-year Practitioner Teacher license, renewable yearly for a maximum of three years. If a candidate withdraws or is dropped from the new alternate program, the Practitioner Teacher license is no longer valid. A practitioner teacher must remain enrolled in the alternate program and fulfill all coursework, teaching assignments (if applicable), and prescribed activities as identified by the program provider. All program requirements must be completed within the three-year period of the license. A practitioner teacher may complete all requirements of the alternate program in fewer than three years.

Once a practitioner teacher has completed all requirements of the alternate program and has been recommended by the program provider, he may apply for a Level 1 Teaching Certificate. A practitioner teacher's teaching experience, while holding a Practitioner Teacher license, will count toward the three years of teaching experience requirement that is needed to move from a Level 1 certificate to a Level 2 certificate.

Individuals actively enrolled in the Practitioner Teacher Program, the Master's Degree Program, or in the Non-Master's/Certification-Only Program will be granted special employment status so that districts will not have these individuals count for or against the district on the Annual School Report or for District Accountability purposes.

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Weegie Peabody
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Practitioner Teacher Program (LAC 28:1.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:1.903.A. Revisions to the Practitioner Teacher Program are as follows:

1. A 2.2 GPA is required for entrance, rather than the originally stated 2.5 GPA;
2. Twelve semester hours of combined internship and seminars are required through this program, rather than the originally stated nine semester hours; and
3. Number of possible prescriptive hours were reduced from 12 to 9.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations §903. Teacher Certification Standards and Regulations

A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 27:825 (June 2001); LR 27:827 (June 2001); LR 27:828 (June 2001), LR 28:2502 (December 2002).

Practitioner Teacher Program

A. Major Components of the Practitioner Teacher Program

1. Universities, school districts, or private providers (e.g., Teach for America) will be able to offer a Practitioner Teacher Program.

2. Individuals will be considered for admission to a Practitioner Teacher Program if they possess a baccalaureate degree from a regionally-accredited university with a 2.2 or higher GPA* and already possess the content knowledge to teach the subject area(s). To demonstrate knowledge of subject area(s), all individuals (with the exception of those who already possess a graduate degree) will be required to pass the Pre-Professional Skills Test (e.g., reading, writing, and mathematics) for the PRAXIS. Teachers of grades 1-6 (regular and special education) must pass the *Elementary Education Content Knowledge* specialty examination of the PRAXIS (#0014), and teachers of grades 48 (regular and special education) must pass the *Middle School Content Knowledge* specialty examination (#0146). Teachers of grades 7-12 (regular and special education) must pass the *specialty examination* on the PRAXIS in the content area(s) (e.g., English, mathematics, science, social studies, etc.) in which they intend to be certified. (*Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider.)

3. If admitted to the Practitioner Teacher Program, individuals who intend to be certified to teach grades 1-6, 4-8, or 7-12 must successfully complete nine credit hours (or 135 contact hours) of instruction during the summer prior to the first year of teaching. Practitioner teachers will be exposed to teaching experiences in field-based schools while involved in course work.

4. All practitioner teachers will teach during the regular school year in the area(s) in which they are pursuing certification and participate in 12 credit hours (or 180 contact hours) of seminars and supervised internship during the fall and spring to address their immediate needs. Practitioner teachers will be observed and provided feedback about their teaching from the program provider. In addition, practitioner teachers will be supported by school-based mentors from the Louisiana Assistance and Assessment Program and by principals.

5. Practitioner teachers who complete the required course requirements (or equivalent contact hours) with a 2.5 or higher GPA and demonstrate *proficiency* during their first year of teaching can obtain a Level 2 Professional License after successfully completing all requirements for the Practitioner Teacher Program (which includes successful completion of the Louisiana Assistance and Assessment Program and passing scores on the PRAXIS) and after completing a total of three years of teaching.

6. Practitioner teachers who successfully complete the required courses (or equivalent contact hours) and demonstrate *weaknesses* during their first year of teaching will be required to complete from one to nine additional credit hours/equivalent contact hours. A team composed of the program provider, school principal, mentor teacher, and practitioner teacher will determine the types of courses and hours to be completed. The number of hours, which will be based upon the extent of the practitioner teachers' needs,

must be successfully completed within the next two years. The team will also determine when the practitioner teachers should be assessed for the Louisiana Assistance and Assessment Program during the next two year time period. Additionally, for teachers who successfully completed the Louisiana Assistance and Assessment Program prior to entering the Practitioner Teacher Program, the team will determine if the Louisiana Components of Effective Teaching are still being exhibited by the teacher at the "competent" level and, if so, allow by unanimous decision the teacher to be exempted from completing the Assessment part of the Louisiana Assistance and Assessment Program. The practitioner teachers must successfully complete all requirements for the Practitioner Teacher Program (which includes successful completion of the Louisiana Assistance and Assessment Program and passing scores on the PRAXIS in the specialty areas) and must teach for a total of three years before receiving a Level 2 Professional License.

7. The State's new Teacher Preparation Accountability System will be used to evaluate the effectiveness of all Practitioner Teacher Programs.

B. Structure for a Practitioner Teacher Program

Program Providers

Practitioner Teacher Programs may be developed and administered by

- universities;
- school districts; and
- other agencies (e.g., Teach for America, Troops for Teachers, Regional Service Centers, etc.).

The same State Teacher Preparation Accountability System will be utilized to assess the effectiveness of the Practitioner Teacher Programs provided by universities, school districts, and other agencies.

Program Process

Areas	Course/Contact Hours	Activities	Support
1. Admission To Program (Spring and Early Summer)		Program providers will work with district personnel to identify Practitioner Teacher Program candidates who will be employed by districts during the fall and spring. To be admitted, individuals must <ol style="list-style-type: none"> a. possess a baccalaureate degree from a regionally accredited university. b. have a 2.2 GPA on undergraduate work. (*Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider.) c. pass the Pre-Professional Skills Test (e.g., reading, writing, and mathematics) on the PRAXIS. (Individuals who already possess a graduate degree will be exempted from this requirement.) d. pass the content specific examinations for the PRAXIS: <ol style="list-style-type: none"> (1) Practitioner candidates for Grades 1-6 (regular and special education): Pass the <i>Elementary Education Content Knowledge (#0014)</i> examination; (2) Practitioner candidates for Grades 4-8 (regular and special education): Pass the <i>Middle School Content Knowledge</i> examination (#0146); (3) Practitioner candidates for Grades 7-12 (regular and special education): Pass the <i>content specialty examination(s)</i> (e.g., English, mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach. e. meet other non-course requirements established by the program providers. 	

2. Teaching Preparation (Summer)	9 credit hours or 135 equivalent contact hours (5-8 weeks)	All teachers will participate in field-based experiences in school settings while completing the summer courses (or equivalent contact hours). Grades 1-6, 4-8, and 712 practitioner teachers will successfully complete courses (or equivalent contact hours) pertaining to child/adolescent development/psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching internships. Mild/moderate special education teachers will successfully complete courses (or equivalent contact hours) that focus upon the special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods/materials for mild/moderate exceptional children, and vocational and transition services for students with disabilities.	Program Providers
3. Teaching Internship And First Year Support (Fall and Spring)	12 credit hours or 180 equivalent contact hours throughout the year.	Practitioner teachers will assume full-time teaching positions in districts. During the school year, these individuals will participate in two seminars (one seminar during the fall and one seminar during the spring) that address immediate needs of the Practitioner Teacher Program teachers and will receive one-on-one supervision through a year-long internship provided by the program providers. The practitioner teacher will also receive support from school-based mentor teachers (provided by the Louisiana Teacher Assistance and Assessment Program) and principals.	Program Providers, Principals and Mentors
4. Teaching Performance Review (End of First Year)		Program providers, principals, mentors, and practitioner teachers will form teams to review the first year teaching performance of practitioner teachers and to determine the extent to which the practitioner teachers have demonstrated teaching proficiency. If practitioner teachers demonstrate proficiency, they will enter into the assessment portion of the Louisiana Teacher Assistance and Assessment Program during the next fall. (If a practitioner teacher who passed the assessment portion of the Louisiana Teacher Assistance and Assessment Program prior to entering the Practitioner Teacher Program continues to demonstrate the Louisiana Components of Effective Teaching at the "competent" level, the team may, by unanimous decision, exempt the teacher from completing the Assessment part of the Louisiana Assistance and Assessment Program.) If weaknesses are cited, the teams will identify additional types of instruction needed to address the areas of need. Prescriptive plans that require from one to nine credit hours (or 15-135 equivalent contact hours) of instruction will be developed for practitioner teachers. In addition, the teams will determine whether the practitioner teachers should participate in the new teacher assessment during the fall or whether the practitioner teachers should receive additional mentor support and be assessed after the fall.	
5. Prescriptive Plan Implementation (Second Year)	9 credit hours (or 15-135 equivalent hours)	Practitioner teachers who demonstrate areas of need will complete prescriptive plans.	Program Providers
6. Louisiana Assessment Program (Second Year)		Practitioner teachers will be assessed during the fall or later depending upon their teaching proficiencies.	Program Providers
7. Praxis Review (Second Year)		Program providers will offer review sessions to prepare practitioner teachers to pass remaining components of the PRAXIS.	Program Providers

<p>8. Certification Requirements (Requirements must be met within a three-year time period. A practitioner teacher's license will not be renewed if all course requirements are not met within these three years.)</p>		<p>Program providers will submit signed statements to the Louisiana Department of Education to indicate that the practitioner teachers completed Practitioner Teacher Programs and met the following requirements within a three-year time period:</p> <ol style="list-style-type: none"> 1. passed the PPST components of the PRAXIS. <i>(Note: This test was required for admission.)</i> 2. completed the Teaching Preparation and Teaching Internship segments of the program with a 2.5 or higher cumulative GPA. 3. passed the Louisiana Teacher Assistance and Assessment Program. 4. completed prescriptive plans (if weaknesses were demonstrated). 5. passed the specialty examination (PRAXIS) for their area(s) of certification. <ol style="list-style-type: none"> a. Grades 1-6: <i>Elementary Education Content Knowledge Examination #0014 (Note: This test was required for admission)</i> b. Grades 4-8: <i>Middle School Content Knowledge Exam #0146 (Note: This test was required for admission.)</i> c. Grades 7-12: <i>Specialty content test in areas to be certified. (Note: This test was required for admission.)</i> d. Mild/Moderate Special Education 1-12: <i>Special Education (to be determined)</i> 6. passed the <i>Principals of Learning and Teaching</i> examination (PRAXIS) <ol style="list-style-type: none"> a. Grades 1-6: <i>Principles of Learning and Teaching;</i> b. Grades 4-8: <i>Principles of Learning and Teaching;</i> c. Grades 7-12: <i>Principles of Learning and Teaching.</i> 	
<p>9. Ongoing Support (Second and Third Year)</p>		<p>Program providers will provide support services to practitioner teachers during their second and third years of teaching. Types of support may include on-line support, Internet resources, special seminars, etc.</p>	<p>Program Providers</p>
<p>10. Professional License (Practitioner License to Level 2)</p>		<p>Practitioner teachers will be issued a Practitioner License when they enter the program. They will be issued a Level 1 Professional License once they have successfully completed all requirements of the program; after three years of teaching they will be eligible for a Level 2 license.</p>	

Undergraduate/Graduate Courses and Graduate Programs

Universities may offer the courses at undergraduate or graduate levels. Efforts should be made to allow students to use graduate hours as electives if the students are pursuing a graduate degree.

Weegie Peabody
Executive Director

02121#038

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel
Types of Teaching Authorizations and Certifications
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy prescribes three levels of the Practitioner Teacher License, corresponding to the three new alternate certification pathways, further clarifies the add-on of endorsements via passing the content specialty PRAXIS examination, and amends the Out-of-State Provisional License title to exclude the word "provisional."

The Practitioner Teacher License was originally used only for those admitted to the Practitioner Teacher Program, one of three new alternate pathways (the Practitioner Teacher Program operated as a pilot during SY 2001-2002). This policy brings consistency by specifying the Practitioner Teacher License as appropriate for all three new alternate certification routes to be fully implemented during SY 2002-2003. Further, this policy clarifies the new endorsement option for secondary teaching areas via passing the content specialty PRAXIS examination, and it amends the Out-of-State Provisional License title to exclude the word "provisional" to bring consistency with the new federal No Child Left Behind legislation.

Title 28

EDUCATION

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

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 27:825-827 (June 2001), LR 27:827 (June 2001), LR 27:828 (June 2001), LR 28:2505 (December 2002).

Types of Teaching Authorizations and Certifications

Non-Standard Temporary Authorizations to Teach			
<p>Temporary Authority to Teach</p> <p>(A teacher may hold a one-year Temporary Authorization to Teach for a maximum of three years while pursuing a specific certification area. He/she may not be issued another Temporary Certification at the end of the three years for the same certification unless the Louisiana Department of Education designates the certification area as one that requires extensive hours for completion.)</p>	<p>Districts may recommend that teachers be given one-year temporary authorizations to teach according to the stipulated conditions.</p> <p>Districts must provide a signed affidavit by the local superintendent that "there is no regularly certified, competent, and suitable person available for that position" and that the applicant is the best qualified person for the position.</p>	<p>Conditions</p>	<p>Requirements to renew temporary authorization to teach and/or move to another certification level</p>
		<p>a. Individual who graduates from teacher preparation program but does not pass PRAXIS</p>	<p>Teacher must prepare for the PRAXIS and take the necessary examinations at least twice a year.</p>
		<p>b. Individual who holds a minimum of a baccalaureate degree from a regionally-accredited institution and who applies for admission to a Practitioner Teacher Program or other alternate program but does not pass the PPST or the content specialty examination of the PRAXIS required for admission to the program.</p>	<p>Teacher must successfully complete a minimum of six credit hours per year in the subject area(s) that they are attempting to pass on the PRAXIS; candidate must reapply for admission to a Practitioner Teacher Program or other alternate program.</p>
<p>c. Individual who holds a minimum of a baccalaureate degree from a regionally-accredited institution and who is hired after the start of the Practitioner Teacher Program</p>	<p>Teacher must apply for admission to a Practitioner Teacher Program or other alternate program and pass the appropriate PRAXIS examinations required for admission to the program.</p>		
<p>Practitioner Teacher License</p> <p>One-year license that can be held a maximum of three years, renewable annually.</p>	<p>The District and the alternate certification program provider must identify the individual as a practitioner teacher (PL1), a non-master's alternate certification program teacher (PL2), or a master's alternate certification program teacher (PL3).</p>	<p>Teacher must be admitted to and enrolled in a State-approved Practitioner Teacher Program (PL1), Non-Master's Alternate Certification Program (PL2), or Master's Degree Alternate Certification Program (PL3), which necessitates meeting all program requirements including baccalaureate degree, stipulated GPA, and passing scores on the PRAXIS PPST and content area exams.</p>	<p>The alternate certification teacher (PL1, PL2, and PL3) must remain enrolled in the respective program and fulfill all coursework, teaching assignments, and prescribed activities as identified by the program provider. Program requirements must be completed within the three-year maximum that the license can be held. PL2 and PL3 teachers must demonstrate progress toward program requirements by successfully completing at least 9 semester hours each year to remain on the PL license.</p>

<p>Out-of-Field Authorization to Teach</p> <p>(A teacher may hold a one-year Out-of-Field Authorization to Teach, renewable annually, for a maximum of three years. If the teacher is actively pursuing certification in the field and LDE designates the certification area as one requiring extensive hours for completion, two additional years of annual renewability may be granted.)</p>	<p>District submits application to LDE; renewable annually for maximum of three years.</p> <p>Superintendent of employing district must provide a signed statement that certifies that "there is no regularly certified, competent and suitable person available for the position" and that the applicant is the best-qualified person available for the position.</p>	<p>a. Individual holds a Louisiana teaching certificate, but is teaching outside of the certified area.</p>	<p>Teacher must obtain a prescription/outline of course work required for add-on certification in the area of the teaching assignment. Teacher must successfully complete a minimum of six credit hours per year of courses that lead toward certification in the area in which he/she is teaching; or the secondary-certified teacher who is teaching out-of-field may opt to take and pass the required PRAXIS content specialty examination for the specific 7-12 academic certification area, if the area has been declared as a primary or secondary teaching focus area. The district must support a teacher's efforts in this area.</p>
<p>Temporary Employment Permit</p>	<p>Under condition (a) the district submits application to LDE; renewable annually.</p> <p>Under condition (b) the Individual submits application to LDE; renewable annually.</p>	<p>a. Individual meets all certification requirements, with the exception of passing all portions of the NTE examination, but scores within ten percent of the composite score required for passage of all exams. (Currently classified as EP)</p> <p>b. Individual meets all certification requirements, with the exception of passing one of the components of the PRAXIS, but has an aggregate score equal to or above the total required on all tests. (Currently classified as TEP)</p>	<p>Superintendent and President of the school board to which the individual has applied for employment must submit a signed affidavit to the LDE stipulating that there is no other applicant who has met all of the certification requirements available for employment for a specific teaching position. Such permit shall be in effect for not more than one year, but may be renewed. Such renewal of the permit shall be accomplished in the same manner as the granting of the original permit. The granting of such emergency teaching permit shall not waive the requirement that the person successfully complete the exam.</p> <p>While employed on an emergency teaching permit, employment period does not count toward tenure.</p> <p>Temporary Employment Permits are issued at the request of individuals. All application materials required for issuance of a regular certificate must be submitted to LDE with the application for issuance of a TEP. An individual can be re-issued a permit three times only if evidence is presented that the required test has been retaken within one year from the date the permit was last issued. Beginning with the fifth year, additional documentation must be submitted by the employing district.</p>

<p align="center">Standard Teaching Certifications</p>			
<p>Out of State Certificate</p>	<p>Individual submits application to LDE; valid for three years, non-renewable.</p>	<p>a. A teacher certified in another state who meets all requirements for a Louisiana certificate, except for the PRAXIS examinations.</p>	<p>Teacher must take and pass the appropriate PRAXIS examinations -OR- Teacher provides evidence of at least four years of successful teaching experience in another state, completes one year of employment as a teacher in Louisiana public school systems, and secures recommendation of the local superintendent of the employing school system for continued employment.</p>

Professional Level Certificates (effective for all new certificates issued after July 1, 2002)		
Level 1 Professional Certificate (Three-year term)	<p>Teachers must graduate from a State-approved teacher preparation program (traditional or alternative path), pass PRAXIS, and be recommended by a university to receive a Level 1 Professional Certificate.</p> <p style="text-align: center;">-OR-</p> <p>Teacher must complete a State-approved Practitioner Teacher Program, pass PRAXIS, and be recommended by the Practitioner Teacher Program provider to receive a Level 1 Professional Certificate.</p> <p style="text-align: center;">-OR-</p> <p>Teacher must meet the requirements of an out-of-state certified teacher.</p>	A lapsed Level 1 certificate may be extended once for an additional three years, subject to the approval of the Division of Teacher Standards, Assessment, and Certification or upon the presentation of six semester hours of resident, extension, or correspondence credit directly related to the area of certification. However, if the holder of the Level 1 certificate has not been employed regularly as a teacher for at least one semester during a period of five years, his certificate can be reinstated for three years only upon the presentation of 150 hours of professional development.
Level 2 Professional Certificate	Teachers with a Level 1 Professional Certificate must pass the Louisiana Assistance and Assessment Program and teach for three years to receive a Level 2 Professional Certificate.	Teachers must complete 150 clock hours of professional development over a five-year time period in order to have a Level 2 Professional License renewed.
Level 3 Professional Certificate	Teachers with a Level 1 or Level 2 Certificate are eligible for a Level 3 Certificate if they complete a Masters Degree, teach for five years, and pass the Louisiana Assistance and Assessment Program.	Teachers must complete 150 clock hours of professional development over a five-year time period in order to have a Level 3 Professional License renewed.
Standard Teaching Certificates (issued prior to July 1, 2002)		
Type C Certificate	Type C certificates will not be issued after July 1, 2002.	
Type B Certificate	Candidates currently holding Type A or Type B certificates will continue to hold these certificates, which are valid for life, provided the holder does not allow any period of five or more consecutive years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education, acting in accordance with law.	
Type A Certificate		
<i>Process for Renewing Lapsed Professional Certificates</i>		
Type C, B, and A Certificates		
<p>Type B and Type A certificates will lapse for disuse if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed teacher for at least one semester (90 consecutive days). Reinstatement of a lapsed certificate shall be made only on evidence that the holder has earned six semester hours of resident, extension, or correspondence credit in courses approved by the Division of Teacher Standards, Assessment, and Certification or a dean of a Louisiana college of education. The six semester credit hours of extension must be earned during the five-year period immediately preceding reinstatement.</p> <p>A lapsed Type C certificate may be renewed for an additional three years, subject to the approval of the Division of Teacher Standards, Assessment, and Certification or upon the presentation of six semester hours of credit directly related to the area(s) of certification. Such credit hours shall be resident, extension, or correspondence credit in courses approved by the Division of Teacher Standards, Assessment, and Certification or a dean of a Louisiana college of education. However, if the holder of a Type C certificate has not been employed regularly as a teacher for at least one semester during a period of five years, his certificate can be reinstated for three years only upon the presentation of the six semester hours of credit as described previously in the paragraph.</p>		
Level 2 and 3 Certificates		
<p>Level 2 and Level 3 professional certificates will lapse (a) for disuse if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed teacher for at least one semester (90 consecutive days), or (b) if the holder fails to complete the required number of professional development hours during his employ. Reinstatement of a lapsed certificate shall be made only on evidence that the holder has earned six semester hours of resident, extension, or correspondence credit in courses approved by the Division of Teacher Standards, Assessment, and Certification or a dean of a Louisiana college of education. The six semester credit hours of extension must be earned during the five-year period immediately preceding reinstatement.</p>		

* * *

Weegie Peabody
Executive Director

0212#039

RULE

**Office of the Governor
Department of Veterans Affairs**

**Veterans=Home Nursing Care Resident Fee
(LAC 4:VII.943)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 29:383, the Department of Veterans Affairs has amended .LAC 4:VII.943.A pertaining to nursing care resident fee charged at Louisiana State Veterans Homes. This action has been taken to comply with nursing care fee changes approved by the Veterans Affairs Commission, effective July 1, 2002.

Title 4

ADMINISTRATION

Part VII. Governor-s Office

Chapter 9. Veterans Affairs

Subchapter A. Veterans= Home

§943. Nursing Care Resident Fee

A. Patients will be allowed to retain the first \$90 per month for personal spending and appropriate deduction(s) for any legal dependent(s) as specified in §941.C, effective July 1, 2002. All remaining income must be applied to the care and maintenance fee until maximum care cost is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:383.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 28:2509 (December 2002).

David Perkins
Deputy Assistant Secretary

0212#027

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

**EPOC Comprehensive Medical Benefits
(LAC 32:V.701)**

Editor's Note: This section is being repromulgated to correct codification errors. Section 701 was printed in the November 2002 issue of the *Louisiana Register* on pages 2342 and 2343.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 7. Schedule of Benefits–EPO

§701. Comprehensive Medical Benefits

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

	Non-EPO Provider	EPO Provider
Lifetime Maximum for all Benefits except Outpatient Prescription Drug Benefits per person ...		
Lifetime Maximum for all Outpatient Prescription Drug Benefits per person ...		

1. ...

2.a. Percentage Payable after Satisfaction of Applicable Deductibles

	Non-EPO Provider	EPO Provider
Eligible expenses incurred at an EPO ...		
Eligible expenses incurred at a PPO ...		
Eligible expenses incurred at a non-PPO/non-EPO when one is available in the region ...		
Eligible expenses incurred at a non-PPO/non-EPO when not available at an EPO/PPO or out of state ...		
Eligible expenses incurred when Medicare or Other Group Health plan is primary, and after Medicare reduction ...		
Eligible expenses in excess of \$10,000 per Calendar Year per person	100%	N/A

b. Member Co-Payments

	Non-EPO Provider	EPO Provider
Inpatient Hospital Services	N/A	\$100 per day up to \$300
Outpatient Services		
Physician services	N/A	\$ 15/\$25 ¹
Physical /Occupational Therapy ²	N/A	\$ 15
Speech Therapy	N/A	\$ 15
Surgery	N/A	\$ 100
MRI/CAT SCAN	N/A	\$ 50
Sonograms	N/A	\$ 25
Cardiac Rehabilitation (6-month limit)	N/A	\$ 15
Emergency Room Services (waived if admitted)	N/A	\$100
Pre-Natal And Postpartum Maternity (one-time co-payment to include Physician delivery charge, all pre-natal, one postpartum visit)	N/A	\$ 90
Home Health (Limit 150 visits per Plan year; requires prior approval through Case Management)	N/A	\$ 15 per visit
• Note: Services rendered by non-EPO providers are subject to deductible.		

A.3. - E. ...

F. - G Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:717 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1886 (November 2001), LR 28:476 (March 2002), LR 28:2342, 2343 (November 2002), repromulgated LR 28:2509 (December 2002).

0212#055

RULE

Office of the Governor Office of Elderly Affairs

Drug Testing for Employees (LAC 4:VII.1281 and 1283)

The Governor's Office of Elderly Affairs (GOEA) has adopted the following rule in accordance with R.S. 49:1015 et seq.

The employees are among the state of Louisiana's most valuable resources. The physical and mental well being of these employees is necessary for them to administer their duties. Substance abuse causes serious adverse consequences to users, impacting their productivity, as well as the health or safety of their dependents, co-workers and the general public.

The state of Louisiana has a long-standing commitment to working toward a drug-free workplace. In order to curb the use of illegal drugs by employees of the State of Louisiana, the Louisiana legislature enacted laws, which provide for the creation and implementation of drug testing programs for state employees. Further, the governor of the state of Louisiana issued Executive Order 98-38 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to Louisiana Revised Statute 49:1001, et seq., and all other applicable federal and state laws.

In accordance with the provisions of Executive Order MJF 98-38, and under the guidance of the Executive Director, this policy shall apply to all employees of the Governor's Office of Elderly Affairs, including appointees or other persons having an employment relationship with this agency.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter G. Drug Testing for Employees

§1281. Definitions

Controlled Substance A drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled substance Act (21 U.S.C. 812)

Designer (Synthetic) Drugs Those chemical substance that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

Employee Unclassified, classified, and student employees, student interns, and any other person having an employment relationship with the agency, regardless of the appointment type (e.g. full time, part time, temporary, etc.).

Illegal Drug Any drug which is not legally obtainable or which has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.

Reasonable Suspicion Belief based upon objective and articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead

a prudent person to suspect that an employee is in violation of this policy.

Safety-Sensitive and Security-Sensitive Positions Call positions with duties that may either authorize or require the operation or maintenance of a public vehicle, or the supervision of such an employee. All positions with duties that may require responsibility for or access to confidential or classified information.

Under the Influence For the purposes of this policy, a drug, chemical substance that affects an employee in any detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical in maintaining balance. A professional opinion or a scientifically valid test can establish a determination of influence.

Workplace Any location on agency property including all property, offices and facilities (including all vehicles and equipment) whether owned, leased or otherwise used by the agency or by an employee on behalf of the agency in the conduct of its business in addition to any location from which an individual conducts agency business while such business is being conducted.

AUTHORITY NOTE: Promulgated in accordance with Executive Order MFJ 98-38 and R.S.49:1015 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Office Elderly Affairs, LR 28:2510 (December 2002).

§1283. Policy Provisions

A General Provisions

1. It shall be the policy of the Governor's Office of Elderly Affairs to maintain a drug-free workplace and a workforce free of substance abuse. Employees are prohibited from reporting for work or performing work for the Agency with the presence of illegal drugs, controlled substances, or designer (synthetic) drugs in their bodies at the initial testing levels and confirmatory testing levels or above the levels as established in the contract between the state of Louisiana and the official provider of drug testing services. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the work site and while on official state business, on duty, or on call for duty.

2. The agency will procure employee drug testing services through the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws.

B. To assure maintenance of a drug-free workforce, it will be the policy of the Governor's Office of Elderly Affairs to implement a program of drug testing under the following conditions.

1. Reasonable Suspicion. Any employee will be required to submit to a drug test if there is a reasonable suspicion (as defined in this policy) that the employee is using drugs.

2. Post-Accident. Each employee involved in an accident which occurs during the course of employment will be required to submit to a drug test if the accident:

- a. involves circumstances leading to a reasonable suspicion of the employee's drug use;
- b. results in a fatality; or
- c. results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).

C. Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or has a rehabilitation agreement with the agency following an incident involving substance abuse will be required to submit to random drug testing once every six months until the agency receives documented proof of a release from treatment by the physician or program director.

D. Pre-Employment. Each prospective employee, appointee, and all other persons beginning an employment relationship with the agency will be required to submit to drug screening at the time and place designated by the agency representative who administers the drug testing program, following a job offer contingent upon a negative drug-testing result. Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration for employment.

E. Safety-Sensitive and Security-Sensitive Positions. These positions are identified within the agency by the appointing authority of the Governor's Office of Elderly Affairs and determined to be safety or security-sensitive after consultation with Louisiana Department of Justice.

F. Appointments and Promotions. Each employee who is offered a safety-sensitive or security-sensitive position (as defined in this policy) may be required to pass a drug test before being placed in such a position, whether through appointment or promotion.

G. Random Testing. Every employee in a safety-sensitive or security-sensitive position will be required to submit to drug testing as required by the appointing authority, who will periodically call for a sample of such employees, selected at random by a computer-generated selection process, and require them to report for testing. All such testing will, if practicable, occur during the selected employee's work schedule.

H. Confidentiality. All information, interviews, reports, statement, memoranda, and/or test results received by the executive agency through its drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

I. Drug Test Failures. Pursuant to R.S. 49:1008, if a prospective employee tests positive for the presence of drugs in the initial drug screening, the positive drug test result shall be the cause of the prospective employee's elimination from consideration for employment or appointment.

1. Pursuant to R.S. 49:1011, the Office of Elderly Affairs will afford an employee whose drug result is certified positive by the medical review officer, the opportunity to undergo rehabilitation without termination of employment. All rehabilitation must be programs that are approved and listed by the Officer of Alcohol and Drug Abuse for state agencies.

2. An employee whose drug tests results are certified positive will be required to take 30 days leave either as annual (A) or sick (B) leave. All rehabilitation services or assistance will be conducted at the employee's expense. The employer is not responsible for the expenses accrued.

3. Failure to submit to drug testing or rehabilitation services may be reason for termination of employment with agency.

4. The Office of Elderly Affairs is committed to maintaining workplace free of harassment and intimidation for all its employees, and will not tolerate inappropriate actions regarding drug testing and confidential drug testing information. This includes conduct, which has the purpose or effect of substantially interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.

J. Responsibility. The Executive Director of the Governor's Office of Elderly Affairs is responsible for the overall compliance with this policy and will submit to the Office of the Governor, through the Commissioner of Administration, a report on the policy and drug testing program, describing process, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by November 1 of each year.

K. Violation of the Policy. Violation of this policy, including refusal to submit to drug testing when properly ordered to do so, will result in actions up to and including termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public.

AUTHORITY NOTE: Promulgated in accordance with Executive Order MFJ 98-38 and R.S. 49:1015 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Office Elderly Affairs, LR 28:2510 (December 2002).

Paul F. "Pete" Arceneaux
Executive Director

0212#028

RULE

Office of the Governor Used Motor Vehicle and Parts Commission

Educational Program (LAC 46:V.4405)

Editor's Note: Section 4405 is being repromulgated to correct a codification error. This Section was printed in the November 2002 issue of the *Louisiana Register* on page 2352.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part V. Automotive Industry Subpart 2. Used Motor Vehicle and Parts Commission Chapter 27. The Used Motor Vehicle and Parts Commission §4405. Educational Program

A. The educational seminar will consist of information pertaining to the Used Motor Vehicle and Parts Commission, Department of Revenue and Taxation, Office of Motor Vehicles, Wildlife and Fisheries, Motor Vehicle Commission and Attorney General's Office. The items to be reviewed are as follows:

1. LUMVPC background of the agency, laws, rules and regulations, license requirements, area of responsibility,

complaint procedures, hearing procedures and non-delivery of titles;

- 2. LMVCCfinance licenses;
- 3. RevenueCsubmission of monthly sales reports and collection of taxes;
- 4. Office of Motor VehiclesCnon-delivery of titles, certificates of title and completion of titles by dealers;
- 5. Wildlife and FisheriesCregistration of marine products;
- 6. Office of Attorney GeneralCcivil and criminal matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B.(3)(b)(i)-(iv).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2352 (November 2002), repromulgated LR 28:2511 (December 2002).

0212#056

RULE

Department of Health and Hospitals Board of Dentistry

Scopes of Practice, Guidelines for Returning to Active Practice, Advertising and Soliciting by Dentists, Reporting and Record Keeping, Examination of Dentists (LAC 46:XXXIII.122, 124, 301, 1609, and 1709)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry has amended LAC 46:XXXIII.122, 124, 301, 1609, and 1709.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 1. General Provisions

§122. Scopes of Practice

A. - B. ...

C. A licensed dentist is recognized as a specialist in Louisiana if the dentist meets the standards set forth below.

1. The licensed dentist seeking specialty recognition must have successfully completed an ADA accredited post-doctoral program for each specialty.

2. The requirements of Paragraph C.1 of this Section shall not apply to otherwise qualified specialists who have announced their ADA approved specialty prior to the date of promulgation of this Rule.

3. Specialists must provide the board with satisfactory documentation of their specialty training.

4. Specialists are required to limit their practice exclusively to the indicated specialty area(s) as defined by the board and its rules.

5. A specialist who wishes to practice general dentistry must be evaluated by the board in accordance with LAC 46:XXXIII.124 to determine the need of remediation prior to practicing general dentistry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 28:2512 (December 2002).

§124. Guidelines for Returning to Active Practice

A. Section 124 is intended to provide guidelines to enable the board to provide evaluation and remediation to dentists and dental hygienists who have not actively practiced their professions for a sufficient length of time for any reason which would justify various levels of remediation to assure the board that the dentist or dental hygienist is sufficiently qualified to again practice on the public. This section applies whether a license has been inactivated or not.

B. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 25:511 (March 1999), amended LR:28:2512 (December 2002)

Chapter 3. Dentists

§301. Advertising and Soliciting by Dentists

A. - C. ...

D. Definitions

* * *

*Periodontics*Cthat specialty of dentistry which encompasses the prevention, diagnosis, and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes; the maintenance of the health, function and esthetics of these structures and tissues; and the replacement of lost teeth and supporting structures by grafting or implantation of natural and synthetic devices and materials.

* * *

E. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:1215 (December 1996), repromulgated LR 23:199 (February 1997), amended LR 23:1524 (November 1997), LR 25:509 (March 1999), LR 25:1476 (August 1999), LR 26:690 (April 2000), LR 27:1890 (November 2001), LR 28:2512 (December 2002).

Chapter 16. Continuing Education Requirements

§1609. Reporting and Record Keeping

A. ...

B. The licensee shall retain satisfactory documentation such as certificates of attendance as may be necessary to document completion of the required number of continuing education hours. The board will not give credit unless the licensee can prove attendance at the course and, therefore, shall obtain and retain certificates of attendance. With cause, the board may request such documentation. Without cause the board may request such documentation from licensees selected at random.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8), and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 26:489 (March 2000), LR 28:2512 (December 2002).

Chapter 17. Licensure Requirements

§1709. Examination of Dentists

A. Any person desiring to be licensed as a dentist shall apply to the board to take the licensure examination and shall verify the information required on the application by oath. The application shall include two recent photographs. There shall be an application fee set by the board. There shall also be an examination fee set by the Louisiana State University School of Dentistry.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:2513 (December 2002).

C. Barry Ogden
Executive Director

0212#044

RULE

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

**Temporary Permits
(LAC 46:XLVII.3329)**

Notice is hereby given, in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., that the Board of Nursing (Board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 has amended the Professional and Occupational Standards pertaining to temporary permits to practice as a registered nurse or an advanced practice registered nurse. The amendments of the Rules are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

Subchapter C. Registration and Registered Nurse

Licensure

§3329. Temporary Permits

A. - C. ...

D. A temporary permit to practice as a registered nurse or an advanced practice registered nurse for a maximum period of six months may be issued to an individual enrolled in the clinical practice component of a board approved refresher course for the purpose of RN or APRN licensure reinstatement or licensure endorsement provided that:

1. the individual provides satisfactory evidence that he or she previously held an unencumbered license in Louisiana or another jurisdiction recognized in Louisiana;

2. the individual completes the application form provided by the board;

3. the individual provides satisfactory documentation of enrollment in a refresher course approved by the board in accordance with §3335.D.2.a;

4. the individual pays the licensure fee required by §3341.A.f or 3327.8;

5. there is no evidence of violation of this Part or of LAC 46: XLVII.3331. If information relative to violations of R.S. 37:911, LAC 46:XLVII.3331, or other administrative rules, or an investigation of same, is received during the six month permit interval, the permit shall be recalled and licensure denied until such time as the person completes the disciplinary process; and

6. there is no allegation of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:921 and LAC 46:XLVII.3403 and 3405. If information relative to such acts or omissions is received during the six month permit interval, the permit shall be recalled and licensure denied until such time as the person completes the disciplinary process.

E. Any individual who receives a temporary permit issued pursuant to Subsection D above shall:

1. practice under the supervision of a licensed registered nurse or advanced practice registered nurse if seeking licensure as an RN or under the supervision of a licensed advanced practice registered nurse if seeking licensure as an APRN; and

2. be entitled to use the designation RN applicant if applying for licensure as a registered nurse or APRN applicant if applying for licensure as an advanced practice registered nurse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920 and 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 23:961 (August 1997), LR 24:1293 (July 1998), LR 28:2513 (December 2002).

Barbara L. Morvant
Executive Director

0212#020

RULE

**Department of Health and Hospitals
Office of Public Health**

**Safe Drinking Water Program
Interim Enhanced Surface Water Treatment
(LAC 51:XII.Chapters 1-11)**

Under the authority of R.S. 40:4 and 40:5, the Department of Health and Hospitals, Office of Public Health (DHH-OPH) has amended certain sections of Chapters 1 and 3 of Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51:XII). In addition, LAC 51:XII.Chapter 11 has been amended and renumbered in its entirety since new sections have been inserted.

Title 51

PUBLIC HEALTH SANITARY CODE

Part XII. Water Supplies

Chapter 1. General

§101. Definitions

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

Substantial Renovation Instances when new water treatment units are added to existing water treatment plants or non-serviceable portions of existing water treatment units are reconstructed. In addition, alterations or changes which increase plant capacity are included in this term.

* * *

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258 (B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8), R.S. 40:5 (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:2513 (December 2002).

Chapter 3. Water Quality Standards

§323. Filtration

A. All potable water derived from surface waters shall be filtered before distribution. Pressure filters shall not be used as the primary turbidity removal mechanism in the filtration of surface waters. On a case-by-case basis, DHH may allow pressure filters to be used as the primary turbidity removal mechanism in systems identified as being a groundwater under the direct influence of surface water (GWUDISW) system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1322 (June 2002), amended LR 28:2514 (December 2002).

§355. Mandatory Disinfection

A. Routine, continuous disinfection is required of all public water systems other than those under §361.A of this Part. Where continuous chlorination methods are used, the following minimum concentration of free chlorine residual shall be provided leaving the plant:

pH Value	Free Chlorine Residual
up to 7.0	0.4 mg/l
7.0 to 8.0	0.6 mg/l
8.0 to 9.0	0.8 mg/l
over 9.0	1.0 mg/l

1. This table does not apply to systems using chloramines.

B. All new groundwater systems installed after the effective date of these regulations shall provide at least 30 minutes contact time prior to the first customer. It is recommended that all existing systems provide the 30 minutes contact time prior to the first customer. Additions to or extensions of existing systems are exempt from the 30 minutes contact time.

C. Public water systems which use surface water or ground water under the direct influence of surface water shall meet the requirements of applicable sections of the Louisiana Interim Enhanced Surface Water Treatment Rule (LAC 51:XII.Chapter 11) as it pertains to CT and *Giardia*, *Cryptosporidium*, and virus removal/inactivation/disinfection requirements.

D. The effective date for mandatory disinfection for all public water systems serving a population of greater than 500 shall be July 1, 1995.

E. The effective date of mandatory disinfection for all public water systems serving a population of 500 or less shall be July 1, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1326 (June 2002), amended LR 28:2514 (December 2002).

Chapter 11. Interim Enhanced Surface Water Treatment Rule

Subchapter A. General Requirements and Definitions

§1101. General Requirements

A. For public water systems using surface water or groundwater under the direct influence of surface water (GWUDISW), this Chapter establishes or extends treatment technique requirements in lieu of maximum contaminant levels for the following microbial contaminants: *Giardia lamblia* (cysts), viruses, heterotrophic plate count bacteria, *Legionella*, turbidity, and (for public water systems using surface water or GWUDISW as its source of water supply and serving at least 10,000 individuals) *Cryptosporidium* oocysts.

B. Each supplier using an approved surface water as its source of water supply shall provide multibarrier treatment necessary to reliably protect users from the adverse health effects of microbiological contaminants and to comply with the requirements and performance standards prescribed in this Chapter.

C. Unless the Department of Health and Hospitals, hereinafter referred to as DHH, determines that a shorter time limit is necessary due to an emergency situation or the finding of a significant deficiency, a supplier shall, within 90 days from the date of notification by DHH that a treatment plant using surface water or GWUDISW as its source of water supply does not meet the requirements of this Chapter, submit for DHH approval a plan and schedule to bring its system into compliance.

D. If the supplier disagrees with the DHH's notification issued pursuant to §1101.C of this Part, then the supplier shall submit in writing reasons and evidence for its disagreement as soon as possible but not later than 30 days from the receipt of the notification unless an extension of time to meet this requirement is requested and granted by the DHH. In cases when DHH's notification involves an emergency situation or the finding of a significant deficiency, the supplier shall submit in writing reasons and evidence for its disagreement as soon as possible but not later than 14 days from the receipt of such notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended LR 28:2514 (December 2002).

§1103. Definition of Terms

A. Words Not Defined. Words not defined in this Chapter shall have the meanings stated in Section 101 of this Part or other Parts of the Louisiana State Sanitary Code. When words not defined in this Chapter are defined in both §101 of this Part and in another Part of the Louisiana State Sanitary Code, the definition contained within §101 of this Part shall be given preference as it pertains to water supplies. Words not defined in any of these source documents shall

have the meanings stated in the Merriam-Webster's Collegiate Dictionary-Tenth Edition, as revised.

B. Definitions. Definitions contained in §101 of this Part shall also apply to this Appendix except where the following special definitions apply.

Approved Surface WaterCa surface water or GWUDISW that has received permit approval from the DHH as a source of water supply for a public water system.

Best Available TechnologyCfor the purpose of this Chapter in relation to the treatment of surface water, means conventional filtration treatment which conforms with all of the requirements of this Appendix.

Calibration_{dra}Cto standardize [adjust the instrument response to a National Institute of Standards and Technology (NIST) traceable standard] a disinfectant residual analyzer (such as, but not limited to, a bench top or a continuous monitoring disinfectant residual analyzer using colorimetry or spectrophotometry) by determining the deviation from a NIST traceable standard so as to ascertain and implement the proper correction factors in an attempt to obtain accurate and reliable sample results.

Calibration_CCto standardize (adjust the instrument response to a turbidity primary standard) a turbidimeter (such as a bench top or continuous monitoring turbidimeter)by determining the deviation from a turbidity primary standard so as to ascertain and implement the proper correction factors in an attempt to obtain accurate and reliable sample results.

Certified OperatorCfor the purpose of this Chapter, the individual, as examined by the Committee of Certification and as approved by the State Health Officer, meeting all requirements of State Law and regulation and found competent to operate a treatment plant for a public water system which utilizes surface water or GWUDISW as its source of water supply.

CoagulationCa process using coagulant chemicals and rapid mixing by which colloidal and suspended material are destabilized and agglomerated into settleable and/or filterable flocs.

Comprehensive Performance Evaluation (CPE)Ca thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. It consists of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and, preparation of a CPE report.

Conventional Filtration TreatmentCa series of treatment processes which includes coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

Deep Bed FiltrationCa process for removing particulate matter from water by passage through porous media exceeding 42 inches in total depth. Underdrain gravels are not to be included.

Diatomaceous Earth FiltrationCa process resulting in particulate removal in which a precoat cake of graded

diatomaceous earth filter media is deposited on a support membrane (septum) and, while the water is being filtered by passing through the cake on the septum, additional filter media known as body feed is continuously added to the feed water to maintain the permeability of the filter cake.

Direct Filtration TreatmentCa series of processes including coagulation, flocculation, and filtration but excluding sedimentation.

Disinfectant Contact Time ("T" in CT calculations)Cthe time in minutes that it takes for water to move from the point of disinfectant application or a previous point of disinfectant residual measurement to a point before or at the point where residual disinfectant concentration is measured. The point of measurement shall be before or at the first customer. Disinfectant contact time in pipelines is calculated by dividing the internal volume of the pipe by the flow rate through the pipe. Disinfectant contact time with mixing basins and storage reservoirs is determined by tracer studies or an equivalent demonstration to the DHH.

DisinfectionCa process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

Disinfection ProfileCa summary of daily *Giardia lamblia* inactivation through the treatment plant. For any system that uses either chloramines or ozone for primary disinfection, this term shall additionally include a summary of daily virus inactivation through the treatment plant.

Engineering ReportCa water treatment technical report prepared by a qualified engineer.

Filter ProfileCa graphical representation of individual filter performance, based on continuous turbidity measurements versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

FiltrationCa process for removing particulate matter from water by passage through porous media.

FlocculationCa process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable or filterable particles through gentle stirring by hydraulic or mechanical means.

Groundwater Under the Direct Influence of Surface Water (GWUDISW)Cany water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as *Giardia lamblia* or (for public water systems using surface water or GWUDISW as its source of water supply and serving at least 10,000 individuals) *Cryptosporidium*, or significant and relatively rapid shifts in site specific water characteristics such as turbidity, temperature, conductivity or pH which closely correlate to climatological or surface water conditions. The DHH determination of direct influence may be based on an evaluation of site specific measurements of water quality and/or well characteristics and geology with field evaluation.

Heterotrophic Plate Count (HPC)Claboratory analytical procedure for estimating the number of live heterotrophic bacteria in water using instrumentation and methods as described in *Standard Methods for the Examination of Water and Wastewater*, 19th Edition. Results of such analysis is reported as "colony-forming units per milliliter" (cfu/ml).

LegionellaCa genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires disease.

Multibarrier TreatmentCa series of water treatment processes that provide for both removal and inactivation of waterborne pathogens.

Nephelometric Turbidity Unit (NTU)Ca measurement of the turbidity of water as determined by the comparison of the intensity of light scattered by the sample to the intensity of incident light, using instrumentation and methods described in ¶105.B of this Chapter.

Peak Hourly Flowthe maximum flow through a particular disinfection segment over a 1 hour period during 24 hourly periods in a calendar day.

Pressure FilterCa pressurized vessel containing properly sized and graded granular media.

Primary Standard (Turbidity)C"turbidity primary standard".

Qualified EngineerCany engineer who has been registered under the provisions of R.S. 37:681, *et seq.*, and who holds a current certificate issued by the Louisiana Professional Engineering and Land Surveying Board, and who has knowledge and experience in water treatment plant design, construction, operation, and watershed evaluations.

Residual Disinfectant Concentration ("C" in CT calculations)Cthe concentration of the disinfectant in milligrams per liter (mg/l) in a representative sample of water.

SedimentationCa process for removal of settleable solids before filtration by gravity or separation.

Slow Sand FiltrationCa process involving passage of raw water through a bed of sand at low velocity (less than 0.10 gallons per minute per square foot) resulting in substantial particulate removal by physical and biological mechanisms.

SupplierCfor the purpose of this Chapter, means the owner or operator of a public water system.

Surface WaterCall water open to the atmosphere and subject to surface runoff.

TurbidityCa measure of the decline of the clarity of water caused by suspended and colloidal matter, such as clay, silt, finely divided organic and inorganic matter, plankton, and other microscopic organisms. It is formally expressed as the optical property that causes light to be scattered and absorbed, rather than transmitted with no change in direction through the sample.

Turbidity LevelCthe value in NTU obtained by measuring the turbidity of a representative grab sample of water at a specified regular interval of time. If continuous turbidity monitoring is utilized, the turbidity level is the discrete turbidity value at any given time.

Turbidity Primary StandardCa suspension used to calibrate a turbidimeter, such as user-prepared formazin, commercial stock formazin suspensions, or commercial styrene-divinylbenzene suspensions. Such suspensions shall be prepared and used in conformity with the laboratory methods described in ¶105.B of this Chapter.

ValidationCto determine the degree of deviation of a measuring instrument (such as a bench top or continuous monitoring turbidimeter) from a primary standard by employing less sophisticated or involved means typically

employed during a calibration, such as use of a state-approved secondary standard.

VirusCany of a large group of submicroscopic agents (that consist of a RNA or DNA core of genetic material surrounded by a protein coat but no semipermeable membrane) that are capable of growth and multiplication only in living cells and that are infectious to humans by waterborne transmission and that cause various important diseases in humans, including, but not limited to, poliomyelitis, aseptic meningitis, infectious hepatitis, gastroenteritis, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8), R.S. 40:5 (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1336 (June 2002), amended LR 28:2514 (December 2002).

§1105. Analytical Requirements

A. Analysis for total coliform, fecal coliform, or HPC which may be required (or, in the case of HPC, optionally allowed in lieu of a disinfectant residual) under this Chapter shall be conducted by a laboratory certified by DHH to do such analysis. Until laboratory certification criteria are developed, laboratories certified for total coliform analysis by DHH are deemed certified for fecal coliform and HPC analysis.

B. Public water systems shall conduct analysis for turbidity in accordance with:

1. SM 2130 B [(Nephelometric Method), *Standard Methods for the Examination of Water and Wastewater*, 19th edition, American Public Health Association (APHA), 800 I Street N.W., Washington, D.C. 20001-3710. Telephone (202)777-2742. Also available from the American Water Works Association (AWWA) and the Water Environment Federation (WEF)];

2. EPA Method 180.1 [(Nephelometric Method), "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA -600-R-93-100, August 1993. Available from the National Technical Information Service, NTIS PB94-121811. Telephone (800) 553-6847]; or

3. GLI Method 2 [(Great Lakes Instrument Method 2), "Turbidity", November 2, 1982, GLI International, Inc., 9020 West Dean Road, Milwaukee, Wisconsin 53224. Telephone (414) 355-3601].

C. Public water systems shall conduct analysis for applicable residual disinfectant concentrations in accordance with one of the analytical methods in Table 1. The methods listed in the following table are contained in the *Standards Methods for the Examination of Water and Wastewater*, 19th Edition.

Table 1		
Residual	Methodology	Methods
Free Chlorine	Amperometric Titration	SM 4500-CI D
	DPD Ferrous Titrimetric	SM 4500-CI F
	DPD Colorimetric	SM 4500-CI G
	Syringaldazine (FACTS)	SM 4500-CI H
Total Chlorine	Amperometric Titration	SM 4500-CI D
	Amperometric Titration (low level measurement)	SM 4500-CI E
	DPD Ferrous Titrimetric	SM 4500-CI F
	DPD Colorimetric	SM 4500-CI G
	Iodometric Electrode	SM 4500-CI I

Chlorine Dioxide	Amperometric Titration	SM 4500-ClO ₂ C
	DPD Method	SM 4500-ClO ₂ D
	Amperometric Titration	SM 4500-ClO ₂ E
Ozone	Indigo Method	SM 4500-O ₃ B

1. Particularly for distribution system monitoring, nothing herein shall be construed to prevent a public water system from determining the residual disinfectant concentrations for free chlorine or combined chlorine by use of DPD colorimetric test kits.

D. Public water systems shall conduct analysis for pH using one of the following electrometric methods:

1. SM 4500-H⁺ B (Standard Methods for the Examination of Water and Wastewater, 19th edition);

2. EPA Method 150.1 ("Methods for Chemical Analysis of Water and Wastes", EPA/600/4-79/020, March 1983. Available from the NTIS, PB84-128677);

3. EPA Method 150.2 ("Methods for Chemical Analysis of Water and Wastes", EPA/600/4-79/020, March 1983. Available from the NTIS, PB84-128677); or

4. ASTM Method D1293-95 [*Annual Book of ASTM Standards*, 1996, Vol. 11.01, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959. Telephone (610) 832-9585. Note: Previous version (ASTM Method D1293-84) is also approved and is located in the *Annual Book of ASTM Standards*, 1994, Vols. 11.01].

E. Public water systems shall conduct analysis for temperature using the following thermometric method:

1. SM 2550 B (Standard Methods for the Examination of Water and Wastewater, 19th edition).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5 (5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1337 (June 2002), amended LR 28:2516 (December 2002).

§1107. Calibration/Validation of Turbidimeters

A. General. Calibration_t using a turbidity primary standard shall be done in accord with approved methods listed in § 1105.B.

B. Calibration_t of Turbidimeters. Bench top and continuous monitoring turbidimeters shall be calibrated using a turbidity primary standard at a frequency of no less than once every 90 days. The instruments shall be calibrated in accord with the manufacturer's instructions.

C. Validation of Bench Top Turbidimeters. Calibration_t of the bench top turbidimeters shall be validated with state-approved secondary standards each time a sample or set of samples is tested. For turbidity measurements less than 0.2 NTU and the turbidimeter reading is ?20 percent or more deviation of the state-approved secondary standard, the bench top turbidimeter shall be recalibrated with a turbidity primary standard. For turbidity measurements greater than or equal to 0.2 NTU and the turbidimeter reading is ?10 percent or more deviation of the state-approved secondary standard, the bench top turbidimeter shall be recalibrated with a turbidity primary standard.

D. Validation of Continuous Monitoring Turbidimeters. Calibration_t of the continuous monitoring turbidimeters shall be validated at least once each week by either using a state-approved secondary standard or determining the turbidity of the water flowing out of the continuous monitoring turbidimeter using a bench top turbidimeter. Follow-up

actions based upon the validation method selected are as follows.

1. Validation by Use of a State-Approved Secondary Standard

a. If the state-approved secondary standard is less than 0.2 NTU and the continuous monitoring turbidimeter reading is "20 percent or more deviation of the state-approved secondary standard, the continuous monitoring turbidimeter shall be recalibrated with a turbidity primary standard. If the state-approved secondary standard is greater than or equal to 0.2 NTU and the continuous monitoring turbidimeter reading is "10 percent or more deviation of the state-approved secondary standard, the continuous monitoring turbidimeter shall be recalibrated with a turbidity primary standard.

2. Validation by Determining the Turbidity of the Water Flowing out of the Continuous Monitoring Turbidimeter Using a Bench Top Turbidimeter

a. For turbidity measurements less than 0.2 NTU and the continuous monitoring turbidimeter reading is ?20 percent or more deviation from the bench top turbidimeter reading, the continuous monitoring turbidimeter shall be recalibrated with a turbidity primary standard. For turbidity measurements greater than or equal to 0.2 NTU and the continuous monitoring turbidimeter reading is ?10 percent or more deviation from the bench top turbidimeter reading, the continuous monitoring turbidimeter shall be recalibrated with a turbidity primary standard.

E. Re-Standardization of Secondary Standards. Each time a turbidimeter has been calibrated with a turbidity primary standard, the secondary standards shall be re-standardized. When a secondary standard has been assigned an expiration date by the manufacturer, nothing herein shall be construed as to allow the re-standardization of such secondary standard beyond the expiration date set by the manufacturer.

F. Records of Calibrations/Validations. Records of calibrations/validations on each bench top and continuous monitoring turbidimeter shall be maintained for at least 3 years, as follows.

1. Records of bench top turbidimeters shall include meter location, meter identification, dates of calibration_t, and the name of the person performing the calibration_t.

2. Records of continuous monitoring turbidimeters shall include meter location (e.g., filter number), unique meter identification (e.g., model and serial number), dates of calibration_t, dates of validation, and the name of the person performing the calibration_t.

G Records of Re-Standardization of Secondary Standards. Records of any re-standardization of secondary standards shall be maintained for at least 3 years, as follows:

1. Records of re-standardizations done using bench top turbidimeters shall include the value assigned to the secondary standard, date of assignment, meter identification (e.g., model and serial number) which was used to assign the secondary standard its unique value for such meter, manufacturer's expiration date, and the name of the person performing the re-standardization.

2. Records of re-standardizations done using continuous monitoring turbidimeters shall include the value assigned to the secondary standard, date of assignment, meter location (e.g., filter number), meter identification

(e.g., model and serial number) which was used to assign the secondary standard its unique value for such meter, manufacturer's expiration date, and the name of the person performing the re-standardization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5 (5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1337 (June 2002), amended LR 28:2517 (December 2002).

§1109. Calibration_{dra}/Validation of Disinfectant

Residual Analyzers

A. Validation of Bench Top Disinfectant Residual Spectrophotometers/Colorimeters. The accuracy of bench top spectrophotometers/colorimeters used for disinfectant residual monitoring, particularly for validation of continuous disinfectant residual monitors, shall be determined at a frequency of no less than once every 90 days by use of a NIST traceable standard solution which has been obtained from an approved source (e.g., Certificate of Analysis by manufacturer). Deviations of ± 10 percent or more shall be cause for calibration_{dra} of the equipment. The instruments shall be calibrated in accord with the manufacturer's instructions. After calibration_{dra}, the instrument's accuracy shall be validated prior to return to service.

B. Validation/Standardization Using Other Methods. For approved methods for disinfectant residual analysis other than spectrophotometric/colorimetric methods, validation/standardization of disinfectant residual analyzers shall be performed in accord with procedures outlined in the particular method [see §1105.C].

C. Validation of Continuous Disinfectant Residual Monitors. The accuracy of residual disinfectant measurements from any continuous disinfectant residual monitor shall be validated weekly. Validation shall be performed by collecting a grab sample from the tubing supplying water to the monitor (e.g., via a tee connection which is normally capped or valved closed) at a location immediately upstream (less than 5 feet) of the continuous disinfectant residual monitor. Such grab sample shall be analyzed using a bench top spectrophotometer/colorimeter which has been calibrated according to §1109.A of this Chapter. If the spectrophotometer/colorimeter reading indicates ± 10 percent or more deviation as compared to the continuous disinfectant residual monitor reading, the cause of the disparity shall be investigated and resolved within five working days. In the meantime, grab samples shall be collected and analyzed every two hours as per §1125.B of this Chapter. The accuracy of residual disinfectant measurements from any replacement instrument shall be validated prior to service or return to service.

D. Records of Calibrations/Validations. Records of calibrations/validations on each bench top spectrophotometer/colorimeter used for disinfectant residual monitoring and on each continuous disinfectant residual monitor shall be maintained for at least three years, as follows.

1. Records of bench top spectrophotometers/colorimeters shall include meter location, meter identification, dates and results of NIST traceable standard solution, dates of calibration_{dra}/validation and the name of the person performing the calibration_{dra}/validation.

2. Records of continuous disinfectant residual monitors shall include meter location, unique meter identification (e.g., model and serial number), dates and results of calibration/validation, and the corrective actions taken when deviations of ± 10 percent or more occur.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5 (5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1338 (June 2002), amended LR 28:2518 (December 2002).

§1111. Cleaning of Analytical Instrumentation

A. A thorough cleaning of analytical instrumentation, particularly continuous monitoring turbidimeters and continuous disinfectant residual monitors, shall be performed, as necessary, prior to performing any calibration/validation. On a weekly basis, continuous monitoring turbidimeters and continuous disinfectant residual monitors shall be inspected to determine if there is any material or sedimentation in the measuring chambers. Records of such inspection/cleaning shall be kept for at least 3 years and such records shall include meter location (e.g., filter number), unique meter identification (e.g., model and serial number), dates of cleaning, and the name of the person performing the cleaning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5 (5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:2518 (December 2002).

Subchapter B. Treatment Technique Requirements and Performance Standards

§1113. Treatment Technique Requirements

A. Each supplier using surface water or GWUDISW shall provide multibarrier treatment that meets the requirements of this Chapter and reliably ensures at least:

1. A total of 99.9 percent (3 Log) reduction of *Giardia* cysts through treatment processes including filtration and disinfection.

2. A total of 99.99 percent (4 Log) reduction of viruses through treatment processes including filtration and disinfection.

3. For suppliers serving at least 10,000 individuals, a total of 99 percent (2 Log) removal of *Cryptosporidium* oocysts through treatment processes including filtration.

4. The total reductions to be required by the DHH may be higher and are subject to the source water concentration of *Giardia lamblia*, viruses, and for suppliers serving at least 10,000 individuals, *Cryptosporidium*.

B. Suppliers meeting the requirements of §§1115 and 1119 shall be deemed to be in compliance with the minimum reduction and removal requirements specified in §1113.A of this Chapter.

C. Section 1117 of this Chapter presents requirements for non-filtering systems. All suppliers which use surface water as a source shall provide filtration. On a case by case basis, systems using GWUDISW may not be required to filter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:2518 (December 2002).

§1115. Filtration Performance Standards

A. All surface water or GWUDISW utilized by a supplier shall be treated using one of the following filtration technologies unless an alternative process has been approved by the DHH.

1. Conventional Filtration Treatment
2. Direct Filtration Treatment
3. Slow Sand Filtration
4. Diatomaceous Earth Filtration

B. Conventional filtration treatment shall be deemed to be capable of achieving at least 99.7 percent (2.5 Log) removal of *Giardia* cysts, 99 percent (2 Log) removal of *Cryptosporidium* oocysts (for public water systems serving at least 10,000 individuals), and 99 percent (2 Log) removal of viruses when in compliance with operation criteria (Subchapter D of this Chapter) and performance standards (§§1115 and 1119 of this Subchapter). Direct filtration treatment and diatomaceous earth filtration shall be deemed

to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* cysts, 99 percent (2 Log) removal of *Cryptosporidium* oocysts (for public water systems serving at least 10,000 individuals), and 90 (1 Log) percent removal of viruses when in compliance with operation criteria (Subchapter D of this Chapter) and performance standard (§§1115 and 1119 of this Subchapter). Slow sand filtration shall be deemed to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* cysts, 99 percent (2 Log) removal of *Cryptosporidium* oocysts (for public water systems serving at least 10,000 individuals), and 99 (2 Log) percent removal of viruses when in compliance with operation criteria and performance standards.

1. Expected minimum removal credits for public water systems serving at least 10,000 individuals are listed in Table 2 of this Chapter along with the corresponding remaining minimum disinfection log inactivation required.

Table 2 (applicable to systems serving at least 10,000 individuals)						
Treatment Methods						
Filtration Method	Expected Minimum Log Removals			Remaining Minimum Disinfection Log Inactivation Required		
	<i>Giardia</i>	<i>Crypto</i>	Virus	<i>Giardia</i>	<i>Crypto</i>	Virus
Conventional	2.5	2.0	2.0	0.5	-0-	2.0
Direct	2.0	2.0	1.0	1.0	-0-	3.0
Slow Sand	2.0	2.0	2.0	1.0	-0-	2.0
Diatomaceous Earth	2.0	2.0	1.0	1.0	-0-	3.0

2. Expected minimum removal credits for public water systems serving less than 10,000 individuals are listed

in Table 3 of this Appendix along with the corresponding remaining minimum disinfection log inactivation required.

Table 3 (applicable to systems serving less than 10,000 individuals)				
Treatment Methods				
Filtration Method	Expected Minimum Log Removals		Remaining Minimum Disinfection Log Inactivation Required	
	<i>Giardia</i>	Virus	<i>Giardia</i>	Virus
Conventional	2.5	2.0	0.5	2.0
Direct	2.0	1.0	1.0	3.0
Slow Sand	2.0	2.0	1.0	2.0
Diatomaceous Earth	2.0	1.0	1.0	3.0

3. The remaining minimum disinfection log inactivation shall not be less than what is required pursuant to Table 2 or 3, as applicable.

C. Conventional Filtration Treatment or Direct Filtration Treatment shall comply with the following performance standards for each treatment plant:

1. The turbidity level of the filtered water shall be equal to or less than 0.3 NTU in at least 95 percent of the measurements taken each month.

EXCEPTION: In the case of public water systems using surface water or GWUDISW as its source of water supply and serving less than 10,000 individuals, the turbidity level of the filtered water shall be equal to or less than 0.5 NTU in at least 95 percent of the measurements taken each month.

2. Filtered water turbidity shall not exceed 1 NTU at any time.

EXCEPTION: In the case of public water systems using surface water or GWUDISW as its source of water supply and serving less than 10,000 individuals, filtered water turbidity shall not exceed 5 NTU at any time.

D. Slow Sand Filtration shall comply with the following performance standards for each treatment plant:

1. The turbidity level of the filtered water shall be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month.

2. The turbidity level of the filtered water shall at no time exceed 5 NTU.

E. Diatomaceous earth filtration shall comply with the following performance standards for each treatment plant:

1. The filtered water turbidity shall be less than or equal to 1 NTU in at least 95 percent of the measurements each month.

2. The turbidity level of representative samples of filtered water shall at no time exceed 5 NTU.

F. An alternative to the filtration technologies specified in §1115.A of this Chapter may be used provided the supplier demonstrates to the DHH that the alternative technology: provides a minimum of 99 percent *Giardia* cyst removal and 99 percent virus removal and for public water systems using surface water or GWUDISW as its source of water supply and serving at least 10,000 individuals, 99 percent (2 Log) *Cryptosporidium* oocyst removal, and meets the turbidity performance standards established in §1115.C of this Chapter. Such alternative filtration technology, in combination with disinfection treatment, shall be shown to consistently achieve a total of no less than 99.9 (3 Log) percent removal and/or inactivation of *Giardia lamblia* cysts and 99.99 (4 Log) percent removal and/or inactivation of viruses. The demonstration shall be based on the results from a prior equivalency demonstration or a testing of a full scale installation that is treating a water with similar characteristics and is exposed to similar hazards as the water proposed for treatment. A pilot plant test of the water to be treated may also be used for this demonstration if conducted with the approval of the DHH. The demonstration shall be presented in an engineering report prepared by a qualified engineer. Additional reporting for the first full year of operation of a new alternative filtration treatment process approved by the DHH, may be required at DHH discretion. The report would include results of all water quality tests performed and would evaluate compliance with established performance standards under actual operating conditions. It would also include an assessment of problems experienced, corrective actions needed, and a schedule for providing needed improvements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:2519 (December 2002).

§1117. Non-Filtering Systems

A. General. On a case-by-case basis, DHH may waive filtration requirements for suppliers using GWUDISW. To be considered, non-filtering systems shall conform to the criteria of this Section. All suppliers using surface water shall employ filtration.

B. Source Water Quality to Avoid Filtration

1. To avoid filtration, a system shall demonstrate that either the fecal coliform concentration is less than 20/100 ml and/or the total coliform concentration is less than 100/100 ml in the water prior to the point of disinfectant application in 90 percent of the samples taken during the six previous months. Samples shall be taken prior to blending, if employed.

a. If both fecal and total coliform analysis is performed, only the fecal coliform limit shall be met, under this condition, both fecal and total coliform results shall be reported.

b. Sample analyses methods may be the multiple-tube fermentation technique or the membrane filter technique as described in the *Standard Methods for the Examination of Water and Wastewater*, 19th Edition.

c. Minimum sampling frequencies:

Population	Samples/Week
#500	1
501-3300	2
3301-10,000	3
10,001-25,000	4
> 25,000	5

d. Also, one coliform sample shall be taken and analyzed each day the turbidity exceeds 1 NTU prior to disinfection.

2. To avoid filtration, the turbidity of the water prior to disinfection cannot exceed 5 NTU based on grab samples collected every 4 hours (or more frequently) that the system is in operation. Continuous turbidity measurement is allowed provided the accuracy of the turbidity measurements are validated at least weekly in accord with §107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall collect and analyze a grab sample every 4 hours in lieu of continuous monitoring. Systems shall maintain the results of these turbidity measurements for at least 3 years.

C. Disinfection Criteria to Avoid Filtration

1. To avoid filtration, a system shall demonstrate that it maintains disinfection conditions which inactivate 99.9 percent (3 Log) of *Giardia* cysts and 99.99 percent (4 Log) of viruses everyday of operation except any one day each month. To demonstrate adequate inactivations, the system shall monitor and record the disinfectant used, disinfectant residual at peak hourly flow, disinfectant contact time at peak hourly flow, pH, and water temperature, and use these data to determine if it is meeting the minimum total inactivation requirements of this rule.

a. A system shall demonstrate compliance with the inactivation requirements based on conditions occurring during peak hourly flow. Residual disinfectant measurements shall be taken hourly. Continuous disinfectant residual monitors are acceptable in place of hourly samples provided the accuracy of the disinfectant measurements are validated at least weekly in accord with §1109.B or C, as applicable, of this Chapter. If there is a failure in the continuous disinfectant residual monitoring equipment, the system shall collect and analyze a grab sample every hour in lieu of continuous monitoring. Systems shall maintain the results of disinfectant residual monitoring for at least 3 years.

b. pH and temperature shall be determined daily for each disinfection sequence prior to or at the first customer.

2. To avoid filtration, the system shall maintain a minimum residual of 0.2 mg/L free chlorine or 0.4 mg/L total chlorine entering the distribution system and maintain a detectable residual throughout the distribution system. Performance standards shall be as presented in §1119.B and C of this Chapter.

3. To avoid filtration, the disinfection system shall be capable of assuring that the water delivered to the distribution system is continuously disinfected. This requires:

a. Redundant disinfection equipment with auxiliary power and automatic start up and alarm; or

b. An automatic shut off of delivery of water to the distribution system when the disinfectant residual level drops below 0.2 mg/l free chlorine residual or 0.4 mg/L total chlorine residual.

D. Site Specific Conditions To Avoid Filtration. In addition to the requirement for source water quality and disinfection, systems shall meet the following criteria to avoid filtration: maintain a watershed control program, conduct a yearly on-site inspection, determine that no waterborne disease outbreaks have occurred, comply with the total coliform MCL at least 11 months of the 12 previous months that the system served water to the public and comply on an ongoing basis, comply with Disinfection By-Product(DBP)regulations for total trihalomethanes (TTHM), haloacetic acids (five) [HAA5], bromate, and chlorite, and comply with Maximum Residual Disinfection Level (MRDL)regulations for chlorine, chloramines, and chlorine dioxide.

1. Watershed Control Program. A watershed control program for systems using GWUDISW shall include as a minimum the requirements of the Wellhead Protection Program (WHPP), delineated as follows:

a. specify the duties of state agencies, local governmental entities and public water supply systems with respect to the development and implementation of the WHPP;

b. determine the wellhead protection area (WHPA) for each wellhead as defined in 42 U.S.C.A. 300h-7(e) based on all reasonably available hydrogeologic information, groundwater flow, recharge and discharge and other information the State deems necessary to adequately determine the WHPA;

c. identify within each WHPA all potential anthropogenic sources of contaminants which may have any adverse effect on the health of persons, specifically with the goal of minimizing the potential for contamination of the source water by *Giardia lamblia* cysts, viruses, and, for systems serving at least 10,000 individuals, *Cryptosporidium* oocysts;

d. describe a program that contains, as appropriate, technical assistance, financial assistance, implementation of control measures, education, training and demonstration projects to protect the water supply within WHPAs from such contaminants;

e. present contingency plans for locating and providing alternate drinking water supplies for each public water system in the event of well or wellfield contamination by such contaminants;

f. consider all potential sources of such contaminants within the expected wellhead area of a new water well which serves a public water system; and

g. provide for public participation.

2. On-Site Inspection. An annual on-site inspection is required to evaluate the watershed control program and disinfection facilities. The system shall be reviewed by a qualified engineer for the systems adequacy for producing

safe drinking water. The annual on-site inspection shall include as a minimum:

a. review the effectiveness of the watershed control program;

b. review the physical condition and protection of the source intake;

c. review the maintenance program to insure that all disinfection equipment is appropriate and has received regular maintenance and repair to assure a high operating reliability;

d. review improvements and/or additions made to disinfection processes during the previous year to correct deficiencies detected in earlier surveys;

e. review the condition of disinfection equipment;

f. review operating procedures;

g. review data records to assure that all required tests are being conducted and recorded and disinfection is effectively practiced; and

h. identify any needed improvements in the equipment, system maintenance and operation, or data collection.

3. Sanitary Survey. In addition to the above requirements, a sanitary survey shall be performed every 3 years for community water systems and every 5 years for non-community water systems which use GWUDISW without filtration. The sanitary survey shall include:

a. review the condition of finished water storage facilities;

b. determine that the distribution system has sufficient pressure throughout the year;

c. verify that distribution system equipment has received regular maintenance;

d. review cross connection prevention program, including annual testing of backflow prevention devices;

e. review routine flushing program for effectiveness;

f. evaluate the corrosion control program and its impact on distribution water quality;

g. review the adequacy of the program for periodic storage reservoir flushing;

h. review practices in repairing water main breaks to assure they include disinfection;

i. review additions, improvements incorporated during the year to correct deficiencies detected in the initial inspection;

j. review the operations to assure that any difficulties experienced during the year have been adequately addressed;

k. review staffing to assure adequate numbers of certified operators are available in accord with LAC 48:V.Chapter 73;

l. verify that a regular maintenance schedule is followed;

m. audit systems records to verify that they are adequately maintained; and

n. review bacteriological data from the distribution system for coliform occurrence, repeat samples and action response.

4. No Disease Outbreaks. To avoid filtration, a system using GWUDISW shall not have been identified as a source of waterborne disease. If such an outbreak has occurred and (in the opinion of DHH) was attributed to a treatment

deficiency, the system shall install filtration unless the system has upgraded its treatment to remedy the deficiency to the satisfaction of DHH.

5. Coliform MCL Regulations. To avoid filtration, a system shall have complied with the MCL for Total Coliforms, established in the Total Coliform Rule, for at least 11 out of 12 of the previous months unless DHH determines the failure to meet this requirement was not caused by a deficiency in treatment.

6. DBP Regulations. For a system using GWUDISW to continue using disinfection as the only treatment, the system shall comply with the DBP regulations, including TTHM, HAA5, bromate, and chlorite, as applicable.

7. MRDL Regulations. For a GWUDISW system to continue using disinfection as the only treatment, the system shall comply with the MRDLs for chlorine, chloramines, and chlorine dioxide, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:2520 (December 2002).

§1119. Disinfection Performance Standards

A. All surface water or GWUDISW utilized by a supplier shall be provided with continuous disinfection treatment sufficient to ensure that the total treatment process provides inactivation of *Giardia* cysts and viruses, in conjunction with the removals obtained through filtration, to meet the reduction requirements specified in §1113 of this Chapter.

B. Disinfection treatment shall comply with the following performance standards:

1. Water delivered to the distribution system shall contain a disinfectant residual of not less than 0.2 mg/l free chlorine or 0.4 mg/l total chlorine for more than 4 hours in any 24 hour period.

2. The residual disinfectant concentrations of samples collected from the distribution system shall be detectable in at least 95 percent of the samples each month, taken during any two consecutive months. At any sample point in the distribution system, the presence of heterotrophic plate count (HPC) bacteria at concentrations less than 500 colony-forming units per milliliter (cfu/ml) shall be considered equivalent to a detectable disinfectant residual.

C. Determination of Inactivation by Disinfection. Minimum disinfection requirements shall be determined by DHH on a case-by-case basis but shall not be less than those required in Table 2 of §1115.B.1 or Table 3 of §1115.B.2, as applicable, of this Chapter. The desired level of inactivation shall be determined by the calculation of CT values; residual disinfectant concentration ("C") times the contact times ("T") when the pipe or vessel is in operation. Disinfectant contact time shall be determined by tracer studies.

1. The T_{10} value will be used as the detention time for calculating CTs. T_{10} is the detention time at which 90 percent of the flow passing through a vessel is retained within the vessel. Systems conducting tracer studies shall submit a plan to DHH for review and approval prior to the study being conducted. The plan shall identify how the study will be conducted, the tracer to be used, flow rates, etc. The plan shall also identify who will actually conduct the study. Tracer studies are to be conducted according to protocol found in standard engineering texts (such as Levenspiel), or

the methodology in EPA's *Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources*, March 1991 Edition (SWTR Guidance Manual).

2. On a case-by-case basis, alternate empirical methods of calculating T_{10} as outlined in the SWTR Guidance Manual may be accepted for vessels with geometry and baffling conditions analogous to basins on which tracer studies have been conducted and results have been published in the SWTR Guidance Manual or the literature.

3. Additional tracer studies shall be conducted by the supplier whenever modifications are made which may impact flow distribution, contact time, or disinfectant distribution.

4. CT values utilized in this evaluation shall be those reported in the SWTR Guidance Manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:2522 (December 2002).

§1121. Design Standards

A. All new treatment and disinfection facilities (and any existing treatment and disinfection facilities which undergo substantial renovation) shall be designed and constructed to meet the existing State Sanitary Code as modified by the requirements contained herein.

B. All new filtration facilities for surface water or GWUDISW plants (and any likewise existing filtration facilities which undergo substantial renovation) shall be designed such that each individual filter is constructed with filter-to-waste capability.

C. All new filtration and/or clearwell facilities for surface water or GWUDISW plants (and any likewise existing filtration and/or clearwell facilities which undergo substantial renovation) shall be designed to have one combined filter effluent point prior to clearwell storage. If this is not feasible for existing plants, such as when multiple clearwells already exist, each plant going to its own clearwell shall be designed to have a combined filter effluent point prior to that particular plant's clearwell.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and 40: 5 ((2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:2522 (December 2002).

§Subchapter C. Monitoring Requirements

§1123. Filtration Monitoring

A. Source Water Turbidity Monitoring. Each supplier using surface water or GWUDISW as a source of water supply shall monitor the turbidity level of the raw water source by taking and analyzing no less than one grab sample per day. Continuous turbidity monitoring may be substituted provided the accuracy of the measurements are validated weekly in accord with §1107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall collect and analyze no less than one grab sample per day. Systems shall maintain the results of raw water turbidity monitoring for at least 3 years.

B. Settled Water Turbidity Monitoring

1. Each supplier using surface water as its source of water supply should monitor and record settled water

turbidity prior to filtration in each individual treatment train at least once every 4 hours.

2. Each supplier using GWUDISW as its source of water supply should, if filtration is required or otherwise performed, monitor and record settled water turbidity prior to filtration in each individual treatment train at least once every 4 hours.

C. Combined Filter Effluent Turbidity Monitoring. To determine compliance with the performance standards specified in §1115 of this Chapter, each supplier using surface water or GWUDISW shall conduct continuous turbidity monitoring of representative samples of the combined filter effluent prior to clearwell storage during all times that the system is in operation. Combined filter effluent turbidity measurements shall be recorded every 15 minutes. The accuracy of the turbidity measurements from the continuous turbidity monitor shall be validated weekly in accord with §1107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall collect and analyze a grab sample every 2 hours in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working days allowed herein shall be deemed to constitute a violation of this Chapter. Systems shall maintain the results of combined filter effluent turbidity monitoring for at least 3 years.

EXCEPTION: In the case of public water systems using surface water or GWUDISW and serving less than 10,000 individuals, each supplier shall conduct turbidity monitoring of representative samples of the combined filter effluent, prior to clearwell storage, at least once every 4 hours that the system is in operation. The purpose of such monitoring is to determine compliance with the performance standards specified in §1115 of this Chapter which is applicable to such systems. Continuous turbidity monitoring may be substituted provided the accuracy of the measurements are validated weekly in accord with §1107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall collect and analyze a grab sample every 4 hours in lieu of continuous monitoring, but for no more than five working days following the failure of equipment. Systems shall maintain the results of combined filter effluent turbidity monitoring for at least 3 years.

1. In existing treatment plants which may not have a combined filter effluent point prior to clearwell storage or other design limitations, DHH may, on a case-by-case basis, allow turbidity compliance monitoring to be performed at an alternate sampling point which is determined to be representative of the system's filtered water (in accordance with Section 5.2.1 of the SWTR Guidance Manual). Requests to utilize an alternate turbidity monitoring sampling point for compliance monitoring shall be submitted in writing to DHH for review and approval.

2. In existing treatment plants which do not have a combined filter effluent point prior to clearwell storage, have at least 4 or more active filters, and which have been approved by DHH (pursuant to §1123.C.1 of this Chapter) to determine compliance with the turbidity performance standards specified in §1115 of this Chapter by using the average of measurements from each filter effluent shall, when there is a failure in the continuous turbidity monitoring equipment, only be required to collect and analyze a grab sample every 4 hours (in lieu of continuous monitoring and the normal every 2 hour grab sampling requirement

specified in §1123.C. of this Chapter), but for no more than five working days following the failure of the equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working days allowed herein shall be deemed to constitute a violation of this Chapter.

D. Slow Sand or Small System Turbidity Monitoring. Suppliers using surface water or GWUDISW and utilizing slow sand filtration or serving fewer than 500 people may reduce turbidity monitoring to one raw water and one combined filter effluent grab sample per day if DHH determines that less frequent monitoring is sufficient to indicate effective filtration performance.

E. Individual Filter Turbidity Monitoring/Additional Actions

1. Monitoring Individual Filters for Turbidity. Public water systems using surface water or GWUDISW as its source of water supply, serves at least 10,000 individuals, and utilizes conventional filtration treatment or direct filtration shall conduct continuous turbidity monitoring for each individual filter. Such systems shall record the results of individual filter monitoring every 15 minutes while the filter is in service. The accuracy of the turbidity measurements from the continuous turbidity monitor shall be validated weekly in accord with §1107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall conduct grab sampling every 4 hours in lieu of continuous monitoring, but for no more than five working days following the failure of equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working days allowed herein shall be deemed to constitute a violation of this Chapter. Systems shall maintain the results of individual filter monitoring for at least 3 years.

a. When a particular water treatment plant is not configured to allow individual filter turbidity monitoring (e.g., Greenleaf Filter Plants) as required under Paragraph 1 of this Subsection, the system shall consult with DHH on a case-by-case basis to obtain approval of a plant specific alternative monitoring plan which is deemed to comply with the intent of individual filter turbidity monitoring, as far as is possible.

2. Triggered Actions Based on Individual Filter Results

Refer to §1135.E.1 of this Chapter for additional actions which may be triggered dependent upon the results of individual filter turbidity monitoring. Compliance deadlines for performing such additional actions are also contained in §1135.E.1 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1342 (June 2002), amended LR 28:2522 (December 2002).

§1125. Disinfection Monitoring

A. CT Parameters Monitoring. To determine compliance with disinfection inactivation requirements specified in Table 2 of §1115.B.1 or Table 3 of §1115.B.2, as applicable, of this Chapter, each supplier shall develop and conduct a monitoring program to measure those parameters that affect the performance of the disinfection process. This shall include but not be limited to:

1. temperature of the disinfected water at each residual disinfectant concentration sampling point;

2. pH(s) of the disinfected water (if free chlorine is used as a disinfectant) at each free chlorine residual disinfectant concentration sampling point;

3. the disinfectant contact time(s) at peak hourly flow at each residual disinfectant concentration sampling point;

4. the residual disinfectant concentrations before or at the first customer during peak hourly flow; and

5. if the system uses more than one point of disinfectant application before the first customer, the system must determine the parameters identified in Paragraphs 1-4 of this Subsection for each individual disinfection segment immediately prior to the next point of disinfectant application during peak hourly flow so that a cumulative CT value can be determined before the treated water reaches the first customer. (Note: If the treatment plant uses its own finished water for potable purposes, the first customer may be the treatment plant itself.)

B. Disinfectant Residual Monitoring at Plant. To determine compliance with the performance standards specified in §§1115 or 1119 of this Chapter, the disinfectant residual concentrations of the water being delivered to the distribution system shall be measured and recorded continuously. The accuracy of disinfectant measurements obtained from continuous disinfectant monitors shall be validated at least weekly in accord with §1109.B or C, as applicable, of this Chapter. If there is a failure of continuous disinfectant residual monitoring equipment, grab sampling every 2 hours shall be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working days allowed herein shall be deemed to constitute a violation of this Chapter. Systems shall maintain the results of disinfectant residual monitoring for at least 3 years.

C. Small System Disinfectant Residual Monitoring at Plant. Suppliers serving fewer than 3300 people may collect and analyze grab samples of the water being delivered to the distribution system for disinfectant residual determination each day in lieu of the continuous monitoring, in accordance with Table 5 of this Chapter, provided that any time the residual disinfectant falls below 0.2 mg/l free chlorine or 0.4 mg/l total chlorine, the supplier shall take a grab sample every 2 hours until the residual concentrations is equal to or greater than 0.2 mg/l free chlorine or 0.4 mg/l total chlorine.

Table 5 (applicable to systems serving less than 3,300 individuals) Disinfectant Residual Sampling	
System Population	Samples/Day
#500	1
501-1,000	2
1,001-2,500	3
2,501-3,300	4

D. Disinfectant Residual Monitoring in Distribution System. The residual disinfectant concentrations shall be measured at least at the same points in the distribution system and at the same time that samples for total coliforms are collected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1342 (June 2002), amended LR 28:2523 (December 2002).

§1127. Disinfection Profiling

A. All public water systems using surface water or GWUDISW as its source of water supply and serving at least 10,000 individuals shall perform a disinfection profile of its disinfection practice on a continuous basis.

1. Any system that meets the criteria of Subsection A of this Section shall perform monitoring on each day of operation to determine the total logs of inactivation of *Giardia lamblia* cysts, based upon the CT_{99,9} (3-Log) values in Appendix E of the SWTR Guidance Manual, as appropriate, through the entire treatment plant. Any system that uses either chloramines or ozone for primary disinfection shall additionally calculate the total logs of inactivation of viruses for each day of operation, based upon the CT_{99,99} (4-Log) values in Appendix E of the SWTR Guidance Manual. Systems with more than one point of disinfectant application shall conduct monitoring for each disinfection segment. The following parameters shall be monitored:

a. the temperature of the disinfected water at each disinfectant residual concentration sampling point during peak hourly flow;

b. if the system uses free chlorine, the pH of the disinfected water at each free chlorine residual disinfectant concentration sampling point during peak hourly flow;

c. the disinfectant contact time(s) ("T") at peak hourly flow at each residual disinfectant concentration sampling point;

i. contact time(s) determined through actual tracer studies shall be used [not theoretical contact time(s) using baffling factors];

d. the residual disinfectant concentration(s) ("C") of the water before or at the first customer during peak hourly flow (Note: If the treatment plant uses its own finished water for potable purposes, the first customer may be the treatment plant itself.); and

e. if the system uses more than one point of disinfectant application before the first customer, the system must determine the parameters identified in Subparagraphs a-d of this Paragraph for each individual disinfection segment immediately prior to the next point of disinfectant application during peak hourly flow so that a cumulative CT value can be determined before the treated water reaches the first customer. (Note: If the treatment plant uses its own finished water for potable purposes, the first customer may be the treatment plant itself.)

B. In addition, systems subject to the requirements of Subsection A of this Section shall compute their daily total logs of inactivation utilizing a computer spread sheet format/formulas approved by DHH. The system shall retain printed disinfection profile data as daily individual spreadsheets (containing the monitoring data, CT computation, and total log inactivation data) and in monthly/yearly graphical profile form for review as part of sanitary surveys conducted by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2524 (December 2002).

§1129. Disinfection Practice Changes

A. Suppliers using surface water or GWUDISW as the source of water supply which decide to make a significant change to its disinfection practice shall submit plans and specifications to DHH for review and approval (in accord with the requirements of 105 of this Part) prior to making such change. Significant changes to disinfection practice are:

1. any changes to the point of disinfection;
2. any changes to the disinfectant(s) used in the treatment plant;
3. any changes to the disinfection process; or,
4. any disinfection practice modification which may lower the system's ability to comply with the required minimum log inactivation attributable to disinfection as listed in Table 2 of §1115.B.1 or Table 3 of §1115.B.2, as applicable, of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2525 (December 2002).

Subchapter D. Operation

§1131. Operating Criteria

A. All treatment plants utilizing surface water or GWUDISW shall be operated by certified operators in accord with LAC 48:V.Chapter 73.

B. Filtration facilities shall be operated in accordance with the following requirements.

1. Conventional and direct filtration treatment plants shall be operated at flow rates not to exceed 3 gallons per minute per square foot (gpm/sq ft) for gravity filters. In any instance when pressure filters have been approved by DHH as the primary turbidity removal mechanism (see 323 of this Part), filtration rates shall not exceed 2 gpm/sq ft.

2. Slow sand filters shall be operated at filtration rates not to exceed 0.10 gallons per minute per square foot. The filter bed shall not be dewatered except for cleaning and maintenance purposes.

3. Diatomaceous earth filters shall be operated at filtration rates not to exceed 1.0 gallon per minute per square foot.

4. In order to obtain approval for higher filtration rates than those specified in this Section, the supplier shall demonstrate to DHH that the filters can achieve an equal degree of performance.

5. Filtration rates shall be increased gradually when placing filters back into service following backwashing or any other interruption in the operation of the filter.

6. In any instance when pressure filters have been approved by DHH as the primary turbidity removal mechanism (see §323 of this Part), such filters shall be physically inspected and evaluated annually (not sooner than 120 calendar days from any previous inspection/evaluation) for such factors as media condition, mudball formation, and short circuiting. A written record of the inspection shall be maintained at the treatment plant.

C. Disinfection facilities shall be operated in accordance with the following requirements:

1. A supply of chemicals necessary to provide continuous operation of disinfection facilities shall be maintained as a reserve or demonstrated to be available under all conditions and circumstances.

2. An emergency plan shall be developed prior to and implemented in the event of disinfection failure to prevent delivery to the distribution system of any undisinfecting or inadequately disinfected water. The plan shall be posted in the treatment plant or other place readily accessible to the plant operator.

3. System redundancy and changeover systems shall be maintained and kept operational at all times to ensure no interruption in disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8), R.S. 40: 5 (2)(3)(5)(6)(17)(20) and R.S. 40: 1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2525 (December 2002).

Subchapter E. Reporting

§1133. DHH Notification

A. The supplier shall notify DHH by telephone or other equally rapid means as soon as possible but no later than 24 hours whenever:

1. the turbidity of the combined filter effluent as monitored exceeds 1.0 NTU at any time for conventional filtration treatment or direct filtration treatment;

EXCEPTION: In the case of public water systems using surface water and serving less than 10,000 individuals, whenever the turbidity of the combined filter effluent as monitored exceeds 5.0 NTU at any time for conventional filtration treatment or direct filtration treatment.

2. more than two consecutive 4 hour monitoring periods of the combined filter effluent show an exceedance of 0.5 NTU for conventional filtration treatment or direct filtration treatment;

EXCEPTION: In the case of public water systems using surface water and serving less than 10,000 individuals, more than two consecutive 4 hour monitoring periods of the combined filter effluent show an exceedance of 1.0 NTU for conventional filtration treatment or direct filtration treatment.

3. the turbidity of the combined filter effluent as monitored exceeds 1.0 NTU for slow sand filtration or diatomaceous earth filtration;

4. the turbidity of the combined filter effluent as monitored exceeds the maximum level set by DHH for the particular alternative filtration technology approved by DHH pursuant to §1115.F of this Chapter;

5. there is a failure to maintain a minimum disinfectant residual of 0.2 mg/l free chlorine or 0.4 mg/l total chlorine in the water being delivered to the distribution system and whether or not the disinfectant residual was restored to at least 0.2 mg/l free chlorine or 0.4 mg/l total chlorine within 4 hours;

6. an event occurs which may affect the ability of the treatment plant to produce a safe, potable water including, but not limited to, spills of hazardous materials in the watershed and unit treatment process failures;

7. a waterborne disease outbreak potentially attributable to the water system has occurred and is discovered by the supplier.

B. In accord with the requirement of §321 of this Part, the supplier shall notify DHH by telephone or other equally rapid means as soon as possible but no later than 48 hours whenever:

1. non-compliance with a combined filter effluent turbidity standard occurs during any one particular month, e.g., anytime a minimum number of individual turbidity measurements above the turbidity standard will cause the system to exceed its 5 percent monthly allowance. [For example, in a 30 calendar day month and a plant operating 24 hours per day a total of 180 combined filter effluent turbidity compliance measurements are to be taken per month. Whenever 10 compliance measurements exceed the turbidity standard applicable to such system, the system is in violation of its treatment technique requirement ($10 \div 180 \times 100 = 5.5$ percent) and must notify DHH as soon as possible but not later than 48 hours of the violation.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2525 (December 2002).

§1135. Monthly Report

A. General. Each supplier with a surface water or GWUDISW treatment facility shall submit a monthly written report on the operation of each facility to the DHH by the tenth day of the following month. Such report shall be signed by a certified operator of the public water system.

B. Combined Filter Effluent Turbidity Results. The monthly report shall include the following results of samples collected from the combined filter effluent (or from an alternate compliance sampling point as approved by DHH on a case-by-case basis).

1. The highest individual turbidity measurement determined within each 4 hour monitoring period for each day that the system is in operation. Suppliers operating treatment facilities continuously shall report the highest individual turbidity measurement for each of the following 4 hour monitoring periods:

- a. 12:01 am - 4:00 am;
- b. 4:01 am - 8:00 am;
- c. 8:01 am - 12:00 pm (noon);
- d. 12:01 pm - 4:00 pm;
- e. 4:01 pm - 8:00 pm;
- f. 8:01 pm - 12:00 am (midnight).

NOTE: Suppliers which do not operate their treatment facilities continuously shall utilize these same time periods, as applicable, for reporting purposes. Times when there is no combined filter effluent available for monitoring, such as when the plant is not in operation, shall also be recorded by the supplier and such events shall be clearly identified and reported on the monthly report.

2. The number and percent of turbidity measurements reported under Paragraph 1 of this Subsection which are less than or equal to the performance standard specified for each filtration technology in §1115 of this Chapter, or as required for an alternative filtration technology.

3. The maximum daily raw water turbidity.

4. For public water systems using surface water or GWUDISW which serve at least 10,000 individuals and utilize conventional or direct filtration treatment, the monthly report shall advise whether or not combined filter effluent turbidity monitoring has been conducted continuously and whether or not the measurements were recorded every 15 minutes. The monthly report shall also indicate the date and time when there is a failure in the continuous turbidity monitoring equipment or plant out of

service as well as the date and time that such equipment/plant was placed back into service.

5. At the special request of the state health officer on a case-by-case basis, the supplier shall also provide an additional report listing the date and value of any other combined filter effluent turbidity measurement recorded by the supplier which exceeded the performance levels specified in §1115 of this Chapter and any corresponding raw water turbidity levels.

C. Disinfection Monitoring Results. The monthly report shall include the following disinfection monitoring results.

1. The date and duration of each instance when the disinfectant residual in water supplied to the distribution system is less than 0.2 mg/l free chlorine or 0.4 mg/l total chlorine and when the DHH was notified of the occurrence.

2. The following information on samples taken from the distribution system:

a. The number of samples where the disinfectant residual is measured.

b. The number of samples where only the heterotrophic plate count (HPC) is measured.

c. The number of measurements with no detectable disinfectant residual and no HPC is measured.

d. The number of measurements with no detectable disinfectant residual and HPC is greater than 500 colony forming units per milliliter.

e. The number of measurements where only HPC is measured and is greater than 500 colony forming units per milliliter.

D. Explanation of Cause of Violation. The monthly report shall include a written explanation of the cause of any violation of performance standards specified in §§1115, 1117, or 1119 and operating criteria specified in §1131 of this Chapter.

E. Individual Filter Turbidity Results/Additional Actions

1. For public water systems using surface water or GWUDISW which serve at least 10,000 individuals and utilizes conventional or direct filtration treatment, the monthly report shall advise whether or not individual filter turbidity monitoring has been conducted continuously and whether or not the measurements were recorded every 15 minutes. Such systems shall additionally report individual filter turbidity measurement results taken only if measurements demonstrate one or more of the following four exceedance conditions.

a. For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall either produce a filter profile for the filter within 7 days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

b. For any individual filter that has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart at the end of the first 4 hours of continuous filter operation after the filter has been backwashed or otherwise taken off-line, the system shall report the filter number, the turbidity, and the date(s) on which the exceedance occurred. In addition, the system

shall either produce a filter profile for the filter within 7 days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

c. For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of three consecutive months, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall conduct a self-assessment of the filter within 14 days of the exceedance and report that the self-assessment was conducted. The self-assessment shall consist of at least the following components: an in-depth evaluation of filter performance, including analysis of historical filtered water turbidity from the filter; development of a filter profile; identification and prioritization of factors limiting filter performance; evaluation of the applicability of corrections; and, preparation of a filter self-assessment report.

d. For any individual filter that has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall arrange for the conduct of a comprehensive performance evaluation (CPE) by DHH or a third party approved by DHH no later than 30 days following the exceedance and have the evaluation completed and submitted to DHH no later than 90 days following the exceedance. For systems experiencing multiple exceedances, only one CPE is adequate until that CPE has been completed and the appropriate corrective actions taken.

i. This CPE shall be considered a compliance CPE; thus, either or both of the following shall be considered a violation(s) of this Chapter:

(a.) failure to respond in writing to performance-limiting factors identified in the CPE within 45 days after receipt of the report, indicating how and on what schedule the system will address performance-limiting factors noted in the report; or

(b.) failure to correct the performance-limiting factors identified in the CPE within a time schedule acceptable to DHH.

2. When a filter profile/obvious reason, self-assessment, or CPE has been triggered by the turbidity results of an individual filter, the following additional information for such filter shall be reported in the monthly report.

a. Data recorded relative to the occurrence of a failure in the continuous turbidity monitoring equipment for the affected individual filter or filter out of service conditions, the identity of the individual filter, the date and time of such equipment failure or out of service conditions as well as the date and time that the equipment and/or filter was placed back into service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2526 (December 2002).

§1137. Disinfection Profiling Report

A. Public water systems subject to the requirements of §1127.A of this Chapter shall submit to DHH a printed report on the initial 12 consecutive months of disinfection profiling data (including daily individual spreadsheets containing the monitoring data, CT computation, and total log inactivation data) and in monthly/yearly graphical profile form as required under §1127 of this Chapter. This disinfection profiling report is due on no later than February 15, 2004.

B. On a case-by-case basis, DHH may accept existing operational data in lieu of the requirements of Subsection A of this Section if DHH determines that such data is substantially equivalent to data required to be collected under §1127 of this Chapter. Such data shall be representative of inactivation through the entire treatment plant and not just of certain treatment segments.

C. Following the submittal of the initial 12 consecutive month period report required under Subsection A of this Section, nothing herein shall be construed to prohibit DHH from requiring the public water system to submit a more current disinfection profiling data set on a case-by-case basis (e.g., when a significant change to the disinfection practice is proposed, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2527 (December 2002).

Subchapter F. Public Notification

§1139. Consumer Notification

A. Treatment Technique/Performance Standard Violations. The supplier shall notify persons served by the system whenever there is a failure to comply with the treatment technique requirements specified in §1113 or performance standards specified in §§1115, 1117, or 1119 of this Chapter. The notification shall be given in a manner approved by the DHH, and shall include the following mandatory language:

1. "The La. Department of Health and Hospitals (DHH) sets drinking water standards and has determined that the presence of microbiological contaminants are a health concern at certain levels of exposure. If water is inadequately treated, microbiological contaminants in that water may cause disease. Disease symptoms may include diarrhea, cramps, nausea, and possibly jaundice, and any associated headaches and fatigue. These symptoms, however are not just associated with disease-causing organisms in drinking water, but also may be caused by a number of factors other than your drinking water. DHH has set enforceable requirements for treating drinking water to reduce the risk of these adverse health effects. Treatment such as filtering and disinfecting the water removes or destroys microbiological contaminants. Drinking water which is treated to meet DHH requirements is associated with little to none of this risk and should be considered safe."

2. When there is a failure to comply with a treatment technique requirement or performance standard as required in Subsection A of this Section, the supplier shall provide public notification in a daily or weekly newspaper serving the area as soon as possible but no later than 14 days after

the violation or failure. Where newspaper notice is not feasible for a non-community water system, continuous posting may be substituted; however, such notice shall remain posted for a minimum of at least 7 days. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 45 days after the violation or failure.

B. **Monitoring Violations.** The supplier shall notify persons served by the system in the manner approved by DHH whenever there is a failure to comply with the monitoring requirements specified in §§1123 or 1125 of this Chapter. When there is a failure to comply with the monitoring requirements specified in §§1123 or 1125 of this Chapter, the supplier shall provide public notification in a daily or weekly newspaper serving the area within 3 months of the violation or failure. Where newspaper notice is not feasible for a non-community water system, continuous posting in conspicuous places within the area served by the system may be substituted; however, such notice shall remain posted for a minimum of at least 7 days. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 3 months after the violation or failure.

C. **Acute Violations.** When:

1. an event occurs which may affect the ability of the treatment plant to produce safe, potable water as specified under §1133.A.6 of this Chapter;

2. a waterborne disease outbreak occurs as specified under §1133.A.7 of this Chapter;

3. the combined filter effluent turbidity level exceeds 5.0 NTU; or,

4. other conditions/violations which are deemed by the state health officer, acting personally, as posing an acute risk to human health exist or occur;

5. the supplier shall furnish a notice to radio and television stations serving the area as soon as possible but not later than 24 hours after awareness of the incident by the supplier. The supplier shall also provide public notification in a daily or weekly newspaper serving the area as soon as possible but no later than 14 days after the violation or failure. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 45 days after the violation or failure.

EXCEPTION: Where furnishing a notice to radio and television stations, newspaper notice, or mailing is deemed not feasible for a non-community water system, continuous posting may be substituted; however, such notice shall remain posted for a minimum of at least 7 days.

D. **Public Notice Verification.** Systems required to provide public notification shall otherwise be required to comply with the requirements of §13 of this Part, including, but not limited to, submission of public notice verification to the State Health Officer within 10 days subsequent to the completion of public notification.

AUTHORITY NOTE: Promulgated in accordance with RS. 40:4 (A)(8) and 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2527 (December 2002).

David W. Hood
Secretary

0212#078

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code General Provisions
(LAC 51:I.101, 107, 109, 111, and 113)

The Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, has amended and revised Part I, Chapter 1, §101, §107, §109, §111, and §113 of the Louisiana State Sanitary Code.

Title 51

PUBLIC HEALTH SANITARY CODE

Part I. General Provisions

Chapter 1. General

§101. Definitions

[formerly paragraph 1:001]

A. - B. ...

Code the word "Code" means Sanitary Code.

Compliance Order a written notice issued by the state health officer and the secretary of the Department of Health and Hospitals, which documents violation(s) of the state sanitary code and references the provision(s) of the code violated, to the owner, manager, lessee or their agent, of an establishment, facility or property, and specifies a time frame for compliance. The Compliance Order shall be issued after violation(s) have been documented in an inspection and the same violation(s) continue and are documented in a reinspection. The Compliance Order shall inform the aggrieved party of the possible penalties for failure to comply with the Compliance Order and the right of the aggrieved party to an administrative appeal to the Division of Administrative Law.

CFR Code of Federal Regulations.

Department the Department of Health and Hospitals and Secretary means the Secretary thereof.

EPAC United States Environmental Protection Agency.

FDAC United States Food and Drug Administration.

Emergency Situation refers to any situation or condition which warrants immediate enforcement measures more expedient than normal administrative violation control and abatement procedures due to its perceived imminent or potential danger to the public health.

Hazard a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

Imminent Health Hazard an emergency situation that is a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or serious illness.

Law applicable local, state, and federal statutes, regulations, and ordinances.

Notice of Violation a written notice issued to the owner, manager, lessee or their agent of an establishment, facility or property which documents the nature of the violation(s) of the state sanitary code, including a reference to the provision(s) of the Code which have been violated, which were observed during an inspection by a representative of the State Health Officer.

PersonCany natural person, individual, partnership, corporation, association, governmental subdivision, receiver, tutor, curator, executor, administrator, fiduciary, or representative of another person, or public or private organization of any character.

SecretaryCsee department.

ShallCmandatory requirements.

Should or MayCrecommended or advisory procedures or equipment.

State Health OfficerCthe legally appointed or acting State Health Officer of the Department of Health and Hospitals having jurisdiction over the entire State of Louisiana, and includes his/her duly authorized representative in accordance with R.S. 40:4 and 40:5.

Substantial RenovationC

a.i. alterations or repairs made within a 12 month period, costing in excess of 50 percent of the then physical value of the existing building; or

ii. alterations or repairs made within a 12 month period, costing in excess of \$15,000; or

iii. alterations or repairs made involving a change in "occupancy classification" or use of the property.

b. The physical value of the building in Clause a.i of this Paragraph may be established by an appraisal not more than three years old, provided that said appraisal was performed by a certified appraiser or by the tax assessor in the parish where the building is located.

c. The cost of alterations or repairs in Clause a.ii or a.iii of this Paragraph may be established by:

i. an estimate signed by a licensed architect or a licensed general contractor; or

ii. by copies of receipts for the actual costs.

ViolationC a transgression of a section or subsection of the state sanitary code. Violations are classified into four classes corresponding to the severity of the violation:

Class A ViolationC violations that create a condition or occurrence, which may result in death or serious harm to the public. Class A civil fines shall be \$100 per day per violation.

Class B ViolationC violations related to permitting, submitting of plans, or training requirements. Class B civil fines shall be \$75 per day per violation.

Class C ViolationC violations that create a condition or occurrence, which creates a potential for harm by indirectly threatening the health and/or safety of the public or creates a nuisance to the public. Class C civil fines shall be \$50 per day per violation.

Class D ViolationC violations related to administrative, ministerial, and other reporting requirements that do not directly threaten the health or safety of the public. Class D civil fines shall be \$25 per day per violation.

ViolatorC any person who has been issued a Notice of Imposition of penalty for noncompliance with any provision of a compliance order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1693 (October 2001), repromulgated LR 28:1208 (June 2002), amended LR 28:2528 (December 2002).

§107. Delivery of the Notice of Violation [formerly paragraph 1:007-2]

A. The Notice of Violation form listing the violation(s) may:

1 - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1693 (October 2001), repromulgated LR 28:1208 (June 2002), amended LR 28:2529 (December 2002).

§109. Violation Notice [formerly paragraph 1:007-4]

A. In those cases in which the State Health Officer or his/her representative determines that a violation has occurred and a decision is made to issue a Notice of Violation letter, the Notice of Violation letter shall be either sent to the owner, manager, lessee or their agent, of the establishment, facility or property involved by United States Postal Service, via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested, or hand delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1693 (October 2001), repromulgated LR 28:1208 (June 2002), amended LR 28:2529 (December 2002).

§111. Reinspection and Compliance Order [formerly paragraph 1:007-5]

A. If reinspection discloses that the violation(s) specified in the Notice of Violation have not been remedied, the state health officer or his/her representative may issue a Compliance Order requiring correction of the violation(s) within 20 days after said Compliance Order is served, or take whatever action is authorized by law to remedy the violation(s). Compliance Orders shall be served by United States Postal Service, via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested, or hand delivered. Any Compliance Order issued pursuant to this section shall inform the aggrieved party of his right to an administrative appeal to the Division of Administrative Law within 20 days after said Compliance Order is served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1693 (October 2001), repromulgated LR 28:1208 (June 2002), amended LR 28:2529 (December 2002).

§113. Suspension/Revocation/Civil Fines or Penalties [formerly paragraph 1:007-21]

A. Pursuant to the provisions of R.S. 40:4, R.S. 40:5 and R.S. 40:6, the state health officer acting through the Office of Public Health, for violation(s) of a Compliance Order may:

1. suspend or revoke an existing license or permit;
2. seek injunctive relief as provided for in R.S. 40:4 and in 40:6; and/or
3. impose a civil fine.

a. These civil fines shall not exceed \$10,000 per violator per calendar year applicable to each specific establishment, facility, or property that the violator owns, manages, operates or leases. The schedule of civil fines by class of violations shall be as follows:

i. Class A. Violations that create a condition or occurrence, which may result in death or serious harm to the public. These violations include, but are not limited to: cooking, holding or storing potentially hazardous food at improper temperatures; failure to follow schedule process in low acid canned foods or acidified food production; poor personal hygienic practices; failure to sanitize or sterilize equipment, utensils or returnable, multi-use containers; no water; unapproved water source; cross contamination of water; inadequate disinfection of water before bottling; sewage back up; sewage discharge on to the ground; sewage contamination of drinking water; failure to comply with Human Drug Current Good Manufacturing Practices (CGMP); inadequate labeling of foods or drugs regarding life threatening ingredients or information; failure to provide consumer advisories; non-compliant UV lamps or termination control switch on tanning equipment; the inadequate handling and disposal of potentially infectious biomedical wastes; etc. Class A civil fines shall be \$100 per day per violation.

ii. Class B. Violations related to permitting, submitting of plans, or training requirements. These violations include, but are not limited to: failure to submit plans or to obtain or hold: a permit to operate; a food safety certificate; a commercial body art certification; tanning equipment operator training; day care training; a license to install, maintain, or pump out sewage systems; etc. Class B civil fines shall be \$75 per day per violation.

iii. Class C. Violations that create a condition or occurrence, which creates a potential for harm by indirectly threatening the health and/or safety of the public or creates a nuisance to the public. These violations include, but are not limited to, failure to: properly label food; properly protect food; properly store clean equipment; provide self closing restroom doors; provide adequate lighting; provide hair restraints; provide soap and towels at hand-washing lavatories; clean floors, walls, ceilings and non-food contact surfaces; properly dispose of garbage; maintain onsite sewage systems; provide electrical power to onsite sewage systems; etc. Class C civil fines shall be \$50 per day per violation.

iv. Class D. Violations related to administrative, ministerial, and other reporting requirements that do not directly threaten the health or safety of the public. These violations include, but are not limited to, failure to: retain oyster tags; provide Hazard Analysis Critical Control Plans (HACCP); maintain HACCP records; provide consumer information; provide written recall procedures; maintain lot tracking records; turn in onsite sewage system maintenance records or certification of installation; register product labels; etc. Class D civil fines shall be \$25 per day per violation.

b. The duration of noncompliance with a provision of the compliance order shall be determined as follows.

i. An investigation shall be conducted by staff for the purpose of determining compliance/noncompliance within 5 working days after the deadline date(s) specified in

the compliance order. If non-compliance still exists, staff will provide a copy of the post-order investigation report to the person in charge and daily penalty assessments shall begin to accrue immediately from the date that non-compliance was determined in the post-order investigation report.

ii. The daily penalties shall accrue until such time as the agency has been notified in writing by the person in charge that compliance has been achieved and such compliance verified by agency staff, or upon reaching the maximum penalty cap of \$10,000 per violator per calendar year. Upon written notification by the person in charge of compliance, an investigation to verify compliance shall be made within 5 working days of receipt of such notification.

iii. Upon verification by investigation that compliance has been achieved, the penalties will cease to accrue on the date of receipt of notification by the person in charge.

c. The secretary of the Department of Health and Hospitals, upon the recommendation of the state health officer, may exercise his discretion and mitigate these civil fines or in lieu of a civil fine, require the violator or an employee designee to attend training seminars in the area of the violator's operations in cases where he is satisfied the violator has abated the violation and demonstrated a sincere intent to prevent future violations.

d. At the discretion of the state health officer, notice(s) imposing penalty assessments may be issued subsequent to either initial or continued noncompliance with any provision of the compliance order. Notice(s) imposing penalty assessments shall be served by United States Postal Service, via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested, or hand delivered. Within the notice imposing penalty assessment, the state health officer will inform the person in charge of the ability to apply for mitigation of penalties imposed and of the opportunity to petition for administrative appeal within 20 days after said notice is served, according to the provisions of R.S. 49:992 of the Administrative Procedure Act.

e. Once a penalty assessment is imposed, it shall become due and payable 20 calendar days after receipt of notice imposing the penalty unless a written application for mitigation is received by the state health officer within 20 calendar days after said notice is served or a petition for administrative appeal relative to contesting the imposition of the penalty assessment is filed with the Division of Administrative Law, P.O. Box 44033, Baton Rouge, Louisiana 70804-4033 within 20 calendar days after said notice is served.

f. The department may institute all necessary civil action to collect fines imposed.

g. This section shall not be construed to limit in any way the state health officer's authority to issue Emergency Orders pursuant to the authority granted in R.S. 40:4 and §115 of this Part.

h. The provisions of Paragraph 3 and Subparagraph a shall not apply to floating camps, including but not limited to houseboats which are classified as vessels by the United States Coast Guard in accordance with R.S. 40:6 as amended by Act 516 of the 2001 Regular Legislative Session.

4. - 5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1693 (October 2001), repromulgated LR 28:1208 (June 2002), amended LR 28:2529 (December 2002).

David W. Hood
Secretary

0212#079

RULE

**Department of Health and Hospitals
Office of Public Health**

Sanitary Code Retail Food Establishments
(LAC 51:XXIII.101, 903, 911, 1119, 1305,
1315, 1321, 1501, 1503, 2101, 2503, 3105,
3111, 3117, 3307, 3901, and 4121)

The Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, is amending and revising Part XXIII, Chapter 1, §101; Chapter 9, §§903 and 911; Chapter 11, §1119; Chapter 13, §§1305.A.6, 1315, and 1321; Chapter 15, §§1501 and 1503; Chapter 21, §2101; Chapter 25, §2503.A.1; Chapter 31, §§3105, 3111, and 3117; Chapter 33, §3307; Chapter 39, §3901; and Chapter 41, §4121.

Title 51

**PUBLIC HEALTH SANITARY CODE
Part XXIII. Retail Food Establishments**

§101. Definitions

[formerly paragraph 23:001]

A. - *Offal.* ...

Open Air Market a site that deals in produce that is normally peeled or washed prior to consumption.

Organizer/Promoter/Chairman - Potentially Hazardous Food. b. ...

c. *potentially hazardous food* does not include:

i. an air-cooled hard-boiled-egg with shell intact, or a shell egg that is not hard-boiled, but has been treated to destroy all viable *Salmonellae*;

c.ii. - *Wholesome.* ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2531 (December 2002).

§903. Fingernails

[formerly paragraph 22:06-2]

A. Employees shall keep their fingernails clean and trimmed not to exceed the end of the fingertip. An employee shall not wear nail polish, long, or artificial fingernails when working with exposed food unless wearing intact gloves in good repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2531 (December 2002).

**§911. Tasting, Eating and Drinking
[formerly paragraph 23:034-1]**

A. Employees shall eat and drink only in designated areas where the contamination of exposed food, equipment, utensils or other items needing protection cannot result, except an employee may drink from a closed beverage container if the container is handled properly to prevent contamination.. An employee may not use a utensil more than once to taste food that is to be sold or served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2531 (December 2002).

§1119. Eggs

[formerly paragraph 22:08-9]

A. - B. ...

C. Shell eggs which have not been specifically processed to destroy all live *Salmonellae* before distribution to the consumer shall be labeled with the following safe handling statement on the label of the shell eggs: "SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria: keep eggs refrigerated, cook eggs until yolks are firm and cook foods containing eggs thoroughly."

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2531 (December 2002).

§1305. Cooking/Reheating

[formerly paragraph 22:09-3]

A. - A.5. ...

6. 130°F (54°C) minimum internal temperature for beef roasts or to a temperature and time that will cook all parts of the roast as required by the following:

a. in an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature;

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 4.5 kg (10 lbs)	4.5 kg (10 lbs) or More
Still Dry	350°F (177°C) or more	250°F (121°C) or more
Convection	325°F (163°C) or more	250°F (121°C) or more
High Humidity ¹	250°F (121°C) or more	250°F (121°C) or more

¹ Relative humidity greater than 90 percent for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100 percent humidity.

and;

b. as specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature;

Temperature °F (°C)	Time ¹ in Minutes	Temperature °F (°C)	Time ¹ in Seconds
130 (54.4)	112	147 (63.9)	134
131 (55.0)	89	149 (65.0)	85
133 (56.1)	56	151 (66.1)	54
135 (57.2)	36	153 (67.2)	34
136 (57.8)	28	155 (68.3)	22
138 (58.9)	18	157 (69.4)	14
140 (60.0)	12	158 (70.0)	0

142 (61.1)	8		
144 (62.2)	5		
145 (62.8)	4		
¹ Holding time may include post-oven heat rise.			

A.7. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2531 (December 2002).

§1315. Thawing

[formerly paragraph 22:09-8]

A. Potentially hazardous food shall be thawed by one of the following methods:

1. under refrigeration that maintains the food temperature at 41 °F (5°C) or below;
2. completely submerged under potable running water at a temperature of 70°F (21°C) or below with sufficient velocity to agitate and float off loose particles in an overflow, and for a period of time that does not allow thawed portions of a raw animal food requiring cooking to be above 41°F (5°C) for more than 4 hours including:
 - a. the time the food is exposed to the running water and the time needed
 - b. for preparation for cooking; or
 - b. the time it takes under refrigeration to lower the food temperature to 41°F (5°C);
3. as part of the conventional cooking process;
4. thawed in a microwave oven and immediately transferred to conventional cooking equipment and cooked as specified in §1305, with no interruption of the process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2532 (December 2002).

§1321. Temperature Measuring Devices (Thermometers)

[formerly paragraph 22:09-10]

A. - A.1. ...

2. the ambient air temperature of all equipment or a simulated product temperature in all equipment used to hold potentially hazardous food on a device scaled in Fahrenheit accurate to a plus or minus 3°F or Celsius accurate to a plus or minus 1.5°C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2532 (December 2002).

§1501. Protected

[formerly paragraph 22:10-1]

A. Food shall be protected from contamination by storing the food:

1. in a clean, covered container except during periods of preparation or service;
2. in a clean, dry location;
3. where it is not exposed to splash, dust, or other contamination;
4. at least six inches (15 cm) above the floor except:

i. metal pressurized beverage containers and cased food packages in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture.

ii. containerized food may be stored on dollies, racks or pallets, provided such equipment is readily movable;

5. so that it is arranged so that cross contamination of raw animal foods of one type with another, or ready to eat foods is prevented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2532 (December 2002).

§1503. Storage

[formerly paragraph 22:10-2]

A. - A.5. ...

6. under sewer pipes that are not adequately shielded to intercept potential drips;

7. - 10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2532 (December 2002).

§2101. General

[formerly paragraph 22:13]

A. All equipment and utensils shall be of construction approved by the state health officer and shall be maintained in good repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2532 (December 2002).

§2503. Frequency of Cleaning

[formerly paragraph 22:19-2]

A. Equipment food contact surfaces and utensils shall be cleaned:

1. before each use with a different type of raw animal food such as beef, seafood, lamb, pork, or poultry, except when the food contact surface or utensil is in contact with a succession of different raw animal foods each requiring a higher cooking temperature, as specified in §1305, than the previous food, such as raw fish followed by raw poultry on the same cutting board;

A.2. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2532 (December 2002).

§3105. Backflow

[formerly paragraph 22:22-3]

A. - A.2. ...

3. not having a direct connection between the drainage system and any drain line originating from food handling equipment (e.g., any sink where food is cleaned, peeled, cut up, rinsed, battered, defrosted, or otherwise prepared or

handled; potato peelers; ice cream dipper wells; refrigerators; freezers; walk-in coolers and freezers; ice boxes; ice making machines, fountain type drink dispensers; rinse sinks, cooling or refrigeration coils; laundry washers; extractors; steam tables; egg boilers; coffee urns; or similar equipment).

Exception: A commercial dishwashing (warewashing) machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five feet (1.5m) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2532 (December 2002).

§3111. Toilet Facility

[formerly paragraph 22:22-6]

A. - A.4. ...

B. Floor drains will be provided in restrooms in accordance with Part XIV of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2533 (December 2002).

§3117. Utility or Service Sink

[formerly paragraph 22:22-9]

A. At least one service sink provided with hot and cold water, or one curbed cleaning facility equipped with a floor drain and hot and cold water, shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar waste. The sink shall be located in an area to avoid food contamination.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2533 (December 2002).

§3307. Cleaning and Storage

[formerly paragraph 22:23-4]

A. - B. ...

C. Suitable cleaning equipment and supplies such as high pressure pumps, steam, and detergent shall be provided as necessary and hot and cold water shall be provided in accordance with Part XIV of the State Sanitary Code for effective cleaning of equipment and receptacles.

D. Liquid waste from the cleaning operation shall be disposed of as sewage. Methods used for this disposal shall prevent rainwater and runoff from entering the sanitary sewerage system. Dumpster pads may be elevated or curbed, enclosed or covered, and the sanitary sewerage drain provided and protected with a proper cover in accordance with Part XIV of the State Sanitary Code.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2533 (December 2002).

§3901. Labeling

[formerly paragraph 22:29-1]

A. ...

B. Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2533 (December 2002).

§4121. Reduced Oxygen Packaging

[formerly paragraph 22:39]

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

e. the product is immediately frozen upon packaging and labeled with instructions to keep frozen or maintain at 41°F (5°C) or below and discard the food within 14 days of defrosting.

3. - 4. ...

a. maintain refrigerated food at 41°F (5°C) or below, and

b. discard the refrigerated food if within 14 calendar days from packaging it is not served for on-premises consumption, or consumed if served or sold for off-premise consumption;

5. limits:

a. the refrigerated shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, whichever occurs first; or

b. limits the shelf life of frozen product to no more than 14 calendar days from defrosting;

A.6. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:2533 (December 2002).

David W. Hood
Secretary

0212#081

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Community Supports and Services**

Home and Community Based Services Waivers
Provider Enrollment Requirement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services has adopted 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 adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following provisions governing participation as a Medicaid provider in designated Home and Community Based Services Waivers.

Attendance at a provider enrollment orientation shall be required prior to enrollment as a Medicaid provider of services under the following waivers:

1. the Elderly and Disabled Adult Waiver;
2. the Mental Retardation/Developmental Disabilities Waiver; and
3. the Children's Choice Waiver.

The frequency of the provider enrollment orientations shall be determined by the Bureau of Community Supports and Services, but they shall be conducted at least semi-annually.

David W. Hood
Secretary

0212#105

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Community Supports and Services**

**Mentally Retarded/Developmentally Disabled Waiver
Supervised Independent Living**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services has adopted 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 adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services increases the Supervised Independent Living per diem rate as follows.

Procedure Code	Name	Current Rate	New Rate
Z0006	SIL Per Diem	\$22.76	\$34.98

David W. Hood
Secretary

0212#106

RULE

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

**Early and Periodic Screening, Diagnosis and Treatment
Dental ProgramC Reimbursement Fee Increase**

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

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement fees for certain designated Early and Periodic Screening, Diagnostic and Treatment Dental procedure codes to the following rates.

Procedure Code	Procedure Name	New Rate
00120	Periodic Oral Exam	\$ 16.00
00220	Radiograph - Periapical - First Film	\$ 6.00
00230	Radiograph - Periapical - Each Additional Film	\$ 5.00
00272	Radiographs - Bitewing - Two Films	\$ 12.00
01110	Adult Prophylaxis	\$ 27.00
01120	Child Prophylaxis	\$ 12.00
01351	Sealant - Per Tooth	\$ 16.00
02120	Amalgam - Two Surface, Primary	\$ 50.00
02130	Amalgam - Three Surface, Primary	\$ 60.00
02140	Amalgam - One Surface, Permanent	\$ 42.00
02150	Amalgam - Two Surface, Permanent	\$ 53.00
02160	Amalgam - Three Surface, Permanent	\$ 64.00
02330	Resin - One Surface	\$ 45.00
02331	Resin - Two Surface	\$ 55.00
02332	Resin - Three Surface	\$ 65.00
02930	Stainless Steel Crown, Primary	\$ 80.00
02931	Stainless Steel Crown, Permanent	\$ 80.00
02950	Crown Buildup	\$ 85.00
03220	Pulpotomy - Deciduous Tooth Only	\$ 40.00
03310	Root Canal - One Canal	\$212.00
03320	Root Canal - Two Canals	\$241.00
03330	Root Canal - Three Canals	\$306.00
07110	Simple Extraction	\$ 38.00
07210	Surgical Extraction	\$ 57.00

In addition, the bureau shortens the identification requirements which must be processed into new removable dental prosthetics. EPSDT Dental Program providers shall process into the acrylic base of each new removable dental prosthesis the first four letters of the recipient's last name, first initial, month and year, and the last five digits of the Medicaid provider number.

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

David W. Hood
Secretary

0212#104

RULE

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

Emergency Medical Transportation Program
Emergency Ambulance Services
Reimbursement Increase

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

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for the following designated procedure codes for emergency ambulance transportation services by 5 percent.

A0427	ALS-Emergency
A0433	ALS2
A0434	Speciality care transport

Reimbursement for the following designated procedure code for emergency ambulance transportation services will be increased by 6 percent.

A0425	Ground mileage
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Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0212#103

RULE

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

Medical Transportation Services
Non-Emergency Ambulance Services
Reimbursement Increase

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

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for certain designated procedure codes for non-emergency ambulance transportation services to the following rates:

A0426	ALS non-emergency transport	\$178.26
A0428	BLS non-emergency transport	\$178.26
Z5100	Transfer, loaded miles, BLS, 1st trip	\$178.26
Z5101	Transfer, loaded miles, ALS, 1 st trip	\$178.26

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

David W. Hood
Secretary

0212#107

RULE

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

Minimum Licensing Standards
Ambulatory Surgical Centers
Stereotactic Radiosurgery
(LAC 48:I.4501, 4503, 4509 and 4571)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 48:I.4501, 4503, and 4509 as authorized by R.S. 40:2131-2141 and Act 754 of 2001. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48
PUBLIC HEALTHC GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 45. Ambulatory Surgical Center

§4501. Definitions

A. Ambulatory Surgical CenterC

1. an establishment with an organized medical staff of physicians, with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures, with continuous physician services and registered professional nursing services available whenever a patient is in the facility, which does not provide services or other accommodations for patients to stay overnight, and which offers the following services whenever a patient is in the center:

- a. drug services as needed for medical operations and procedures performed;
- b. provisions for physical and emotional well-being of patients;
- c. provision of emergency services;
- d. organized administrative structure; and
- e. administrative, statistical, and medical records.

2. *Ambulatory Surgical Center* also means a treatment center that is operated primarily for the purpose of offering stereotactic radiosurgery by use of a Gamma Knife or similar neurosurgical tool.

B. StandardsCthe rules, regulations and minimum standards duly adopted and promulgated by the Department of Health and Hospitals with approval of the secretary.

C. DivisionCthe Bureau of Health Services Financing of the Department of Health and Hospitals.

D. DepartmentCthe Department of Health and Hospitals.

E. SecretaryCthe secretary of the Department of Health and Hospitals of the state of Louisiana.

F. - Q.4 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2143.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 14:155 (March 1988), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2536 (December 2002).

§4503. Agency Responsibilities

A. Responsibilities for licensing procedures for ambulatory surgical centers shall be accomplished by the Bureau of Health Services Financing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2536 (December 2002).

§4509. General

A. Except as otherwise specified in §4571, ambulatory surgical centers shall comply with the following:

1. all licensing requirements contained in this Chapter 45; and
2. all applicable sections of the Guidelines for Design and Construction of Hospital and Health Care Facilities.

B. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2143.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 14:155 (March 1988), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2536 (December 2002)

§4571. Stereotactic Radiosurgery

A. Ambulatory surgical centers operated primarily for the purpose of offering stereotactic radiosurgery by use of a Gamma Knife or similar neurosurgical tool are exempt from:

1. the following requirements in this Chapter 45:
 - a. Subsection 4509.L;
 - b. Subsection 4545.B;
 - c. Subsection 4545.D; and

2. Section 9.5.F5.c of the Guidelines for Design and Construction of Hospital and Health Care Facilities, which provides:

a. "Scrub facilities. Station(s) shall be provided near the entrance to each operating room and may service two operating rooms if needed. Scrub facilities shall be arranged to minimize incidental splatter on nearby personnel or supply carts."

B. The exceptions listed in this §4571 do not apply to ambulatory surgical centers performing surgical procedures in conjunction with stereotactic radiosurgery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2536 (December 2002).

David W. Hood
Secretary

0212#102

RULE

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

Nursing Facilities
Reimbursement Methodology
Minimum Data Set Verification
(LAC 50:VII.1301, 1303, 1313 and 1315)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 50:VII.1301 and 1303 and adopted new provisions under the Medical Assistance Program as authorized by R.S. 46:2742 and 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 HEALTHC MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1301. Definitions

* * *

*Calendar Quarter*Ca three-month period beginning January 1, April 1, July 1, or October 1.

* * *

Case Mix IndexCa numerical value that describes the resident's relative resource use within the groups under the Resource Utilization Group (RUG-III) classification system prescribed by the department based on the resident's MDS assessment. Two average CMIs will be determined for each facility on a quarterly basis, one using all residents (the facility average CMI) and one using only Medicaid residents (the Medicaid average CMI).

* * *

Delinquent MDS Resident AssessmentCan MDS assessment that is more than 121 days old, as measured by the R2b date field on the MDS.

* * *

Minimum Data Set (MDS)Ca core set of screening and assessment data, including common definitions and coding categories, that form the foundation of the comprehensive assessment for all residents of long term care facilities certified to participate in the Medicaid program. The items in the MDS standardize communication about resident problems, strengths, and conditions within facilities, between facilities, and between facilities and outside agencies. The Louisiana system will employ the MDS 2.0 or subsequent revisions as approved by the Center for Medicare and Medicaid Services.

MDS Supportive Documentation Guidelinesthe department's publication of the minimum medical record documentation guidelines for the MDS items associated with the RUG-III classification system. These guidelines shall be maintained by the department and updated and published as necessary.

On-Site MDS ReviewCa systematic official verification, including the final written report of the examination of original medical record documentation supporting resident assessment data.

* * *

Point-in-TimeCa report that reflects the residents in the facility on the last day of the previous calendar quarter.

* * *

RUG-III Resident Classification Systemthe resource utilization group used to classify residents. When a resident classifies into more than 1 RUG-III group, the RUG-III group with the greatest CMI will be utilized to calculate the facility average CMI and Medicaid average CMI.

Unsupported MDS Resident AssessmentCan assessment where one or more data items that are used to classify a resident pursuant to the RUG-III, 34-group, resident classification system is not supported according to the MDS supporting documentation guidelines and a different RUG-III classification would result in order for the MDS assessment to be considered "unsupported."

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), amended LR 28:1790 (August 2002), LR 28:2536 (December 2002).

§1303. Cost Reports

A. - A.4. ...

B. Cost reports must be prepared in accordance with the cost reporting instructions adopted by the Medicare Program and using the definition of allowable and non allowable cost

contained in the Medicare/Medicaid provider reimbursement manual, with the following exceptions.

1. Cost reports must be submitted annually. The due date for filing annual cost reports is the last day of the fifth month following the facility's fiscal year end.

2. There shall be no automatic extension of the due date for the filing of cost reports. If a provider experiences unavoidable difficulties in preparing its cost report by the prescribed due date, one 30-day extension may be permitted, upon written request submitted to the Medicaid Program prior to the due date. The request must explain in detail why the extension is necessary. Extensions beyond 30 days may be approved for situations beyond the facility's control. An extension will not be granted when the provider agreement is terminated or a change in ownership occurs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), amended LR 28:1790 (August 2002), LR 28:2537 (December 2002).

§1313. Verification of Minimum Data Set Assessments

A. The department or its contractor shall provide each nursing facility with a point-in-time preliminary case mix index (CMI) report by approximately the fifteenth day of the second month following the beginning of a calendar quarter. This preliminary CMI report will serve as notice of the MDS assessments transmitted and provide an opportunity for the nursing facility to correct and transmit any missing MDS assessments or tracking records or apply the CMS correction policy where applicable. The department or its contractor shall provide each nursing facility with a final CMI report utilizing MDS assessments after allowing the facilities a reasonable amount of time to process their corrections (approximately two weeks).

1. If the department or its contractor determines that a nursing facility has delinquent MDS resident assessments, for purposes of determining both average CMIs, such assessments shall be assigned the case mix index associated with the RUG-III group "BC1-Delinquent." A delinquent MDS shall be assigned a CMI value equal to the lowest CMI in the RUG-III classification system.

B. The department or its contractor shall periodically review the MDS supporting documentation maintained by nursing facilities for all residents, regardless of payer type. Such reviews shall be conducted as frequently as deemed necessary by the department. The department shall notify facilities of the MDS reviews not less than two business days prior to the start of the MDS review date and a fax, electronic mail or other form of communication will be provided to the administrator and MDS coordinator on the same date identifying documentation that will be required to be available at the start of the on-site MDS review.

1. The department or its contractor shall review a sample of MDS resident assessments equal to the greater of 20 percent of the occupied bed size of the facility or 10 assessments and shall include those transmitted assessments posted on the most current point-in-time report. The MDS review will determine the percentage of assessments in the sample that are unsupported MDS resident assessments. The department may review additional or alternative MDS assessments, if it is deemed necessary.

2. When conducting the MDS reviews, the department or its contractor shall consider all MDS supporting documentation that is provided by the nursing facility and is available to the RN reviewers prior to the exit conference. MDS supporting documentation that is provided by the nursing facility after the exit conference shall not be considered for the MDS review.

3. Upon request by the department or its contractor, the nursing facility shall be required to produce a computer-generated copy of the transmitted MDS assessment which shall be the basis for the MDS review.

4. After the close of the MDS review, the department or its contractor will submit an MDS review findings report to the facility within 10 business days following the exit conference.

5. The following corrective action will apply to those facilities with unsupported MDS resident assessments identified during an on-site review.

a. If the percentage of unsupported assessments in the initial on-site review sample is greater than 25 percent, the sample shall be expanded to include another 20 percent of remaining resident assessments.

b. If the percentage of unsupported assessments in the total sample is equal to or less than the threshold percentage as shown in Column (B) of the table in Subparagraph d below, no corrective action will be applied.

c. If the percentage of unsupported assessments in the total sample is greater than the threshold percentage as shown in Column (B) of the table in Subparagraph d below, the RUG-III classification shall be recalculated for the unsupported MDS assessments based upon the available documentation obtained during the review process. The facility's CMI and resulting Medicaid rate shall be recalculated for the quarter in which the point-in-time roster was used to determine the Medicaid rate. A follow-up review process described in Subparagraphs d and e may be utilized at the discretion of the department.

d. Those providers exceeding the thresholds [see Column (B) of the table in Subparagraph e] during the initial on-site review will be given 90 days to correct their assessing and documentation processes. A follow-up MDS review may be performed at the discretion of the Department at least 30 days after the facility's 90-day correction period. The department shall notify the facility not less than two business days prior to the start of the MDS review date. A FAX, electronic mail, or other form of communication will be provided to the administrator and MDS coordinator on the same date identifying documentation that must be available at the start of the on-site MDS review.

e. After the follow-up MDS review, if the percentage of unsupported assessments in the total sample is greater than the threshold percentage as shown in Column (B) of the following table, the RUG-III classification shall be recalculated for the unsupported MDS assessments based upon the available documentation obtained during the review process. The facility's CMI and resulting Medicaid rate shall be recalculated for the quarter in which the point-in-time roster was used to determine the Medicaid rate. In addition, facilities found to have unsupported MDS resident assessments in excess of the threshold in Column (B) of the table below may be required to enter into an MDS Documentation Improvement Plan with the department of

Health and Hospitals. Additional follow-up MDS reviews may be conducted at the discretion of the department.

Effective Date (A)	Threshold Percent (B)
January 1, 2003	Educational
January 1, 2004	40%
January 1, 2005	35%
January 1, 2006	25%

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2537 (December 2002).

§1315. Appeal Process

A. If the facility disagrees with the review findings, a written request for an informal reconsideration must be submitted to the department or its contractor within 15 business days of the facility's receipt of the MDS review findings report. Otherwise, the results of the MDS review findings report are considered final and not subject to appeal. The department or its contractor will review the facility's informal reconsideration request within 10 business days and will send written notification of the final results of the reconsideration to the facility. No appeal of findings will be accepted until after communication of final results of the informal reconsideration process.

B. The provider has the right to request an appeal within 30 days of the written notice of the results of the informal reconsideration. Such request must be in writing to the Appeals Section. The request must contain a statement and be accompanied by supporting documents setting forth with particularity those asserted discrepancies which the provider contends are in compliance with the agency's regulations and the reasons for such contentions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2538 (December 2002).

David W. Hood
Secretary

0212#108

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 78C Policy Form Filing Requirements
(LAC 37:XIII.Chapters 59 and 101)**

Under the authority of Louisiana Revised Statutes Title 22, R.S. 49:950 et seq. and R.S. 22:620.A, the Department of Insurance has adopted the following Rule to establish reasonable requirements for insurers who seek to file insurance products in this state for approval. This Rule is necessary to provide for the uniform and practicable administration of the form filing, review and approval requirements of the Louisiana Insurance Code and to assist all insurers doing business in the state of Louisiana in

complying with the form filing, review and approval requirements of the Louisiana Insurance Code.

Existing Chapter 59, Regulation 15C Rules, Rates, and Forms (By Lines) of the Department of Insurance is repealed in its entirety as of the effective date of this proposed regulation.

Title 37
INSURANCE

Part XIII. Regulations

Chapter 59. Regulation 15C Rules, Rates, and Forms (By Lines)

§5901. Filing Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, October 1, 1958, repealed LR 28:2539 (December 2002)

Chapter 101. Regulation 78C Policy Form Filing Requirements

§10101. Purpose

A. The purpose of this regulation is:

1. to provide for the uniform and practicable administration of the form filing, review and approval requirements of the Louisiana Insurance Code;

2. to clarify the disparate provisions of R.S. 22:620.B;

3. to further protect the interests of insurance consumers and the public through improvements to the form filing, review and approval processes; and

4. to assist all insurers doing business in the state of Louisiana in complying with the form filing, review and approval requirements of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and *Directive* 169.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002).

§10103. Authority

A. This regulation is adopted pursuant to R.S. 22:3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and *Directive* 169.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002).

§10105. Applicability and Scope; Severability

A. This regulation applies to all insurers doing business in the state of Louisiana subject to the form filing, review and approval provisions of the Louisiana Insurance Code.

B. If any provision of this regulation, or its application to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end, the provisions of this regulation are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and *Directive* 169.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002).

§10107. Filing and Review of Health Insurance Policy Forms and Related Matters

A. Definitions. As used in this Section, the following terms shall have the meaning or definition as indicated herein.

Affirmative Approval Cdepartment approval, as a result of the department taking action, following *compliance review* of a complete filing, or a filing pursuant to §4.D hereof.

Association Can organization legally formed for purposes other than the procurement of insurance and, depending upon the particular insurance products in question, meeting the requirements of R.S. 22:215.A(1)(a)(iv), or R.S. 22:215.A(4)(a), or R.S. 22:250.1(5)(b), or R.S. 22:1734(4), whichever is applicable.

Basic Insurance Policy Form Can insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance product. It includes certificates of coverage and any other evidence of coverage, subscriber agreements, application forms where written application is required and is to be attached to the policy or be a part of the contract, and any life or health and accident rider or endorsement form. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

Certification of Compliance Ccertification by an *insurer*, executed by an officer or authorized representative of the *insurer* on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A *Certification of Compliance* must be included with any filing for *certified approval*.

Certified Approval Cexpedited approval by the department of a complete filing based upon the inclusion of a *Statement of Compliance* and a *Certification of Compliance*, executed by an officer or authorized representative of the filing *insurer* on a form prescribed by the department. The department shall by *directive* determine those specific types of coverages and particular types of contracts for which the *certified approval* procedure is either required or available at the option of the *insurer*.

Complete Filing Cthe filing of a single insurance product, including any required filing fees, a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract, any life or health and accident rider or endorsement forms, all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable *Statement of Compliance*.

Compliance Audit Ca retrospective review conducted by the department of previously approved basic insurance policy forms to determine compliance with applicable law.

Compliance Review Cdepartment review of a filing made pursuant to this Section to determine either that the filing is in compliance with all applicable statutes, rules and regulations, or that the filing should be disapproved for noncompliance.

Deemed Approval Capproval of a *complete filing* based upon notice, as provided herein, made to the department by the filing *insurer*, following expiration of the specific time periods as provided herein, where affirmative approval has

not been granted and the filing has not been disapproved by the department.

Department—the Louisiana Department of Insurance, and includes the Commissioner of Insurance.

Endorsement—a written agreement attached to an insurance product to add or subtract coverage, or otherwise modify the product.

Insurance Product—a basic insurance policy form delineating the terms, provisions and conditions of a specific type of coverage under a particular type of contract.

Insurer—every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:5. As used in this Section, *insurer* shall also include fraternal benefit societies and health maintenance organizations.

Method of Marketing—marketing either through independent or captive agents; telephone, e-mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

Required Filing Fee—the fee assessed per product or filing pursuant to state insurance law.

Rider—an endorsement to an insurance product that modifies clauses and provisions of the product, including adding or excluding coverage.

Statement of Compliance—a form prescribed by the department, detailing the requirements specific to a particular form of coverage and contract type.

Trust—a fund established by an employer, two or more employers in the same industry, a labor union, or an association, pursuant to a trust instrument which transfers title to property and/or funds to one or more trustees to be administered as fiduciaries for the benefit of others, pursuant to R.S. 22:215.A.(1).

B. Filing Required

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, may be issued or delivered in this state unless and until it has been filed with and approved by the commissioner of insurance. This requirement also applies to any group health or accident insurance policy covering residents of Louisiana, regardless of where issued or delivered. Every page of each such form, including rider and endorsement forms, filed with the department must be identified by a form number in the lower left corner of the page.

2. A Health and Accident Transmittal Document must accompany every filing, describing the items included in the filing, the insurance product for which the filing is being made, and the method of marketing to be used for the product. If the filing will include life insurance to be offered as an optional benefit under the base health insurance contract, the policy forms should be submitted in triplicate, notwithstanding the provisions of Paragraph C.2 hereof, and include the appropriate *Statement of Compliance* for said life insurance product.

C. General Filing Requirements

1. The department shall designate, by *directive*, those insurance products which must be filed pursuant to the requirements for *certified approval* as set forth in Subsection F hereof, "Time Periods and Requirements for Certified Approval of Policy Form Filings." A directive issued

pursuant to this Subsection may also designate those insurance products which may, at the discretion of the *insurer*, be filed either pursuant to said requirements for Certified Approval, or as ordinary filings subject to review as set forth in Subsection E hereof. All insurance products not so designated shall be filed pursuant to the requirements for Compliance Review as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms."

2. Other than as specified in Subsection D hereof, "Exceptions," only complete filings will be accepted, whether by mail or as otherwise authorized. In order for the department to conduct a proper compliance review or compliance audit of an insurance product, all items associated therewith must be included. A filing will be determined incomplete and will be disapproved if it does not contain all applicable items.

a. All filings of an insurance product must include, in final wording, the following items, in order:

- i. required filing fee, per insurance product, per insurance company;
- ii. completed Health and Accident Transmittal Document, as prescribed by the department;
- iii. *Statement of Compliance* for said product;
- iv. policy forms filed for approval, in duplicate;
- v. application form, in duplicate;
- vi. rider or endorsement forms, in duplicate;
- vii. copies of any sample identification card intended for issue to covered persons, in duplicate;
- viii. initial premium rates and classification of risks; and

ix. stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

c. Filings of policy forms for one or more standardized Medicare Supplement insurance plans, or one or more standardized Medicare Select insurance plans, shall be considered a filing of one insurance product per *insurer*. Such filings must include, in final wording, the following items, in order:

- i. required filing fee, per insurance product, per insurance company;
- ii. required filing fee for premium rates, rating schedule and supporting documentation; and required filing fee for advertisements;
- iii. completed Health and Accident Transmittal Document, as prescribed by the department;
- iv. *Statement of Compliance* for said product;
- v. policy forms filed for approval, in duplicate;
- vi. outline of coverage, in duplicate;
- vii. application form, in duplicate;
- viii. replacement notice, in duplicate;
- ix. rider or endorsement forms, in duplicate;
- x. proposed plan of operation, as set forth in LAC 37:XIII.525.E for Medicare Select insurance plans, in duplicate;
- xi. premium rates, rating schedule, and supporting documentation, in duplicate;
- xii. any new related advertising as defined in Rule 3A, §4, in duplicate; and

xiii. stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

c. Filings of policy forms for Long Term Care insurance must include, in final wording, the following items, in order:

- i. required filing fee, per insurance product, per insurance company;
- ii. completed Health and Accident Transmittal document, as prescribed by the department;
- iii. *Statement of Compliance* for said product;
- iv. policy forms filed for approval, in duplicate;
- v. outline of coverage, in duplicate;
- vi. application form, in duplicate;
- vii. replacement notice, in duplicate;
- viii. rider or endorsement forms, in duplicate;
- ix. premium rates and classification of risks;
- x. personal worksheet, as per Regulation 46, Appendix B, in duplicate;
- xi. disclosure, as per Regulation 46, Appendix C, in duplicate;
- xii. suitability letter, as per Regulation 46, Appendix D, in duplicate;
- xiii. any new related advertising as defined in Rule 3, 3.4, in duplicate; and
- xiv. stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

d. Filings of all group insurance products must include the group master contract, individual certificates or subscriber agreements or other statements of coverage, group application, individual enrollment forms, and any conversion insurance policy and application for conversion, if offered under the group master contract.

e. Filings of group health and accident products intended for issue to an association are limited to associations as defined herein and must include the association's constitution, by-laws, membership application, membership agreement and brochure of membership benefits other than the insurance products offered.

f. Filings of group health and accident products intended for issue to a trust are limited to trusts established by an employer or association and must include the trust agreement, articles of incorporation or other instrument creating the trust, and member adoption agreement. If the trust was established by an association, include the information described in Subparagraph C.2.e hereof.

g. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval not more than three years prior to the filing of said amendatory rider or endorsement. Such filings must include specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized. Such filings must also include an affidavit, on a form prescribed by the department, affirming that the insurance product, if amended by rider or endorsement as requested, will be fully compliant with all pertinent statutes and regulations. Premium rates and classification of risks are not required with such filings.

h. Filings of amendatory riders or endorsements, as needed to bring into compliance with law any existing insurance products that have been previously certified or granted *affirmative approval* and are currently in force, but are no longer being marketed, must include specimen copies of the previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized. Premium rates and classification of risks are not required with such filings. The transmittal document should advise that the previously approved or certified form is no longer being marketed.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed, at the discretion of the department, subject to the conditions stated herein, for the following policy forms.

1. Application forms or enrollment forms to be used with a particular insurance product, or with multiple insurance products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form or enrollment form will henceforth be used, and the application form or enrollment form is included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing. No filing fees will be required for these filings.

2. Identification Cards. No filing fees will be required for these filings.

3. Medicare Supplement Advertising. Such filings must include statutory filing fees.

4. Long Term Care Advertising. No filing fees will be required for these filings.

5. Medicare Supplement Rate Filings. Such filings must clearly indicate the percentage of increase in rates for each standardized plan and existing pre-standardized plan. Such filings must include statutory filing fees for standardized plans.

6. Exclusionary riders pursuant to R.S. 22:250.11.C; provided that the policy form filings and dates approved are identified for each previously approved product with which the rider form will henceforth be used. No filing fees will be required for these filings. The rider form shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

7. Assumption certificates, which must be filed in duplicate, with a single copy of the assumption agreement, letter of domiciliary state approval, information fully identifying the block of business being assumed, the number of covered lives residing in the state of Louisiana to be affected by the assumption, and the effective date of the assumption. No filing fees will be required for these filings.

8. Following approval of a complete filing of a Medicare Supplement insurance product, subsequent filings by the same *insurer* of standardized plans of insurance of the same type do not require inclusion of associated forms such as the replacement notice or plan of operation, unless changes have been made or the plan of operation has changed.

9. Following approval of a complete filing of a Long Term Care insurance product, subsequent filings by the same *insurer* of other Long Term Care products do not require inclusion of associated forms such as the replacement notice,

personal worksheet, disclosure notice and suitability letter, unless changes have been made.

10. Forms for lines of insurance or insurance products specifically exempted pursuant to statute.

E. Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms

1. The time periods stated in this Section do not begin until the date a complete filing, or a filing pursuant to Subsection D hereof, "Exceptions," is received by the department.

2. If a filing made is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this Regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the "General Filing Requirements" of this Section no less than 45 days in advance of planned issuance, delivery or use.

4. If affirmatively approved by the department prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. If disapproved, the policy forms filed may not be used.

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the *insurer* may submit written notice to the department that the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

7. The commissioner of insurance may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. If affirmatively approved by order of the commissioner prior to expiration of the 15-day extended period allowed for department review, the policy forms filed may be used on or after the date approved.

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the *insurer* may submit written notice to the department that the policy forms filing has been deemed approved on a specific date, or advise when the policy forms filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

F. Time Periods and Requirements for *Certified Approval* of Policy Form Filings

1. The department will make available *Statements of Compliance* setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as *Certification of Compliance* forms.

2. A policy form filing submitted for *certified approval* must include the following documents:

a. *Statement of Compliance* applicable to the form of coverage and contract type being submitted;

b. signed and dated *Certification of Compliance*;

c. all other items as set forth in Paragraph C.2 hereof.

3. If the filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this Regulation.

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming *certified approval* or disapproving the policy form filing, the *insurer* may submit written notice to the department that the policy forms filing has been deemed approved on a specific date, or advise when the policy forms filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

5. No *insurer*, or officer, employee or representative of an *insurer*, shall file a *Certification of Compliance* containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a *Certification of Compliance* contained any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the *insurer* may be subjected to the provisions of Subsection I hereof.

G. Resubmission of Filings

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing; must comply with all provisions of this Section for such a filing; and, in addition to the required filing fee, must include:

a. an outline of the proposed revisions, referencing the specific sections and page numbers for each form being revised;

b. a restatement of the form with all necessary revisions, as set forth in the prior order of disapproval, underlined in red or similarly emphasized; and

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the department on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing; must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements"; and, in addition to the required filing fee, must include:

a. a copy of the previously approved form;

b. an outline of the proposed revisions, referencing the specific sections and page numbers for each previously approved form being revised;

c. a restatement of the form, with all proposed revisions underlined in red or similarly emphasized; and

d. a copy of the prior order of approval, issued by the department on the previous filing.

3. For simplicity, it is advisable that a unique form number be assigned to a substantially rewritten form, and that such form be filed as an original filing.

H. Compliance and Audits

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, *insurers* shall not fail to revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to

all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise determined by the Louisiana Legislature.

2. A retrospective review process will be utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. *Insurers* shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers, being discontinued and dates originally approved by the department.

I. Withdrawal of Approval and Corrective Action

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an *insurer*, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected *insurer*.

a. The affected *insurer* may request a hearing on the withdrawal of approval, by written request mailed to the department within 30 days of receipt of the notice of withdrawal of approval.

b. Upon receipt by the department of a request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the *insurer* requesting the hearing. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. Upon receipt of the notice of withdrawal of approval by the department, the affected *insurer* must:

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which approval has been withdrawn; and

c. immediately review other products being marketed by the *insurer* to assure that they do not contain such non-compliant provisions.

3. Within 30 days of receipt of the notice of withdrawal of approval by the department, a corrective action plan must be submitted to the department by the affected *insurer*. The corrective action plan must include the following.

a. If the affected product will no longer be marketed, amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-

compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

b. If the *insurer* desires to continue marketing the affected product, both:

i. a complete filing of properly revised forms in accordance with Paragraph G1 hereof; and

ii. amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

c. Where such a required change can be clearly explained to prospective policy holders through amendatory endorsement forms or rider forms. Such approval shall not extend to any reprinting of such forms.

4. As of 30 days following receipt of the notice of withdrawal of approval by the department, an affected product shall not be issued by the *insurer*, except in accordance with a corrective action plan approved by the department. The *insurer* has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly.

5. The department may, in its discretion, extend the 30-day period for approval of a corrective action plan, upon the written request of the affected *insurer* and for good cause shown. In the event such an extension is granted, the date by which the *insurer* must cease issuing the affected product, except in accordance with a corrective action plan approved by the department, shall likewise be so extended.

6. Failure to timely respond as required herein shall result in a formal investigation to establish the extent of statutory violations, followed by an administrative hearing to determine appropriate sanctions against the *insurer*.

7. Where the department fails to respond to a corrective action plan filed by an insurer, or takes no action whatsoever regarding such plan, the insurer may deem the subject corrective action plan approved at the expiration of the 30-day period for approval by the department.

J. Appeals; Hearings. Any *insurer* or other person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects the company is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such *insurer* or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. Maintenance of Records; Alteration of Forms Prohibited

1. Every *insurer* or other person filing policy forms, or related forms, for approval by the department shall maintain

in their files the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained until the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. The alteration of, or any change to, any such form approved by the department is prohibited. Any such altered or changed form shall be submitted to the department as a new filing, and shall comply with all provisions of this Section applicable to a new filing. This Subsection shall not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the product.

3. A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the *insurer*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and *Directive* 169.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002).

§10109. Filing and Review of Life and Annuity Insurance Policy Forms and Related Matters

A. Definitions. As used in this Section, the following terms shall have the meaning or definition as indicated herein.

Affirmative Approval department approval, as a result of the department taking action, following *compliance review* of a complete filing, or a filing pursuant to Subsection D hereof.

Association Can organization which has been formed for purposes other than procuring insurance for the members or employees.

Basic Insurance Policy Form Can insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance or annuity product. It includes certificates of coverage, application forms where written application is required and is to be attached to the policy or be a part of the contract, and any life or health and accident rider or endorsement form. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

Certification of Compliance certification by an *insurer*, executed by an officer or authorized representative of the *insurer* on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A *Certification of Compliance* must be included with any filing for Certified Approval.

Certified Approval expedited approval by the department of a complete filing based upon the inclusion of a *Statement of Compliance* and a *Certification of Louisiana Register Vol. 28, No. 12 December 20, 2002*

Compliance, executed by an officer or authorized representative of the filing *insurer* on forms prescribed by the department. The department shall by *directive* determine those specific types of coverage and particular types of contracts for which the *certified approval* procedure is either required or available at the option of the *insurer*.

Complete Filing the filing of a single insurance product, including any required filing fees, a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract, any life or health and accident rider or endorsement forms, all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable *Statement of Compliance*.

Compliance Audit a retrospective review conducted by the department of previously approved basic insurance policy forms to determine compliance with applicable law.

Compliance Review department review of a filing made pursuant to this Section to determine either that the filing is in compliance with all applicable statutes, rules and regulations, or that the filing should be disapproved for noncompliance.

Deemed Approval approval of a complete filing based upon notice, as provided herein, made to the department by the filing *insurer*, following expiration of the specific time periods as provided herein, where *affirmative approval* has not been granted and the filing has not been disapproved by the department.

Department the Louisiana Department of Insurance, and includes the commissioner of insurance.

Endorsement a written agreement attached to an insurance product to add or subtract coverage, or otherwise modify the product.

Insurance Product a basic insurance policy form delineating the terms, provisions and conditions of a specific type of coverage under a particular type of contract.

Insurer every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:5. As used in this Section, *insurer* shall also include fraternal benefit societies.

Method of Marketing marketing either through independent or captive agents; telephone, email or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

Required Filing Fee the fee assessed per product or filing pursuant to state insurance law.

Rider Can endorsement to an insurance product that modifies clauses and provisions of the product, including adding or excluding coverage.

Statement of Compliance a form prescribed by the department detailing the requirements specific to a particular form of coverage and contract type.

Trust a fund established by an employer, two or more employers, a labor union, or an association, pursuant to a trust instrument which transfers title to property and/or funds to one or more trustees to be administered as fiduciaries for the benefit of others.

B. Filing Required

1. pursuant to R.S. 22:620.A, no basic insurance policy form, or application form where written application is required and is to be attached to the policy or be a part of the

contract, or printed rider or endorsement form, may be issued or delivered in this state unless and until it has been filed with and approved by the commissioner of insurance. This requirement applies to any group life insurance policy or annuity covering residents of Louisiana where issued or delivered in Louisiana. Every page of each such form, including rider and endorsement forms, filed with the department must be identified by a form number in the lower left corner of the page.

2. A Life and Annuity Transmittal Document must accompany every filing, describing the items included in the filing, the insurance or annuity product for which the filing is being made, and the method of marketing to be used for the product. If the filing will include health insurance to be offered as an optional benefit under the base life insurance contract, the policy forms should be submitted in triplicate, notwithstanding the provisions of Paragraph C.2 hereof, and include the appropriate *Statement of Compliance* for said health insurance product.

C. General Filing Requirements

1. The department shall designate, by directive, those insurance or annuity products which must be filed pursuant to the requirements for *certified approval* as set forth in Subsection F hereof, "Time Periods and Requirements for Certified Approval of Policy Form Filings." A directive issued pursuant to this Subsection may also designate those insurance or annuity products which may, at the discretion of the *insurer*, be filed either pursuant to said requirements for *certified approval*, or as ordinary filings subject to review as set forth in Subsection E hereof. All insurance or annuity products not so designated shall be filed pursuant to the requirements for *compliance review* as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms."

2. Other than as specified in Subsection D hereof, "Exceptions," only complete filings will be accepted, whether by mail or as otherwise authorized. In order for the department to conduct a proper compliance review or compliance audit of an insurance or annuity product, all items associated therewith must be included. A filing will be determined incomplete and will be disapproved if it does not contain all applicable items.

a. All filings of individual life insurance or annuity products must include, in final wording, the following items, in order:

- i. required filing fee, per insurance or annuity product, per company;
- ii. completed Life and Annuity Transmittal Document, as prescribed by the department;
- iii. *Statement of Compliance* for said product;
- iv. policy forms filed for approval, in duplicate;
- v. application form, in duplicate;
- vi. *rider* or endorsement forms, in duplicate;
- vii. actuarial memorandum describing the statutory reserves and non-forfeiture values that will be used for each plan of insurance, in duplicate;
- viii. life illustrations, if illustrated, in duplicate; and
- ix. stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

b. Filings of all group life and annuity products must include, in final wording, the following:

- i. required filing fee, per insurance or annuity product, per insurance company;
- ii. completed Life and Annuity Transmittal Document, as prescribed by the department;
- iii. *Statement of Compliance* for said product;
- iv. group master contract, in duplicate;
- v. individual certificate, in duplicate;
- vi. group application, in duplicate;
- vii. *rider* or endorsement forms, in duplicate;
- viii. employee/member enrollment forms, in duplicate;
- ix. actuarial memorandum describing the statutory reserves and non-forfeiture values that will be used for each plan of insurance, in duplicate; and
- x. stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

c. Filings of group life and annuity products intended for issue to an association are limited to associations as defined herein, and must include the association's constitution, by-laws, membership application, membership agreement and brochure of membership benefits other than the insurance products offered.

d. Filings of group life and annuity products intended for issuance to a *trust* are limited to *trusts* established by an employer or association and must include the *trust* agreement, articles of incorporation or other instrument creating the *trust*, and member adoption agreement. If the *trust* was established by an association, include the information described in Subparagraph C.2.c hereof. This subsection shall not apply to trusts established by qualified or government pension plans.

e. Filings of amendatory *riders* or endorsements as needed to bring into compliance with law any existing insurance or annuity products that have been previously approved and are currently in force, but are no longer being marketed, must include specimen copies of the previously approved forms, the dates previously approved, and the specific terms and provisions being amended, underlined in red or otherwise noted. The transmittal letter should advise that the previously approved form is no longer being marketed.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed, at the discretion of the department, subject to the conditions stated herein, for the following policy forms.

1. Application forms to be used with a particular insurance or annuity product, or with multiple insurance or annuity products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form will henceforth be used and, the application form is included with any subsequently filed basic insurance or annuity policy forms as needed to constitute a complete filing. No filing fees will be required for these filings.

2. Assumption certificates, which must be filed in duplicate, with a single copy of the assumption agreement, letter of domiciliary state approval, information fully identifying the block of business being assumed, the number of covered lives residing in the state of Louisiana to be affected by the assumption, and the effective date of the assumption. No filing fees will be required for these filings.

3. *riders* or endorsement forms affecting previously approved life insurance or annuity products, provided that the policy form filings and dates approved are identified for each previously approved product with which the rider or endorsement form will henceforth be used. No filing fees will be required for these filings. The rider or endorsement forms shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

4. Forms for lines of insurance or insurance products specifically exempted pursuant to statute.

E. Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms

1. The time periods stated in this Section do not begin until the date a complete filing, or a filing pursuant to Subsection D hereof, "Exceptions," is received by the department.

2. If a filing made is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this Regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the General Filing Requirements of this Section no less than 45 days in advance of planned issuance, delivery or use.

4. If affirmatively approved by the department prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. If disapproved, the policy forms filed may not be used.

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the *insurer* may submit written notice to the department that the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

7. The commissioner of insurance may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. If affirmatively approved by order of the commissioner prior to expiration of the 15-day extended period allowed for department review, the policy forms filed may be used on or after the date approved.

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the *insurer* may submit written notice to the department that the policy forms filing has been deemed approved on a specific date, or advise when the policy forms filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

F. Time Periods and Requirements for Certified Approval of Policy Form Filings

1. The department will make available "Statements of Compliance" setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as *Certification of Compliance* forms.

2. A policy form filing submitted for *certified approval* must include the following documents:

- a. *Statement of Compliance* applicable to the form of coverage and contract type being submitted;
- b. signed and dated *Certification of Compliance*;
- c. all other items as set forth in Paragraph C.2 hereof.

3. If the filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this Regulation.

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming *certified approval* or disapproving the policy form filing, the *insurer* may submit written notice to the department that the policy forms filing has been deemed approved on a specific date, or advise when the policy forms filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

5. No *insurer*, or officer, employee or representative of an *insurer*, shall file a *Certification of Compliance* containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a *Certification of Compliance* contained any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the *insurer* may be subjected to the provisions of Subsection I hereof.

G. Resubmission of Filings

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing; must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements"; and, in addition to the required filing fee, must include:

- a. an outline of the proposed revisions, referencing the specific sections and page numbers for each form being revised;
- b. a restatement of the form with all necessary revisions, as set forth in the prior order of disapproval, underlined in red or similarly emphasized; and
- c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the department on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing; must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements"; and, in addition to the required filing fee, must include:

- a. a copy of the previously approved form;
- b. an outline of the proposed revisions, referencing the specific sections and page numbers for each previously approved form being revised;
- c. a restatement of the form, with all proposed revisions underlined in red or similarly emphasized; and
- d. a copy of the prior order of approval, issued by the department on the previous filing.

3. For simplicity, it is advisable that a unique form number be assigned to a substantially rewritten form, and that such form be filed as an original filing.

H. Compliance and Audits

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, *insurers* shall not fail to revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise determined by the Louisiana Legislature.

2. A retrospective review process will be utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. *Insurers* shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by this department.

I. Withdrawal of Approval and Corrective Action

1. The department shall withdraw any *affirmative approval* of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an *insurer*, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected *insurer*.

a. The affected *insurer* may request a hearing on the withdrawal of approval, by written request mailed to the department within 30 days of receipt of the notice of withdrawal of approval.

b. Upon receipt by the department of a request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the *insurer* requesting the hearing. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. Upon receipt of the notice of withdrawal of approval by the department, the affected *insurer* must:

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which approval has been withdrawn; and

c. immediately review other products being marketed by the *insurer* to assure that they do not contain such non-compliant provisions.

3. Within 30 days of receipt of the notice of withdrawal of approval by the department, a corrective action plan must be submitted to the department by the affected *insurer*. The corrective action plan must include the following.

a. If the affected product will no longer be marketed, amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

b. If the *insurer* desires to continue marketing the affected product, both:

i. a complete filing of properly revised forms in accordance with Paragraph G.1 hereof; and

ii. amendatory endorsement forms or *rider* forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

c. Where such a required change can be clearly explained to prospective policyholders through amendatory endorsement forms or rider forms, an insurer may request department approval to utilize its existing inventory of the policy forms in question subject to the incorporation of approved amendatory endorsement forms or rider forms. Such approval shall not extend to any reprinting of such forms.

4. As of 30 days following receipt of the notice of withdrawal of approval by the department, an affected product shall not be issued by the *insurer*, except in accordance with a corrective action plan approved by the department. The *insurer* has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly.

5. The department may, in its discretion, extend the 30-day period for approval of a corrective action plan, upon the written request of the affected *insurer* and for good cause shown. In the event such an extension is granted, the date by which the *insurer* must cease issuing the affected product, except in accordance with a corrective action plan approved by the department, shall likewise be so extended.

6. Failure to timely respond as required herein shall result in a formal investigation to establish the extent of statutory violations, followed by an administrative hearing to determine appropriate sanctions against the *insurer*.

7. Where the department fails to respond to a corrective action plan filed by an insurer, or takes no action whatsoever regarding such plan, the insurer may deem the subject corrective action plan approved at the expiration of the 30-day period for approval by the department.

J. Appeals; Hearings. Any *insurer* or other person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. pursuant to R.S.

22:1351, such demand must be in writing, must specify in what respects the company is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such insurer or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. Maintenance of Records; Alteration of Forms Prohibited

1. Every insurer or other person filing policy forms, or related forms, for approval by the department shall maintain in their files the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained until the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. The alteration of, or any change to, any such form approved by the department is prohibited. Any such altered or changed form shall be submitted to the department as a new filing, and shall comply with all provisions of this Section applicable to a new filing. This Subsection shall not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the product.

3. A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and *Directive* 169.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2544 (December 2002).

§10113. Filing and Review of Property and Casualty Insurance Policy Forms and Related Matters

A. Definitions. As used in this Section, the following terms shall have the meaning or definition as indicated herein.

Affirmative Approval Cdepartment approval, as a result of the department taking action, following *Compliance Review* of a complete filing, or a filing pursuant to Subsection D hereof.

Basic Insurance Policy Form Can insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance product. It includes endorsements, and application forms where written application is required and is to be attached to the policy or be a part of the contract. It does not include policies, riders., or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

Certification of Compliance Ccertification by an insurer, executed by an officer or authorized representative of the

insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A *Certification of Compliance* must be included with any filing for *certified approval*.

Certified Approval Cexpedited approval by the department of a complete filing based upon the inclusion of a *Statement of Compliance* and a *Certification of Compliance*, executed by an officer or authorized representative of the filing insurer on forms prescribed by the department. The department shall by *Directive* determine those specific types of coverage and particular types of contracts for which the Certified Approval procedure is either required or available at the option of the insurer.

Complete Filing Cthe filing of a single insurance product, including any required filing fees, a basic insurance policy form, application form to be attached to the policy or be a part of the contract, all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable *Statement of Compliance*.

Compliance Audit Ca retrospective review conducted by the department of previously approved basic insurance policy forms to determine compliance with applicable law.

Compliance Review Cdepartment review of a filing made pursuant to this Section to determine either that the filing is in compliance with all applicable statutes, rules and regulations, or that the filing should be disapproved for noncompliance.

Deemed Approval Capproval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where Affirmative approval has not been granted and the filing has not been disapproved by the department.

Department Cthe Louisiana Department of Insurance, and includes the commissioner of insurance.

Endorsement Ca written agreement attached to an insurance product to add or subtract coverage, or otherwise modify the product.

Filing Organization Can entity authorized by the Louisiana Insurance Rating Commission to act as an advisory or rating organization on behalf of its members and subscribers.

Insurance Product Ca basic insurance policy form delineating the terms, provisions and conditions of a specific type of coverage under a particular type of contract, or a basic insurance policy form which combines more than one line of business within one policy form at a single premium.

Insurer Cevery person engaged in the business of making contracts of insurance, as further defined in R.S. 22:5.

Method of Marketing Cmarketing either through independent or captive agents; telephone, email or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

Rate/Rule Approval Ca department notice addressed to an insurer granting authorization to implement or revise rates and/or rules on a specified date.

Required Filing Fee Cthe fee assessed per product or filing pursuant to state insurance law.

RiderCan endorsement to an insurance product that modifies clauses and provisions of the product, including adding or excluding coverage.

Statement of ComplianceCa form prescribed by the department detailing the requirements specific to a particular form of coverage and contract type.

B. Filing Required

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, other than surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, may be issued or delivered in this state unless and until it has been filed with and approved by the commissioner of insurance. Every page of each such form, including rider and endorsement forms, filed with the department must be identified by a form number in the lower left corner of the page.

2. A Property and Casualty Transmittal Document must accompany every filing, describing the items included in the filing, the insurance product for which the filing is being made, and the method of marketing to be used for the product.

C. General Filing Requirements

1. The department shall designate, by directive, those insurance products which must be filed pursuant to the requirements for *certified approval* as set forth in Subsection F hereof, "Time Periods and Requirements for Certified Approval of Policy Form Filings," and those insurance products which may, at the discretion of the *insurer*, be filed pursuant to said requirements. All insurance products not so designated shall be filed pursuant to the requirements for Compliance Review as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Policy Form Filings." Filing organizations are excepted from the mandatory provisions relative to Certified Approval and may, at their option, make filings pursuant to Subsection E hereof.

2. Only complete filings will be accepted, whether by mail or as otherwise authorized. In order for the department to conduct a proper compliance review or compliance audit of an insurance product, all items associated therewith must be included. A filing of a basic insurance policy form will be determined incomplete and will be disapproved if it does not contain all applicable items.

a. All filings of an insurance product must include, in final wording, the following items, in order:

- i. required filing fee, per product, per insurance company; or required filing fee per endorsement filing; per insurance company;
- ii. forms filed for approval;
- iii. completed Property and Casualty Transmittal Document, as prescribed by the department;
- iv. *Statement of Compliance* for said product;
- v. duplicate set of the policy forms filing, as filed for approval;
- vi. explanation of any rate/rule impact, with a copy of any rate/rule approval letters issued by the department; if none, so state;
- vii. stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

3. An *insurer* may elect to adopt forms submitted by a filing organization, or have a filing organization file forms on its behalf. An *insurer* may request an effective date later than the effective date of the filing by the filing organization. Such adoptions, whether delayed or not, must be requested by letter. The Forms and Compliance Division staff of the department will verify that the *insurer* is a member or subscriber of the filing organization, and that the forms being adopted have been approved by the department.

a. Adoptions, including delayed adoptions, are filed for informational purposes only, but the request will be denied if the forms proposed for adoption are not approved by the department. To receive an acknowledgement of filing, the *insurer's* request must contain the following items, in order:

- i. required filing fee, per adoption, per insurance company whether or not delayed;
- ii. reference to the filing organization's identification/code number;
- iii. line of business;
- iv. name of the program; and
- v. stamped, self-addressed envelope of sufficient size for use in returning the *insurer's* cover letter bearing the department's stamp of acknowledgement, or disapproval of an adoption.

b. An *insurer* may elect to non-adopt forms submitted by a filing organization. Non-adoptions are filed for informational purposes only, and must be submitted by the *insurer*. To receive an acknowledgement of the informational letter, it must contain the following items, in order:

- i. reference to the filing organization's identification/code number;
- ii. line of business;
- iii. name of the program; and
- iv. stamped, self-addressed envelope of sufficient size for use in returning the *insurer's* cover letter bearing the department's stamp of acknowledgement.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed, at the discretion of the department, subject to the conditions stated herein, for the following policy forms:

1. informational filings, submitted for acknowledgement, for surety bond forms as exempted by R.S. 22:620 A(1);
2. filings for certain commercial lines, exempted pursuant to the commercial deregulation laws set by Regulation 72;
3. application forms to be used with a particular insurance product, or with multiple insurance products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form will henceforth be used, and the application form is included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing. No filing fees will be required for these filings;
4. forms for lines of insurance or insurance products specifically exempted pursuant to statute.

E. Time Periods and Requirements for Compliance Review of Policy Form Filings

1. The time periods stated in this Section do not begin until the date a complete filing, or a filing pursuant to Subsection D hereof, "Exceptions," is received by the department.

2. If a filing made is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this Regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the General Filing Requirements of this Section no less than 45 days in advance of planned issuance, delivery or use.

4. If affirmatively approved by order of the commissioner prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. If disapproved, the policy forms filed may not be used.

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the *insurer* may submit written notice to the department that the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

7. The commissioner of insurance may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. If affirmatively approved by order of the commissioner prior to expiration of the 15-day extended period allowed for department review, the policy forms filed may be used on or after the date approved.

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the *insurer* may submit written notice to the department that the policy forms filing has been deemed approved on a specific date or, advise when the policy forms filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

F. Time Periods and Requirements for Certified Approval of Policy Form Filings

1. The department will make available *Statements of Compliance* setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as *Certification of Compliance* forms.

2. A policy form filing submitted for *certified approval* must include the following documents.

a. *Statement of Compliance* applicable to the form of coverage and contract type being submitted.

b. Signed and dated *Certification of Compliance*.

c. All other items as set forth in Paragraph C.2 hereof.

3. If the filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this Regulation.

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming *certified approval* or disapproving the policy form filing, the *insurer* may submit written notice to

the department that the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

5. No *insurer*, or officer, employee or representative of an *insurer*, shall file a *Certification of Compliance* containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a *Certification of Compliance* contained any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the *insurer* may be subjected to the provisions of Subsection I hereof.

G. Resubmission of Filings

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing; must comply with all provisions of this Section for such a filing; and, in addition to the required filing fee, must include:

a. an outline of the proposed revisions, referencing the specific sections and page numbers for each form being revised;

b. a restatement of the form with all necessary revisions, as set forth in the prior order of disapproval, underlined in red or similarly emphasized; and

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the department on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing; must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements"; and, in addition to the required filing fee, must include:

a. a copy of the previously approved form;

b. an outline of the proposed revisions, referencing the specific sections and page numbers for each previously approved form being revised;

c. a restatement of the form, with all proposed revisions underlined in red or similarly emphasized; and

d. a copy of the prior order of approval, issued by the department on the previous filing.

3. For simplicity, it is advisable that a unique form number be assigned to a substantially rewritten form, and that such form be filed as an original filing.

H. Compliance and Audits

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, *insurers* shall not fail to revise and file updated insurance products, or amendatory *riders* or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise determined by the Louisiana Legislature.

2. A retrospective review process will be utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by

random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. *Insurers* shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall be sent 30 days prior to the market end date and shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by this department. The *insurer* may request acknowledgement of such notification.

I. Withdrawal of Approval and Corrective Action

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an *insurer*, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected *insurer*.

a. The affected *insurer* may request a hearing on the withdrawal of approval, by written request mailed to the department within 30 days of receipt of the notice of withdrawal of approval.

b. Upon receipt by the department of a request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the *insurer* requesting the hearing. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4, and 5 hereof.

2. Upon receipt of the notice of withdrawal of approval by the department, the affected *insurer* must:

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which approval has been withdrawn; and

c. immediately review other products being marketed by the *insurer* to assure that they do not contain such non-compliant provisions.

3. Within 30 days of receipt of the notice of withdrawal of approval by the department, a corrective action plan must be submitted to the department by the affected *insurer*. The corrective action plan must include the following.

a. If the affected product will no longer be marketed, amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

b. If the *insurer* desires to continue marketing the affected product, both:

i. a complete filing of properly revised forms in accordance with Paragraph G.1 hereof; and

ii. amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

c. Where such a required change can be clearly explained to prospective policy holders through amendatory endorsement forms or rider forms, an insurer may request department approval to utilize its existing inventory of the policy forms in question subject to the incorporation of approved amendatory endorsement forms or rider forms. Such approval shall not extend to any reprinting of such forms.

4. As of 30 days following receipt of the notice of withdrawal of approval by the department, an affected product shall not be issued by the *insurer*, except in accordance with a corrective action plan approved by the department. The *insurer* has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly.

5. The department may, in its discretion, extend the 30-day period for approval of a corrective action plan, upon the written request of the affected *insurer* and for good cause shown. In the event such an extension is granted, the date by which the *insurer* must cease issuing the affected product, except in accordance with a corrective action plan approved by the department, shall likewise be so extended.

6. Failure to timely respond as required herein shall result in a formal investigation to establish the extent of statutory violations, followed by an administrative hearing to determine appropriate sanctions against the *insurer*.

7. Where the department fails to respond to a corrective action plan filed by an insurer, or takes no action whatsoever regarding such plan, the insurer may deem the subject corrective action plan approved at the expiration of the 30-day period for approval by the department.

J. Appeals; Hearings. Any *insurer* or other person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects the company is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such *insurer* or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. Maintenance of Records; Alteration of Forms Prohibited

1. Every *insurer* or other person filing policy forms, or related forms, for approval by the department shall maintain in their files the original set of any and all forms as returned

by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained until the forms have been withdrawn from the market in accordance with Paragraph H.4 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. The alteration of, or any change to, any such form approved by the department is prohibited. Any such altered or changed form shall be submitted to the department as a new filing, and shall comply with all provisions of this Section applicable to a new filing. This Subsection shall not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the product.

3. A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the *insurer*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and *Directive 169*.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2548 (December 2002).

§10115. Penalties

A. pursuant to R.S. 22:1462.1, "False or Fraudulent Material Information," in accordance with all provisions thereof, and specifically applicable to all documents required by this regulation.

1. It shall be unlawful for any person to intentionally and knowingly supply false or fraudulent material information pertaining to any document or statement required by the Department of Insurance.

2. Whoever violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years, or fined not more than \$5,000, or both.

B. Pursuant to R.S. 22:1214(12), in accordance with all provisions thereof, any violation of a prohibitory provision of this Regulation shall constitute an unfair trade practice, and, after proper notice and hearing as specified by statute, may subject the *insurer* and its officer(s) or representative(s) to:

1. the provisions of R.S. 22:1217, including:

a. payment of a monetary penalty of not more than \$1,000. for each and every act or violation, but not to exceed an aggregate penalty of \$100,000 unless the person knew or reasonably should have known he was in violation of applicable law, in which case the penalty shall be not more than \$25,000 for each and every act or violation, but not to exceed an aggregate penalty of \$250,000 in any six-month period; and,

b. suspension or revocation of the license of the person if he knew or reasonably should have known he was in violation of applicable law.

2. The provisions of R.S. 22:1217.1, including:

a. a monetary penalty of not more than \$25,000 for each and every act or violation, not to exceed an aggregate of \$250,000; and

b. suspension or revocation of such person's license or certificate of authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and *Directive 169*.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002).

§10117. Effective Date

A. This regulation shall become effective on January 1, 2003, or upon final publication in the *Louisiana Register* if after that date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and *Directive 169*.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002).

J. Robert Wooley
Acting Commissioner

0212#036

RULE

Department of Public Safety and Corrections Corrections Services

Death Penalty (LAC 22:I.103)

In accordance with the Administrative Procedures Act, R.S. 49:953.B, the Department of Public Safety and Corrections, Corrections Services, has amended its Rules dealing with the Death Penalty.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 1. Secretary's Office

§103. Death Penalty

A. - B. ...

C. Incarceration Prior to Execution. Male inmates sentenced to death shall be incarcerated at the Louisiana State Penitentiary at Angola, Louisiana. Female inmates sentenced to death shall be incarcerated at the Louisiana Correctional Institute for Women at St. Gabriel, Louisiana. Until the time for execution, the warden shall incarcerate the inmate in a manner affording maximum protection to the general public, the employees of the department, and the security of the institution. Female inmates shall be transported to the Louisiana State Penitentiary for execution as directed by the secretary.

D. ...

1. Prior to the scheduled execution, the warden may approve special visits for the condemned inmate.

2. Visits will normally terminate by 3 p.m. on the day of the execution except visits with a priest, minister, religious advisor, or attorney, which will terminate at the direction of the warden or his designee.

E. - F. ...

1. The warden shall select an appropriate area to serve as a press room.

2. In the five days prior to the execution, access to the execution room will be restricted in accordance with institution policy.

3. ...

G Execution Time and Place. The execution shall take place at the Louisiana State Penitentiary between the hours of 6 p.m. and 9 p.m. [R.S. 15:570.C].

H. - H.2.a.ii. ...

2.a.iii. a representative selected from all other media persons requesting to be present;

a.iv. - c. ...

i. at least 10 days prior to the execution, the secretary shall give either written or verbal notice, (followed by written notice placed in the United States mail within five days thereafter), of the date and time of the execution to the victim's parents, or guardian, spouse and any adult children who have indicated to the secretary that they desire such notice. The named parties shall be given the option of attending the execution and shall, within three days of their receipt of the notification, notify, either verbally or in writing, the secretary's office of their intention to attend;

ii. the number of victim relationship witnesses may be limited to two. If more than two victim relationship witnesses desire to attend the execution, the secretary is authorized to select from the interested parties the two victim relationship witnesses who will be authorized to attend;

H.2.d. - I.1. ...

2. The inmate will then be taken to the lethal injection room by the escorting officers. Once in the room, the inmate will be afforded the opportunity to make a last verbal statement, if he so desires. He will then be assisted onto the lethal injection table and properly secured to the table by the officers. Once the officers exit the room, the warden will close the curtain to the witness room and signal the I.V. technician(s) to enter. The I.V. technician(s) will appropriately prepare the inmate for execution and exit the room. The warden will reopen the witness room curtain.

3. The person designated by the warden and at the warden's direction, will then administer, by intravenous injection, the appropriate substances in a lethal quantity into the body of the inmate until he is deceased.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:567, et seq., (as amended by Act No. 717 of the 1990 Regular Session of the Louisiana Legislature, Act No. 159 of the 1991 Regular Session, Act No. 1260 of the 1997 Regular Session and Act No. 145 of the 2002 First Extraordinary 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 28:2552 (December 2002).

Richard L. Stalder
Secretary

0212#092

RULE

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

New Dealers CFees (LAC 55:IX.107)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable Rules and Regulations governing the storage, sale, and transportation of liquefied petroleum gases, that the commission has amended an existing Rule.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§107. Requirements

A. - A.5.c. ...

6. Applicant must have paid a permit fee in the amount of \$75, except for Class VII-E, which shall be \$100, and R-1, R-2 registrations, which shall be \$37.50 and Class VI-X shall be in the amount of \$75 for the first location, plus \$50 for each 2-11 locations, plus \$25 for each 12-infinity locations. For succeeding years the permit fee shall be .1350 of 1 percent of annual gross sales of liquefied petroleum gas with a minimum of \$75, except in the case of Class VI-X which the minimum permit fee shall be \$75 for the first location, plus \$50 for each 2-11 locations, plus \$25 for each 12-infinity locations; or .1350 of 1 percent of annual gross sales of liquefied petroleum gases of all locations whichever is greater. For classes not selling liquefied petroleum gases in succeeding years the permit fee shall be \$75, except registrations shall be \$37.50 per year.

6.a. - 15 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 28:2553 (December 2002).

Charles M. Fuller
Director

0212#022

RULE

Department of Public Safety and Corrections Office of State Police

Hazardous Materials CResponse, Command
and Coordination; Inventory Form
(LAC 33:V.10112 and 10119)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 30:2361 et seq., has amended its Rules regulating chemical inventory filing and those entities involved in emergency response. Specifically, the requirement of electronic filing of chemical inventories is repealed for small businesses, and the registration requirement for emergency response entities is repealed.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Wastes and Hazardous Materials

Subpart 2. Department of Public Safety and Corrections C Hazardous Materials

Chapter 101. Hazardous Material Information Development, Preparedness and Response Act

§10112. Response, Command and Coordination

A. As per the authority granted in R.S. 30:2376, the Office of State Police, Transportation and Environmental Safety Section will coordinate emergency response activities arising from any release, or threatened release or incident requiring reporting under these rules. Except as otherwise provided by law, as State On-Scene Coordinator (SOSC), the Louisiana State Police shall have the responsibility to ensure a safe and timely resolution to any hazardous materials release or incident. All responding industries, contractors, and agencies shall participate in the Incident Command process. Only those participants meeting the training requirements of EPA in 40 CFR 311 and OSHA's regulations in 29 CFR 1910.120 shall engage in active response or remedial activities within areas of hazardous materials contamination or threatened release.

B. All persons and facilities regulated by R.S. 30:2361 et seq. shall comply with all the requirements relative to the entry, inspection, investigation, response and emergency coordination efforts of the Office of State Police as authorized in R.S. 30:2361 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:863 (June 2001), LR 28:2554 (December 2002).

§10119. Inventory Form

A. Tier Two "E-filing" is the preferred method of reporting the chemical inventory required in these Rules. All industries and businesses, excepting small businesses, will be required to utilize this electronic means of inventory reporting by March 1, 2002. The use of this "E-filing" process allows for the immediate access of facility and chemical information by all local emergency planning committees and fire departments having Internet capability. Paper filing of "Tier Two Emergency and Hazardous Chemical Inventory" shall be an acceptable alternative to the E-filing of such inventory for March 1, 2001 only.

B. Small businesses, as defined in §10105, are strongly encouraged to report their chemical inventory electronically, but such businesses shall have the option to file their chemical inventory by paper if the electronic reporting creates a hardship.

C. The "Louisiana Tier Two Emergency and Hazardous Chemical Inventory" form is the official inventory form for compliance with R.S. 30:2361-2380 Louisiana's Right-to-Know law, and is the form selected by the Louisiana Emergency Response Commission for inventory reporting as required under Section 312 of SARA. The inventory form can be obtained via the Right-to-Know website at www.lsp.org/rtk.html or upon request to the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section-Mail Slip A-26, Box 66614, Baton Rouge, LA 70896.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:762 (December 1987), LR 14:804 (November 1988), LR 16:975 (November 1990), LR 27:865 (June 2001), LR 28:2554 (December 2002).

Chris Keaton
Undersecretary

0212#031

RULE

Department of Revenue Policy Services Division

Definition of Lease or Rental (LAC 61:I.4301)

Under the authority of R.S. 47:301 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 47:950 et seq., the Department of Revenue, Policy Services Division, amends LAC 61:I.4301 relative to the definition of *lease or rental* for sales tax purposes.

These amendments discuss the seven exclusions from the definition of *lease or rental* provided in R.S. 47:301(7). The amendments also provide guidance to lease-rental dealers and their customers in distinguishing between transactions for the *lease or rental* of tangible personal property and transactions for the providing of services.

The department's positions concerning sales taxability provided in this Rule supersede any conflicting positions of taxability or non-taxability provided in department policy/procedure memorandums issued prior to the promulgation date of this Rule. Under Section 61.III.101.C.3 of the *Louisiana Administrative Code*, policy/procedure memoranda are no longer used for the dissemination of tax policy.

Title 61

REVENUE AND TAXATION

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

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

* * *

Lease or Rental^C

a. General. The *lease or rental* of tangible personal property for a consideration in Louisiana is a transaction that is subject to the sales or use tax. The term *lease or rental* means the grant to another of the right to use and possess tangible personal property for a period of time and for a consideration without the transfer of title to the property. In a lease transaction, the lessee obtains possession or use of the tangible personal property, so that the lessee has enjoyment of the property during a certain time period. Re-leases or sub-leases and re-rentals or sub-rentals are also considered as leases or rentals.

b. Statutory Exclusions. Some arrangements or agreements for the use of tangible personal property are specifically excluded in R.S. 47:301(7) (b) through (h) from the definition of *lease or rental*. The types of arrangements or agreements that are not defined as leases or rentals are:

i. the *lease or rental* for re-lease or re-rental of property to be used in connection with the operating, drilling, completion, or reworking of oil, gas, sulfur, or other mineral wells. The *lease or rental* for re-lease or re-rental of casing tools, pipe, drill pipe, tubing, compressors, tanks, pumps, power units, and other drilling or related equipment qualifies for exclusion if the property is to be used for one of the specified purposes. The re-lease or re-rental to the ultimate user is not exempt;

ii. the *lease or rental* of property to be used in the performance of contracts with the United States Navy for the construction or overhaul of U.S. Naval vessels;

iii. the *lease or rental* of airplanes or airplane equipment by commuter airlines domiciled in Louisiana;

iv. the *lease or rental* of items that are reasonably necessary for the operation of free hospitals in Louisiana;

v. the *lease or rental* of certain limited items of educational materials for classroom instruction by approved private and parochial elementary and secondary schools;

vi. the *lease or rental* by Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. of materials for use by those organizations in their educational and public service programs for youth; and

vii. the *lease or rental* of motor vehicles by motor vehicle dealers and manufacturers for use in furnishing to customers in the performance of dealers' or manufacturers' warranty obligations or when the applicable warranty has lapsed and the leased or rented motor vehicle is provided at no charge.

c. Transactions involving both the providing of tangible personal property and the performance of a service.

i. A *lease or rental* does not include providing tangible personal property with an operator who provides some additional service for a fixed or indeterminate period of time when the essence of the transaction is the performance of a service. The essence of the transaction is to provide a service when obtaining the tangible personal property is not an end in and of itself but rather furnishes the mechanism through which a service is provided.

ii. In order to determine the essence of a transaction involving both the performance of a service and the providing of tangible personal property, the facts and circumstances of each transaction must be examined. The following factors suggest, but are not necessarily conclusive,

that the essence of the transaction is for the performance of a service:

(a). in order for the tangible personal property to perform as designed, the owner's operator maintains control over the property. This level of control by the owner's operator involves more than maintaining, inspecting, or setting-up the property;

(b). the contract between the owner of the property and the person receiving the services and property provides for the performance of a specific job that requires services for a certain number of hours or until completion of a specific job;

(c). the performance of the job using the tangible personal property is conducted in a manner determined by the owner of the property;

(d). the owner of the tangible personal property is responsible for choosing the particular piece of property to be used in the transaction; or

(e). the owner of the tangible personal property has a standard business practice of not allowing customers to rent the property separately from the services provided.

d. Revenue Sharing Arrangements. Agreements, joint ventures, arrangements, or partnerships between exhibitors (movie theater operators) and film distributors place significant restrictions on the use of the movies and on the proceeds from the use of the movies. These agreements are more in the nature of revenue sharing agreements and would not qualify as leases or rentals because of the restrictions placed on the party using the tangible personal property. An example of this arrangement would be an agreement between an exhibitor and a film distributor that not only stipulates that the proceeds from the showing of the film are to be shared, but also specifies the amount to be charged to the movie patron, the number of and/or the time of showings, or the types or sizes of the facilities where the film is shown.

* * *

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:2554 (December 2002).

Raymond E. Tangney
Senior Policy Consultant

0212#015

RULE

Department of Revenue Policy Services Division

Definition of Tangible Personal Property (LAC 61:I.4301)

Under the authority of R.S. 47:301 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC

61:I.4301 relative to the definition of *tangible personal property* for sales tax purposes.

These amendments to LAC 61:I.4301 provide guidance concerning the *first purchase* of *digital television conversion equipment* as defined in R.S. 47:301(16)(i). That statute excludes the *first purchase* of *digital television conversion equipment* by taxpayers that hold a Federal Communications License pursuant to 47 CFR Part 73 from state sales and use tax. This exclusion applies to purchases made after January 1, 1999. The law also allows local taxing authorities to exempt these transactions by ordinance.

The Rule explains the procedures for claiming a credit for the sales or use taxes paid on *first purchases* of *digital television conversion equipment* made prior to June 25, 2002, and after January 1, 1999. It also notifies purchasers about the requirement to file an annual report that lists all qualifying purchases made for the year.

Title 61

REVENUE AND TAXATION

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

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

* * *

Tangible Personal Property

a. - d. ...

e. - i. Reserved.

j. The *first purchase* of *digital television conversion equipment* by a taxpayer that holds a Federal Communications License issued pursuant to 47 CFR Part 73 is excluded from the definition of *tangible personal property* for state sales tax and local sales tax if the local authority adopts this exemption by ordinance.

i. *Digital television conversion equipment* items listed in R.S. 47:301(16)(i).

ii. *First Purchase* the *first purchase* of each item from the categories of *digital television conversion equipment* listed in R.S. 47:301(16)(i).

iii. License holders may obtain a credit for sales taxes paid on the *first purchase* of *digital television conversion equipment* made after January 1, 1999, and before June 25, 2002, by submitting a request on forms prescribed by the Department of Revenue. Guidelines for claiming the credit will be published in a Revenue Ruling.

iv. License holders may obtain an exemption certificate from the Department of Revenue and make *first purchases* of qualifying digital equipment on or after June 25, 2002, without paying state sales tax or local sales tax in those local jurisdictions that elect to provide an exemption for these purchases. Sales tax paid on *first purchases* of qualifying digital equipment on or after June 25, 2002, may be refunded as tax paid in error.

v. License holders must submit to the Department of Revenue an annual report of the purchases of digital equipment for which exclusion has been claimed that includes all information required by the Department to verify the value of exclusion claimed. Guidelines for submitting this report will be published in a Revenue Ruling.

* * *

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:2556 (December 2002).

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RULE

**Department of Revenue
Policy Services Division**

Furnishing of Cold Storage Space (LAC 61:I.4301)

Under the authority of R.S. 47:301 and R.S. 47:1511 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4301 relative to the definition of the *furnishing of cold storage space* for sales tax purposes.

Revised Statute 47:301(14)(f) defines *sales of services* to include "the *furnishing of cold storage space*, except that space which is furnished pursuant to a bailment arrangement, and the furnishing of the service of *preparing tangible personal property for cold storage*, where such service is incidental to the operation of storage facilities." These proposed amendments provide guidance concerning the types of transactions that are within the purview of the statute. The service *furnishing of cold storage space* is interpreted to mean transactions in which customers, for consideration, are provided designated spaces that are artificially frozen or refrigerated. The proposed amendments also clarify that sales tax must be collected on the charges for *preparing tangible personal property for cold storage*, such as packaging, wrapping, containerizing, cleaning, or washing, when provided in conjunction with the *furnishing of cold storage space*.

Under the Rule, the furnishing of air-conditioned warehouses or mini-storage units, that are cooled only to a normal room temperature level or above, and transactions in which possession of the customers' property is transferred to the owner or operator of a frozen or refrigerated facility for retention and safekeeping in the facility as in a bailment or deposit are not considered the *furnishing of cold storage space* for sales tax purposes.

Title 61

REVENUE AND TAXATION

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

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

* * *

Sales of Services

a. - g.iii. ...

h. R.S. 47:301(14)(f) defines the furnishing of cold storage space and preparing tangible personal property for cold storage as services subject to sales and use tax.

i. *Cold Storage Space*—a space that is artificially frozen or refrigerated to prevent the stored items from perishing or deteriorating.

ii. *Furnishing of Cold Storage Space*—transactions in which *cold storage space* is provided to customers for a consideration when the owner or operator of the *cold storage space* designates specific areas or volumes of space for the customers' use. The customers are required to compensate for the space allotted regardless of the degree of use of the space.

iii. Transactions that are not considered the *furnishing of cold storage space* for sales tax purposes include:

(a). storage space in air-conditioned warehouses or mini-storage units that are cooled to a normal room temperature level; and

(b) storage space in facilities where the possession of customers' property is transferred to the owner or operator of a *cold storage space* for retention and safekeeping as in a bailment or deposit transaction.

iv. *Preparing Tangible Personal Property for Cold Storage*—Call activities necessary to prepare the product to be stored for cold storage. This includes but is not limited to packaging, wrapping, containerizing, cleaning or washing.

(a). *Preparing tangible personal property for cold storage* is included in *sales of services* only if it is incidental to the operation of cold storage facilities.

(b). Separately stated charges for handling the property to be placed in or removed from the facility are not subject to the sales tax. If handling charges are included in the price for the *furnishing of cold storage space* or *preparing tangible personal property for cold storage*, tax is due on the entire amount.

* * *

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:2556 (December 2002).

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RULE

**Department of Revenue
Policy Services Division**

**Income Tax Withholding Tables
(LAC 61:I.1501)**

Under the authority of R.S. 47:112, R.S. 47:295, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, adopts LAC 61:I.1501 to establish individual income tax withholding tables based on the new income tax rates provided by Act 51 of the 2002 Regular Session of the Louisiana Legislature.

Act 51 amended both R.S. 47:112, which requires every employer paying wages to deduct and withhold income tax from those wages, and R.S. 47:295, which provides for the tax rates. These statutory amendments will be effective January 1, 2003, only if the proposed constitutional amendment contained in Act 88 of the 2002 Regular Session of the Louisiana Legislature is adopted at the statewide election to be held November 5, 2002.

Title 61

REVENUE AND TAXATION

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

**Chapter 15. Income: Withholding Tax
§1501. Income Tax Withholding Tables**

A. Employers required to deduct and withhold taxes pursuant to R.S. 47:112 shall deduct and withhold tax in an amount determined in accordance with the tables provided in Subsection C, the formula provided in Subsection D, or a formula that produces equivalent amounts.

B. Wage Bracket Tables and Instructions

1. Select the set of tables that corresponds to the payroll period of the employee.

2. With the use of the information obtained from Form R-1300 (L-4), *Employee's Withholding Exemption Certificate*, determine which column of the tables to use.

a. If your employee claims neither himself, his spouse, nor any dependency credits, use the first column in the table designated 0 exemptions, 0 dependents.

b. If your employee claims only himself, whether he is married or not, use Column 1. Also, use the appropriate subcolumn for the number of dependency credits he is claiming.

c. If your employee claims himself and his spouse, use Column 2. Also, use the appropriate subcolumn for the number of dependency credits he is claiming.

C. Withholding Tax Tables

1. For the Purposes of the Withholding Tax Tables

a. Exemptions are for a husband, wife, or single filer.

b. Dependency credits include children, stepchildren, etc., as described in Section 152 of the Internal Revenue Code.

2. Adjustments to Wage Bracket Tables

a. Each table provides for the appropriate withholding amount for single or married personal exemptions with up to six dependency credits. There is no provision for withholding based on head-of-household status and these taxpayers may claim only a single withholding personal exemption.

b. When an employee has more than six dependents, the amount may be determined by reducing the tax shown in the column for six dependents by the amount shown below for the applicable payroll period multiplied by the number of dependents over six.

Payroll Period	Amount of Reduction
Daily	\$0.08
Weekly	0.40
Biweekly	0.80
Semimonthly	0.85
Monthly	1.70

c. When the employee claims only credit for dependents and no withholding personal exemption, the amount to be deducted and withheld should be determined by reducing the amount selected under the column for

employees claiming no exemption or credits by the amount in Subparagraph b above multiplied by the number of dependents claimed.

3. Withholding Tables

Daily Louisiana Income Tax Withholding Table																						
Exemptions:		0								1							2					
Dependents:		0								1							2					
Salary Range:		0								1							2					
Min	Max	0	0	1	2	3	4	5	6	0	1	2	3	4	5	6						
0.00	10.00	2.1%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00						
10.01	12.00	0.23	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00						
12.01	14.00	0.27	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00						
14.01	16.00	0.32	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00						
16.01	18.00	0.36	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00						
18.01	20.00	0.40	0.04	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00						
20.01	22.00	0.44	0.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00						
22.01	24.00	0.48	0.12	0.04	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00						
24.01	26.00	0.53	0.16	0.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00						
26.01	28.00	0.57	0.20	0.12	0.04	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00						
28.01	30.00	0.61	0.25	0.17	0.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00						
30.01	32.00	0.65	0.29	0.21	0.13	0.05	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00						
32.01	34.00	0.69	0.33	0.25	0.17	0.09	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00						
34.01	36.00	0.74	0.37	0.29	0.21	0.13	0.05	0.00	0.00	0.01	0.00	0.00	0.00	0.00	0.00	0.00						
36.01	38.00	0.78	0.41	0.33	0.25	0.17	0.09	0.01	0.00	0.05	0.00	0.00	0.00	0.00	0.00	0.00						
38.01	40.00	0.82	0.46	0.38	0.29	0.21	0.13	0.05	0.00	0.09	0.01	0.00	0.00	0.00	0.00	0.00						
40.01	42.00	0.86	0.50	0.42	0.34	0.26	0.17	0.09	0.01	0.13	0.05	0.00	0.00	0.00	0.00	0.00						
42.01	44.00	0.90	0.54	0.46	0.38	0.30	0.22	0.14	0.06	0.18	0.10	0.02	0.00	0.00	0.00	0.00						
44.01	46.00	0.95	0.58	0.50	0.42	0.34	0.26	0.18	0.10	0.22	0.14	0.06	0.00	0.00	0.00	0.00						
46.01	48.00	0.99	0.62	0.54	0.46	0.38	0.30	0.22	0.14	0.26	0.18	0.10	0.02	0.00	0.00	0.00						
48.01	50.00	1.04	0.68	0.60	0.52	0.44	0.35	0.27	0.19	0.30	0.22	0.14	0.06	0.00	0.00	0.00						
50.01	52.00	1.11	0.75	0.67	0.59	0.50	0.42	0.34	0.26	0.34	0.26	0.18	0.10	0.02	0.00	0.00						
52.01	54.00	1.18	0.82	0.74	0.65	0.57	0.49	0.41	0.33	0.39	0.31	0.23	0.14	0.06	0.00	0.00						
54.01	56.00	1.25	0.89	0.80	0.72	0.64	0.56	0.48	0.40	0.43	0.35	0.27	0.19	0.11	0.02	0.00						
56.01	58.00	1.32	0.95	0.87	0.79	0.71	0.63	0.55	0.47	0.47	0.39	0.31	0.23	0.15	0.07	0.00						
58.01	60.00	1.39	1.02	0.94	0.86	0.78	0.70	0.62	0.54	0.51	0.43	0.35	0.27	0.19	0.11	0.03						
60.01	62.00	1.46	1.09	1.01	0.93	0.85	0.77	0.69	0.61	0.55	0.47	0.39	0.31	0.23	0.15	0.07						
62.01	64.00	1.52	1.16	1.08	1.00	0.92	0.84	0.76	0.68	0.60	0.52	0.44	0.35	0.27	0.19	0.11						
64.01	66.00	1.59	1.23	1.15	1.07	0.99	0.91	0.83	0.75	0.64	0.56	0.48	0.40	0.32	0.23	0.15						
66.01	68.00	1.66	1.30	1.22	1.14	1.06	0.98	0.90	0.81	0.68	0.60	0.52	0.44	0.36	0.28	0.20						
68.01	70.00	1.73	1.37	1.29	1.21	1.13	1.04	0.96	0.88	0.72	0.64	0.56	0.48	0.40	0.32	0.24						
70.01	72.00	1.80	1.44	1.36	1.28	1.19	1.11	1.03	0.95	0.76	0.68	0.60	0.52	0.44	0.36	0.28						
72.01	74.00	1.87	1.51	1.43	1.34	1.26	1.18	1.10	1.02	0.81	0.73	0.65	0.56	0.48	0.40	0.32						
74.01	76.00	1.94	1.58	1.49	1.41	1.33	1.25	1.17	1.09	0.85	0.77	0.69	0.61	0.53	0.44	0.36						
76.01	78.00	2.01	1.64	1.56	1.48	1.40	1.32	1.24	1.16	0.89	0.81	0.73	0.65	0.57	0.49	0.41						
78.01	80.00	2.08	1.71	1.63	1.55	1.47	1.39	1.31	1.23	0.93	0.85	0.77	0.69	0.61	0.53	0.45						
80.01	82.00	2.15	1.78	1.70	1.62	1.54	1.46	1.38	1.30	0.97	0.89	0.81	0.73	0.65	0.57	0.49						
82.01	84.00	2.21	1.85	1.77	1.69	1.61	1.53	1.45	1.37	1.02	0.94	0.86	0.77	0.69	0.61	0.53						
84.01	86.00	2.28	1.92	1.84	1.76	1.68	1.60	1.52	1.44	1.06	0.98	0.90	0.82	0.74	0.65	0.57						
86.01	88.00	2.35	1.99	1.91	1.83	1.75	1.67	1.59	1.50	1.10	1.02	0.94	0.86	0.78	0.70	0.62						
88.01	90.00	2.42	2.06	1.98	1.90	1.82	1.73	1.65	1.57	1.14	1.06	0.98	0.90	0.82	0.74	0.66						
90.01	92.00	2.49	2.13	2.05	1.97	1.88	1.80	1.72	1.64	1.18	1.10	1.02	0.94	0.86	0.78	0.70						
92.01	94.00	2.56	2.20	2.12	2.03	1.95	1.87	1.79	1.71	1.23	1.15	1.07	0.98	0.90	0.82	0.74						
94.01	96.00	2.63	2.27	2.18	2.10	2.02	1.94	1.86	1.78	1.27	1.19	1.11	1.03	0.95	0.86	0.78						
96.01	98.00	2.71	2.35	2.26	2.18	2.10	2.02	1.94	1.86	1.32	1.24	1.16	1.08	1.00	0.92	0.84						
98.01	100.00	2.80	2.44	2.36	2.28	2.20	2.12	2.04	1.96	1.39	1.31	1.23	1.15	1.07	0.99	0.91						
100.01	102.00	2.90	2.54	2.46	2.38	2.29	2.21	2.13	2.05	1.46	1.38	1.30	1.22	1.14	1.06	0.97						
102.01	104.00	3.00	2.63	2.55	2.47	2.39	2.31	2.23	2.15	1.53	1.45	1.37	1.29	1.21	1.12	1.04						
104.01	106.00	3.09	2.73	2.65	2.57	2.49	2.41	2.33	2.24	1.60	1.52	1.44	1.36	1.27	1.19	1.11						
106.01	108.00	3.19	2.83	2.74	2.66	2.58	2.50	2.42	2.34	1.67	1.59	1.51	1.42	1.34	1.26	1.18						
108.01	110.00	3.28	2.92	2.84	2.76	2.68	2.60	2.52	2.44	1.74	1.65	1.57	1.49	1.41	1.33	1.25						
110.01	112.00	3.38	3.02	2.94	2.86	2.77	2.69	2.61	2.53	1.80	1.72	1.64	1.56	1.48	1.40	1.32						
112.01	114.00	3.48	3.11	3.03	2.95	2.87	2.79	2.71	2.63	1.87	1.79	1.71	1.63	1.55	1.47	1.39						
114.01	116.00	3.57	3.21	3.13	3.05	2.97	2.89	2.81	2.72	1.94	1.86	1.78	1.70	1.62	1.54	1.46						
116.01	118.00	3.67	3.31	3.22	3.14	3.06	2.98	2.90	2.82	2.01	1.93	1.85	1.77	1.69	1.61	1.53						
118.01	120.00	3.76	3.40	3.32	3.24	3.16	3.08	3.00	2.92	2.08	2.00	1.92	1.84	1.76	1.68	1.60						
120.01	122.00	3.86	3.50	3.42	3.34	3.25	3.17	3.09	3.01	2.15	2.07	1.99	1.91	1.83	1.75	1.66						
122.01	124.00	3.96	3.59	3.51	3.43	3.35	3.27	3.19	3.11	2.22	2.14	2.06	1.98	1.90	1.81	1.73						

Daily Louisiana Income Tax Withholding Table																	
Exemptions:		0		1						2							
Dependents:		0	0	1	2	3	4	5	6	0	1	2	3	4	5	6	
Salary Range:																	
Min	Max																
124.01	126.00	4.05	3.69	3.61	3.53	3.45	3.37	3.29	3.20	2.29	2.21	2.13	2.05	1.96	1.88	1.80	
126.01	128.00	4.15	3.79	3.70	3.62	3.54	3.46	3.38	3.30	2.36	2.28	2.20	2.11	2.03	1.95	1.87	
128.01	130.00	4.24	3.88	3.80	3.72	3.64	3.56	3.48	3.40	2.43	2.34	2.26	2.18	2.10	2.02	1.94	
130.01	132.00	4.34	3.98	3.90	3.82	3.73	3.65	3.57	3.49	2.49	2.41	2.33	2.25	2.17	2.09	2.01	
132.01	134.00	4.44	4.07	3.99	3.91	3.83	3.75	3.67	3.59	2.56	2.48	2.40	2.32	2.24	2.16	2.08	
134.01	136.00	4.53	4.17	4.09	4.01	3.93	3.85	3.77	3.68	2.63	2.55	2.47	2.39	2.31	2.23	2.15	
136.01	138.00	4.63	4.27	4.18	4.10	4.02	3.94	3.86	3.78	2.70	2.62	2.54	2.46	2.38	2.30	2.22	
138.01	140.00	4.72	4.36	4.28	4.20	4.12	4.04	3.96	3.88	2.77	2.69	2.61	2.53	2.45	2.37	2.29	
140.01	142.00	4.82	4.46	4.38	4.30	4.21	4.13	4.05	3.97	2.84	2.76	2.68	2.60	2.52	2.44	2.35	
142.01	144.00	4.92	4.55	4.47	4.39	4.31	4.23	4.15	4.07	2.91	2.83	2.75	2.67	2.59	2.50	2.42	
144.01	146.00	5.01	4.65	4.57	4.49	4.41	4.33	4.25	4.16	2.98	2.90	2.82	2.74	2.65	2.57	2.49	
146.01	148.00	5.11	4.75	4.66	4.58	4.50	4.42	4.34	4.26	3.05	2.97	2.89	2.80	2.72	2.64	2.56	
148.01	150.00	5.20	4.84	4.76	4.68	4.60	4.52	4.44	4.36	3.12	3.03	2.95	2.87	2.79	2.71	2.63	
150.01	152.00	5.30	4.94	4.86	4.78	4.69	4.61	4.53	4.45	3.18	3.10	3.02	2.94	2.86	2.78	2.70	
152.01	154.00	5.40	5.03	4.95	4.87	4.79	4.71	4.63	4.55	3.25	3.17	3.09	3.01	2.93	2.85	2.77	
154.01	156.00	5.49	5.13	5.05	4.97	4.89	4.81	4.73	4.64	3.32	3.24	3.16	3.08	3.00	2.92	2.84	
156.01	158.00	5.59	5.23	5.14	5.06	4.98	4.90	4.82	4.74	3.39	3.31	3.23	3.15	3.07	2.99	2.91	
158.01	160.00	5.68	5.32	5.24	5.16	5.08	5.00	4.92	4.84	3.46	3.38	3.30	3.22	3.14	3.06	2.98	
160.01	162.00	5.78	5.42	5.34	5.26	5.17	5.09	5.01	4.93	3.53	3.45	3.37	3.29	3.21	3.13	3.04	
162.01	164.00	5.88	5.51	5.43	5.35	5.27	5.19	5.11	5.03	3.60	3.52	3.44	3.36	3.28	3.19	3.11	
164.01	166.00	5.97	5.61	5.53	5.45	5.37	5.29	5.21	5.12	3.67	3.59	3.51	3.43	3.34	3.26	3.18	
166.01	168.00	6.07	5.71	5.62	5.54	5.46	5.38	5.30	5.22	3.74	3.66	3.58	3.49	3.41	3.33	3.25	
168.01	170.00	6.16	5.80	5.72	5.64	5.56	5.48	5.40	5.32	3.81	3.72	3.64	3.56	3.48	3.40	3.32	
170.01	172.00	6.26	5.90	5.82	5.74	5.65	5.57	5.49	5.41	3.87	3.79	3.71	3.63	3.55	3.47	3.39	
172.01	174.00	6.36	5.99	5.91	5.83	5.75	5.67	5.59	5.51	3.94	3.86	3.78	3.70	3.62	3.54	3.46	
174.01	176.00	6.45	6.09	6.01	5.93	5.85	5.77	5.69	5.60	4.01	3.93	3.85	3.77	3.69	3.61	3.53	
176.01	178.00	6.55	6.19	6.10	6.02	5.94	5.86	5.78	5.70	4.08	4.00	3.92	3.84	3.76	3.68	3.60	
178.01	180.00	6.64	6.28	6.20	6.12	6.04	5.96	5.88	5.80	4.15	4.07	3.99	3.91	3.83	3.75	3.67	
180.01	182.00	6.74	6.38	6.30	6.22	6.13	6.05	5.97	5.89	4.22	4.14	4.06	3.98	3.90	3.82	3.73	
182.01	184.00	6.84	6.47	6.39	6.31	6.23	6.15	6.07	5.99	4.29	4.21	4.13	4.05	3.97	3.88	3.80	
184.01	186.00	6.93	6.57	6.49	6.41	6.33	6.25	6.17	6.08	4.36	4.28	4.20	4.12	4.03	3.95	3.87	
186.01	188.00	7.03	6.67	6.58	6.50	6.42	6.34	6.26	6.18	4.43	4.35	4.27	4.18	4.10	4.02	3.94	
188.01	190.00	7.12	6.76	6.68	6.60	6.52	6.44	6.36	6.28	4.50	4.41	4.33	4.25	4.17	4.09	4.01	
190.01	192.00	7.22	6.86	6.78	6.70	6.61	6.53	6.45	6.37	4.56	4.48	4.40	4.32	4.24	4.16	4.08	
192.01	194.00	7.32	6.95	6.87	6.79	6.71	6.63	6.55	6.47	4.64	4.56	4.48	4.40	4.32	4.24	4.16	

Add 4.80% for amounts in excess of \$194

Weekly Louisiana Income Tax Withholding Table																	
Exemptions:		0		1						2							
Dependents:		0	0	1	2	3	4	5	6	0	1	2	3	4	5	6	
Salary Range:																	
Min	Max																
0.00	50.00	2.1%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
50.01	70.00	1.26	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
70.01	90.00	1.68	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
90.01	110.00	2.10	0.28	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
110.01	130.00	2.52	0.70	0.30	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
130.01	150.00	2.94	1.12	0.72	0.32	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
150.01	170.00	3.36	1.54	1.14	0.74	0.33	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
170.01	190.00	3.78	1.96	1.56	1.16	0.75	0.35	0.00	0.00	0.15	0.00	0.00	0.00	0.00	0.00	0.00	
190.01	210.00	4.20	2.38	1.98	1.58	1.17	0.77	0.36	0.00	0.57	0.16	0.00	0.00	0.00	0.00	0.00	
210.01	230.00	4.62	2.80	2.40	2.00	1.59	1.19	0.78	0.38	0.99	0.58	0.18	0.00	0.00	0.00	0.00	
230.01	250.00	5.04	3.22	2.82	2.42	2.01	1.61	1.20	0.80	1.41	1.00	0.60	0.19	0.00	0.00	0.00	
250.01	270.00	5.72	3.91	3.50	3.10	2.70	2.29	1.89	1.48	1.83	1.42	1.02	0.61	0.21	0.00	0.00	
270.01	290.00	6.41	4.60	4.19	3.79	3.39	2.98	2.58	2.17	2.25	1.84	1.44	1.03	0.63	0.23	0.00	
290.01	310.00	7.10	5.29	4.88	4.48	4.08	3.67	3.27	2.86	2.67	2.26	1.86	1.45	1.05	0.65	0.24	
310.01	330.00	7.79	5.98	5.57	5.17	4.77	4.36	3.96	3.55	3.09	2.68	2.28	1.87	1.47	1.07	0.66	
330.01	350.00	8.48	6.67	6.26	5.86	5.46	5.05	4.65	4.24	3.51	3.10	2.70	2.29	1.89	1.49	1.08	
350.01	370.00	9.17	7.36	6.95	6.55	6.15	5.74	5.34	4.93	3.93	3.52	3.12	2.71	2.31	1.91	1.50	
370.01	390.00	9.86	8.05	7.64	7.24	6.84	6.43	6.03	5.62	4.35	3.94	3.54	3.13	2.73	2.33	1.92	
390.01	410.00	10.55	8.74	8.33	7.93	7.53	7.12	6.72	6.31	4.77	4.36	3.96	3.55	3.15	2.75	2.34	
410.01	430.00	11.24	9.43	9.02	8.62	8.22	7.81	7.41	7.00	5.19	4.78	4.38	3.97	3.57	3.17	2.76	
430.01	450.00	11.93	10.12	9.71	9.31	8.91	8.50	8.10	7.69	5.61	5.20	4.80	4.39	3.99	3.59	3.18	
450.01	470.00	12.62	10.81	10.40	10.00	9.60	9.19	8.79	8.38	6.03	5.62	5.22	4.81	4.41	4.01	3.60	
470.01	490.00	13.31	11.50	11.09	10.69	10.29	9.88	9.48	9.07	6.45	6.04	5.64	5.23	4.83	4.43	4.02	
490.01	510.00	14.26	12.45	12.04	11.64	11.24	10.83	10.43	10.02	7.12	6.72	6.32	5.91	5.51	5.11	4.70	

Biweekly Louisiana Income Tax Withholding Table																															
Exemptions:		0								1							2														
Dependents:		0		0		1		2		3		4		5		6		0		1		2		3		4		5		6	
Salary Range:		0		0		1		2		3		4		5		6		0		1		2		3		4		5		6	
Min	Max																														
1,460.01	1,500.00	51.57	47.93	47.13	46.32	45.51	44.70	43.90	43.09	30.81	30.00	29.19	28.39	27.58	26.77	25.96															
1,500.01	1,540.00	53.49	49.85	49.05	48.24	47.43	46.62	45.82	45.01	32.19	31.38	30.57	29.77	28.96	28.15	27.34															
1,540.01	1,580.00	55.41	51.77	50.97	50.16	49.35	48.54	47.74	46.93	33.57	32.76	31.95	31.15	30.34	29.53	28.72															
1,580.01	1,620.00	57.33	53.69	52.89	52.08	51.27	50.46	49.66	48.85	34.95	34.14	33.33	32.53	31.72	30.91	30.10															
1,620.01	1,660.00	59.25	55.61	54.81	54.00	53.19	52.38	51.58	50.77	36.33	35.52	34.71	33.91	33.10	32.29	31.48															
1,660.01	1,700.00	61.17	57.53	56.73	55.92	55.11	54.30	53.50	52.69	37.71	36.90	36.09	35.29	34.48	33.67	32.86															
1,700.01	1,740.00	63.09	59.45	58.65	57.84	57.03	56.22	55.42	54.61	39.09	38.28	37.47	36.67	35.86	35.05	34.24															
1,740.01	1,780.00	65.01	61.37	60.57	59.76	58.95	58.14	57.34	56.53	40.47	39.66	38.85	38.05	37.24	36.43	35.62															
1,780.01	1,820.00	66.93	63.29	62.49	61.68	60.87	60.06	59.26	58.45	41.85	41.04	40.23	39.43	38.62	37.81	37.00															
1,820.01	1,860.00	68.85	65.21	64.41	63.60	62.79	61.98	61.18	60.37	43.23	42.42	41.61	40.81	40.00	39.19	38.38															
1,860.01	1,900.00	70.77	67.13	66.33	65.52	64.71	63.90	63.10	62.29	44.61	43.80	42.99	42.19	41.38	40.57	39.76															
1,900.01	1,940.00	72.69	69.05	68.25	67.44	66.63	65.82	65.02	64.21	45.99	45.18	44.37	43.57	42.76	41.95	41.14															
1,940.01	1,980.00	74.61	70.97	70.17	69.36	68.55	67.74	66.94	66.13	47.87	47.06	46.25	45.45	44.64	43.83	43.02															

Add 4.80% for amounts in excess of \$1,980

Semimonthly Louisiana Income Tax Withholding Table																															
Exemptions:		0								1							2														
Dependents:		0		0		1		2		3		4		5		6		0		1		2		3		4		5		6	
Salary Range:		0		0		1		2		3		4		5		6		0		1		2		3		4		5		6	
Min	Max																														
0.00	100.00	2.1%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
100.01	140.00	2.52	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
140.01	180.00	3.36	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
180.01	220.00	4.20	0.26	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
220.01	260.00	5.04	1.10	0.23	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
260.01	300.00	5.88	1.94	1.07	0.19	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
300.01	340.00	6.72	2.78	1.91	1.03	0.16	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
340.01	380.00	7.56	3.62	2.75	1.87	1.00	0.12	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
380.01	420.00	8.40	4.46	3.59	2.71	1.84	0.96	0.09	0.00	0.53	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.53	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
420.01	460.00	9.24	5.30	4.43	3.55	2.68	1.80	0.93	0.05	1.37	0.49	0.00	0.00	0.00	0.00	0.00	0.00	1.37	0.49	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
460.01	500.00	10.08	6.14	5.27	4.39	3.52	2.64	1.77	0.89	2.21	1.33	0.46	0.00	0.00	0.00	0.00	0.00	2.21	1.33	0.46	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
500.01	540.00	10.92	6.98	6.11	5.23	4.36	3.48	2.61	1.73	3.05	2.17	1.30	0.42	0.00	0.00	0.00	0.00	3.05	2.17	1.30	0.42	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
540.01	580.00	12.29	8.35	7.48	6.60	5.73	4.85	3.98	3.10	3.89	3.01	2.14	1.26	0.10	0.00	0.00	0.00	3.89	3.01	2.14	1.26	0.10	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
580.01	620.00	13.67	9.73	8.86	7.98	7.11	6.23	5.36	4.48	4.73	3.85	2.98	2.10	0.94	0.00	0.00	0.00	4.73	3.85	2.98	2.10	0.94	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
620.01	660.00	15.05	11.11	10.24	9.36	8.49	7.61	6.74	5.86	5.57	4.69	3.82	2.94	1.78	0.35	0.00	0.00	5.57	4.69	3.82	2.94	1.78	0.35	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
660.01	700.00	16.43	12.49	11.62	10.74	9.87	8.99	8.12	7.24	6.41	5.53	4.66	3.78	2.62	1.19	0.00	0.00	6.41	5.53	4.66	3.78	2.62	1.19	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
700.01	740.00	17.81	13.87	13.00	12.12	11.25	10.37	9.50	8.62	7.25	6.37	5.50	4.62	3.46	2.03	0.59	0.00	7.25	6.37	5.50	4.62	3.46	2.03	0.59	0.00	0.00	0.00	0.00	0.00	0.00	
740.01	780.00	19.19	15.25	14.38	13.50	12.63	11.75	10.88	10.00	8.09	7.21	6.34	5.46	4.30	2.87	1.43	0.00	8.09	7.21	6.34	5.46	4.30	2.87	1.43	0.00	0.00	0.00	0.00	0.00	0.00	
780.01	820.00	20.57	16.63	15.76	14.88	14.01	13.13	12.26	11.38	8.93	8.05	7.18	6.30	5.14	3.71	2.27	0.00	8.93	8.05	7.18	6.30	5.14	3.71	2.27	0.00	0.00	0.00	0.00	0.00	0.00	
820.01	860.00	21.95	18.01	17.14	16.26	15.39	14.51	13.64	12.76	9.77	8.89	8.02	7.14	5.98	4.55	3.11	0.00	9.77	8.89	8.02	7.14	5.98	4.55	3.11	0.00	0.00	0.00	0.00	0.00	0.00	
860.01	900.00	23.33	19.39	18.52	17.64	16.77	15.89	15.02	14.14	10.61	9.73	8.86	7.98	6.82	5.39	3.95	0.00	10.61	9.73	8.86	7.98	6.82	5.39	3.95	0.00	0.00	0.00	0.00	0.00	0.00	
900.01	940.00	24.71	20.77	19.90	19.02	18.15	17.27	16.40	15.52	11.45	10.57	9.70	8.82	7.66	6.23	4.79	0.00	11.45	10.57	9.70	8.82	7.66	6.23	4.79	0.00	0.00	0.00	0.00	0.00	0.00	
940.01	980.00	26.09	22.15	21.28	20.40	19.53	18.65	17.78	16.90	12.29	11.41	10.54	9.66	8.50	7.07	5.63	0.00	12.29	11.41	10.54	9.66	8.50	7.07	5.63	0.00	0.00	0.00	0.00	0.00	0.00	
980.01	1,020.00	27.47	23.53	22.66	21.78	20.91	20.03	19.16	18.28	13.13	12.25	11.38	10.50	9.34	7.91	6.47	0.00	13.13	12.25	11.38	10.50	9.34	7.91	6.47	0.00	0.00	0.00	0.00	0.00	0.00	
1,020.01	1,060.00	28.85	24.91	24.04	23.16	22.29	21.41	20.54	19.66	13.97	13.09	12.22	11.34	10.18	8.75	7.31	0.00	13.97	13.09	12.22	11.34	10.18	8.75	7.31	0.00	0.00	0.00	0.00	0.00	0.00	
1,060.01	1,100.00	30.75	26.81	25.93	25.06	24.18	23.31	22.43	21.56	15.32	14.45	13.57	12.70	11.54	10.10	8.67	0.00	15.32	14.45	13.57	12.70	11.54	10.10	8.67	0.00	0.00	0.00	0.00	0.00	0.00	
1,100.01	1,140.00	32.67	28.73	27.85	26.98	26.10	25.23	24.35	23.48	16.70	15.83	14.95	14.08	12.92	11.48	10.05	0.00	16.70	15.83	14.95	14.08	12.92	11.48	10.05	0.00	0.00	0.00	0.00	0.00	0.00	
1,140.01	1,180.00	34.59	30.65	29																											

Semimonthly Louisiana Income Tax Withholding Table																
Exemptions:		1								2						
Dependents:		1								2						
Salary Range:		0	0	1	2	3	4	5	6	0	1	2	3	4	5	6
Min	Max															
1,900.01	1,940.00	71.07	67.13	66.25	65.38	64.50	63.63	62.75	61.88	44.30	43.43	42.55	41.68	40.52	39.08	37.65
1,940.01	1,980.00	72.99	69.05	68.17	67.30	66.42	65.55	64.67	63.80	45.68	44.81	43.93	43.06	41.90	40.46	39.03
1,980.01	2,020.00	74.91	70.97	70.09	69.22	68.34	67.47	66.59	65.72	47.06	46.19	45.31	44.44	43.28	41.84	40.41
2,020.01	2,060.00	76.83	72.89	72.01	71.14	70.26	69.39	68.51	67.64	48.44	47.57	46.69	45.82	44.66	43.22	41.79
2,060.01	2,100.00	78.75	74.81	73.93	73.06	72.18	71.31	70.43	69.56	49.82	48.95	48.07	47.20	46.04	44.60	43.17
2,100.01	2,140.00	80.67	76.73	75.85	74.98	74.10	73.23	72.35	71.48	51.70	50.82	49.95	49.07	47.92	46.48	45.04

Add 4.80% for amounts in excess of \$2,140

Monthly Louisiana Income Tax Withholding Table																
Exemptions:		1								2						
Dependents:		1								2						
Salary Range:		0	0	1	2	3	4	5	6	0	1	2	3	4	5	6
Min	Max															
0.00	200.00	2.1%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
200.01	280.00	5.04	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
280.01	360.00	6.72	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
360.01	440.00	8.40	0.53	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
440.01	520.00	10.08	2.21	0.46	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
520.01	600.00	11.76	3.89	2.14	0.39	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
600.01	680.00	13.44	5.57	3.82	2.07	0.32	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
680.01	760.00	15.12	7.25	5.50	3.75	2.00	0.24	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
760.01	840.00	16.80	8.93	7.18	5.43	3.68	1.93	0.18	0.00	1.05	0.00	0.00	0.00	0.00	0.00	0.00
840.01	920.00	18.48	10.61	8.86	7.11	5.36	3.61	1.86	0.11	2.73	0.98	0.00	0.00	0.00	0.00	0.00
920.01	1,000.00	20.16	12.29	10.54	8.79	7.04	5.29	3.54	1.79	4.41	2.66	0.91	0.00	0.00	0.00	0.00
1,000.01	1,080.00	21.84	13.97	12.22	10.47	8.72	6.97	5.22	3.47	6.09	4.34	2.59	0.84	0.00	0.00	0.00
1,080.01	1,160.00	24.58	16.70	14.95	13.20	11.45	9.70	7.95	6.20	7.77	6.02	4.27	2.52	0.77	0.00	0.00
1,160.01	1,240.00	27.34	19.46	17.71	15.96	14.21	12.46	10.71	8.96	9.45	7.70	5.95	4.20	2.45	0.70	0.00
1,240.01	1,320.00	30.10	22.22	20.47	18.72	16.97	15.22	13.47	11.72	11.13	9.38	7.63	5.88	4.13	2.38	0.63
1,320.01	1,400.00	32.86	24.98	23.23	21.48	19.73	17.98	16.23	14.48	12.81	11.06	9.31	7.56	5.81	4.06	2.31
1,400.01	1,480.00	35.62	27.74	25.99	24.24	22.49	20.74	18.99	17.24	14.49	12.74	10.99	9.24	7.49	5.74	3.99
1,480.01	1,560.00	38.38	30.50	28.75	27.00	25.25	23.50	21.75	20.00	16.17	14.42	12.67	10.92	9.17	7.42	5.67
1,560.01	1,640.00	41.14	33.26	31.51	29.76	28.01	26.26	24.51	22.76	17.85	16.10	14.35	12.60	10.85	9.10	7.35
1,640.01	1,720.00	43.90	36.02	34.27	32.52	30.77	29.02	27.27	25.52	19.53	17.78	16.03	14.28	12.53	10.78	9.03
1,720.01	1,800.00	46.66	38.78	37.03	35.28	33.53	31.78	30.03	28.28	21.21	19.46	17.71	15.96	14.21	12.46	10.71
1,800.01	1,880.00	49.42	41.54	39.79	38.04	36.29	34.54	32.79	31.04	22.89	21.14	19.39	17.64	15.89	14.14	12.39
1,880.01	1,960.00	52.18	44.30	42.55	40.80	39.05	37.30	35.55	33.80	24.57	22.82	21.07	19.32	17.57	15.82	14.07
1,960.01	2,040.00	54.94	47.06	45.31	43.56	41.81	40.06	38.31	36.56	26.25	24.50	22.75	21.00	19.25	17.50	15.75
2,040.01	2,120.00	57.70	49.82	48.07	46.32	44.57	42.82	41.07	39.32	27.93	26.18	24.43	22.68	20.93	19.18	17.43
2,120.01	2,200.00	61.49	53.62	51.87	50.12	48.37	46.62	44.87	43.12	30.65	28.90	27.15	25.40	23.65	21.90	20.15
2,200.01	2,280.00	65.33	57.46	55.71	53.96	52.21	50.46	48.71	46.96	33.41	31.66	29.91	28.16	26.41	24.66	22.91
2,280.01	2,360.00	69.17	61.30	59.55	57.80	56.05	54.30	52.55	50.80	36.17	34.42	32.67	30.92	29.17	27.42	25.67
2,360.01	2,440.00	73.01	65.14	63.39	61.64	59.89	58.14	56.39	54.64	38.93	37.18	35.43	33.68	31.93	30.18	28.43
2,440.01	2,520.00	76.85	68.98	67.23	65.48	63.73	61.98	60.23	58.48	41.69	39.94	38.19	36.44	34.69	32.94	31.19
2,520.01	2,600.00	80.69	72.82	71.07	69.32	67.57	65.82	64.07	62.32	44.45	42.70	40.95	39.20	37.45	35.70	33.95
2,600.01	2,680.00	84.53	76.66	74.91	73.16	71.41	69.66	67.91	66.16	47.21	45.46	43.71	41.96	40.21	38.46	36.71
2,680.01	2,760.00	88.37	80.50	78.75	77.00	75.25	73.50	71.75	70.00	49.97	48.22	46.47	44.72	42.97	41.22	39.47
2,760.01	2,840.00	92.21	84.34	82.59	80.84	79.09	77.34	75.59	73.84	52.73	50.98	49.23	47.48	45.73	43.98	42.23
2,840.01	2,920.00	96.05	88.18	86.43	84.68	82.93	81.18	79.43	77.68	55.49	53.74	51.99	50.24	48.49	46.74	44.99
2,920.01	3,000.00	99.89	92.02	90.27	88.52	86.77	85.02	83.27	81.52	58.25	56.50	54.75	53.00	51.25	49.50	47.75
3,000.01	3,080.00	103.73	95.86	94.11	92.36	90.61	88.86	87.11	85.36	61.01	59.26	57.51	55.76	54.01	52.26	50.51
3,080.01	3,160.00	107.57	99.70	97.95	96.20	94.45	92.70	90.95	89.20	63.77	62.02	60.27	58.52	56.77	55.02	53.27
3,160.01	3,240.00	111.41	103.54	101.79	100.04	98.29	96.54	94.79	93.04	66.53	64.78	63.03	61.28	59.53	57.78	56.03
3,240.01	3,320.00	115.25	107.38	105.63	103.88	102.13	100.38	98.63	96.88	69.29	67.54	65.79	64.04	62.29	60.54	58.79
3,320.01	3,400.00	119.09	111.22	109.47	107.72	105.97	104.22	102.47	100.72	72.05	70.30	68.55	66.80	65.05	63.30	61.55
3,400.01	3,480.00	122.93	115.06	113.31	111.56	109.81	108.06	106.31	104.56	74.81	73.06	71.31	69.56	67.81	66.06	64.31
3,480.01	3,560.00	126.77	118.90	117.15	115.40	113.65	111.90	110.15	108.40	77.57	75.82	74.07	72.32	70.57	68.82	67.07
3,560.01	3,640.00	130.61	122.74	120.99	119.24	117.49	115.74	113.99	112.24	80.33	78.58	76.83	75.08	73.33	71.58	69.83
3,640.01	3,720.00	134.45	126.58	124.83	123.08	121.33	119.58	117.83	116.08	83.09	81.34	79.59	77.84	76.09	74.34	72.59
3,720.01	3,800.00	138.29	130.42	128.67	126.92	125.17	123.42	121.67	119.92	85.85	84.10	82.35	80.60	78.85	77.10	75.35
3,800.01	3,880.00	142.13	134.26	132.51	130.76	129.01	127.26	125.51	123.76	88.61	86.86	85.11	83.36	81.61	79.86	78.11
3,880.01	3,960.00	145.97	138.10	136.35	134.60	132.85	131.10	129.35	127.60	91.37	89.62	87.87	86.12	84.37	82.62	80.87
3,960.01	4,040.00	149.81	141.94	140.19	138.44	136.69	134.94	133.19	131.44	94.13	92.38	90.63	88.88	87.13	85.38	83.63
4,040.01	4,120.00	153.65	145.78	144.03	142.28	140.53	138.78	137.03	135.28	96.89	95.14	93.39	91.64	89.89	88.14	86.39
4,120.01	4,200.00	157.49	149.62	147.87	146.12	144.37	142.62	140.87	139.12	99.65	97.90	96.15	94.40	92.65	90.90	89.15
4,200.01	4,280.00	161.33	153.46	151.71	149.96	148.21	146.46	144.71	142.96	103.40	101.65	99.90	98.15	96.40	94.65	92.90

Add 4.80% for amounts in excess of \$4,280

Monthly Louisiana Income Tax Withholding Table																	
Exemptions:		0		1						2							
Dependents:		0		0	1	2	3	4	5	6	0	1	2	3	4	5	6
Salary Range:		0		0	1	2	3	4	5	6	0	1	2	3	4	5	6
Min	Max																
Annual Louisiana Income Tax Withholding Table																	
Exemptions:		0		1						2							
Dependents:		0		0	1	2	3	4	5	6	0	1	2	3	4	5	6
Salary Range:		0		0	1	2	3	4	5	6	0	1	2	3	4	5	6
Min	Max																
0.00	2,500.00	2.1%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2,500.01	2,900.00	56.70	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2,900.01	3,300.00	65.10	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3,300.01	3,700.00	73.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3,700.01	4,100.00	81.90	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
4,100.01	4,500.00	90.30	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
4,500.01	4,900.00	98.70	4.20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
4,900.01	5,300.00	107.10	12.60	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
5,300.01	5,700.00	115.50	21.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
5,700.01	6,100.00	123.90	29.40	8.40	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6,100.01	6,500.00	132.30	37.80	16.80	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6,500.01	6,900.00	140.70	46.20	25.20	4.20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6,900.01	7,300.00	149.10	54.60	33.60	12.60	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
7,300.01	7,700.00	157.50	63.00	42.00	21.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
7,700.01	8,100.00	165.90	71.40	50.40	29.40	8.40	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
8,100.01	8,500.00	174.30	79.80	58.80	37.80	16.80	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
8,500.01	8,900.00	182.70	88.20	67.20	46.20	25.20	4.20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
8,900.01	9,300.00	191.10	96.60	75.60	54.60	33.60	12.60	0.00	0.00	2.10	0.00	0.00	0.00	0.00	0.00	0.00	0.00
9,300.01	9,700.00	199.50	105.00	84.00	63.00	42.00	21.00	0.00	0.00	10.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00
9,700.01	10,100.00	207.90	113.40	92.40	71.40	50.40	29.40	8.40	0.00	18.90	0.00	0.00	0.00	0.00	0.00	0.00	0.00
10,100.01	10,500.00	216.30	121.80	100.80	79.80	58.80	37.80	16.80	0.00	27.30	6.30	0.00	0.00	0.00	0.00	0.00	0.00
10,500.01	10,900.00	224.70	130.20	109.20	88.20	67.20	46.20	25.20	4.20	35.70	14.70	0.00	0.00	0.00	0.00	0.00	0.00
10,900.01	11,300.00	233.10	138.60	117.60	96.60	75.60	54.60	33.60	12.60	44.10	23.10	2.10	0.00	0.00	0.00	0.00	0.00
11,300.01	11,700.00	241.50	147.00	126.00	105.00	84.00	63.00	42.00	21.00	52.50	31.50	10.50	0.00	0.00	0.00	0.00	0.00
11,700.01	12,100.00	249.90	155.40	134.40	113.40	92.40	71.40	50.40	29.40	60.90	39.90	18.90	0.00	0.00	0.00	0.00	0.00
12,100.01	12,500.00	258.30	163.80	142.80	121.80	100.80	79.80	58.80	37.80	69.30	48.30	27.30	6.30	0.00	0.00	0.00	0.00
12,500.01	12,900.00	266.70	172.20	150.80	129.80	108.80	87.80	66.80	45.80	77.70	56.70	35.70	14.70	0.00	0.00	0.00	0.00
12,900.01	13,300.00	275.10	180.60	158.80	137.80	116.80	95.80	74.80	53.80	86.10	65.10	44.10	23.10	2.10	0.00	0.00	0.00
13,300.01	13,700.00	283.50	189.00	166.80	145.80	124.80	103.80	82.80	61.80	94.50	73.50	52.50	31.50	10.50	0.00	0.00	0.00
13,700.01	14,100.00	291.90	197.40	174.80	153.80	132.80	111.80	90.80	69.80	102.90	81.90	60.90	39.90	18.90	0.00	0.00	0.00
14,100.01	14,500.00	300.30	205.80	182.80	161.80	140.80	119.80	98.80	77.80	111.30	90.30	69.30	48.30	27.30	6.30	0.00	0.00
14,500.01	14,900.00	308.70	214.20	190.80	169.80	148.80	127.80	106.80	85.80	119.70	98.70	77.70	56.70	35.70	14.70	0.00	0.00
14,900.01	15,300.00	317.10	222.60	198.80	177.80	156.80	135.80	114.80	93.80	128.10	107.10	86.10	65.10	44.10	23.10	2.10	0.00
15,300.01	15,700.00	325.50	231.00	206.80	185.80	164.80	143.80	122.80	101.80	136.50	115.50	94.50	73.50	52.50	31.50	10.50	0.00
15,700.01	16,100.00	333.90	239.40	214.80	193.80	172.80	151.80	130.80	109.80	144.90	123.90	102.90	81.90	60.90	39.90	18.90	0.00
16,100.01	16,500.00	342.30	247.80	222.80	201.80	180.80	159.80	138.80	117.80	153.30	132.30	111.30	90.30	69.30	48.30	27.30	0.00
16,500.01	16,900.00	350.70	256.20	230.80	209.80	188.80	167.80	146.80	125.80	161.70	140.70	119.70	98.70	77.70	56.70	35.70	0.00
16,900.01	17,300.00	359.10	264.60	238.80	217.80	196.80	175.80	154.80	133.80	170.10	149.10	128.10	107.10	86.10	65.10	44.10	0.00
17,300.01	17,700.00	367.50	273.00	246.80	225.80	204.80	183.80	162.80	141.80	178.50	157.50	136.50	115.50	94.50	73.50	52.50	0.00
17,700.01	18,100.00	375.90	281.40	254.80	233.80	212.80	191.80	170.80	149.80	186.90	165.90	144.90	123.90	102.90	81.90	60.90	0.00
18,100.01	18,500.00	384.30	289.80	262.80	241.80	220.80	199.80	178.80	157.80	195.30	174.30	153.30	132.30	111.30	90.30	69.30	0.00
18,500.01	18,900.00	392.70	298.20	270.80	249.80	228.80	207.80	186.80	165.80	203.70	182.70	161.70	140.70	119.70	98.70	77.70	0.00
18,900.01	19,300.00	401.10	306.60	278.80	257.80	236.80	215.80	194.80	173.80	212.10	191.10	170.10	149.10	128.10	107.10	86.10	0.00
19,300.01	19,700.00	409.50	315.00	286.80	265.80	244.80	223.80	202.80	181.80	220.50	199.50	178.50	157.50	136.50	115.50	94.50	0.00
19,700.01	20,100.00	417.90	323.40	294.80	273.80	252.80	231.80	210.80	189.80	228.90	207.90	186.90	165.90	144.90	123.90	102.90	0.00
20,100.01	20,500.00	426.30	331.80	302.80	281.80	260.80	239.80	218.80	197.80	237.30	216.30	195.30	174.30	153.30	132.30	111.30	0.00
20,500.01	20,900.00	434.70	340.20	310.80	289.80	268.80	247.80	226.80	205.80	245.70	224.70	203.70	182.70	161.70	140.70	119.70	0.00
20,900.01	21,300.00	443.10	348.60	318.80	297.80	276.80	255.80	234.80	213.80	254.10	233.10	212.10	191.10	170.10	149.10	128.10	0.00
21,300.01	21,700.00	451.50	357.00	326.80	305.80	284.80	263.80	242.80	221.80	262.50	241.50	220.50	199.50	178.50	157.50	136.50	0.00
21,700.01	22,100.00	459.90	365.40	334.80	313.80	292.80	271.80	250.80	229.80	270.90	249.90	228.90	207.90	186.90	165.90	144.90	0.00
22,100.01	22,500.00	468.30	373.80	342.80	321.80	300.80	279.80	258.80	237.80	279.30	258.30	237.30	216.30	195.30	174.30	153.30	0.00
22,500.01	22,900.00	476.70	382.20	350.80	329.80	308.80	287.80	266.80	245.80	287.70	266.70	245.70	224.70	203.70	182.70	161.70	0.00
22,900.01	23,300.00	485.10	390.60	358.80	337.80	316.80	295.80	274.80	253.80	296.10	275.10	254.10	233.10	212.10	191.10	170.10	0.00
23,300.01	23,700.00	493.50	399.00	366.80	345.80	324.80	303.80	282.80	261.80	304.50	283.50	262.50	241.50	220.50	199.50	178.50	0.00

Monthly Louisiana Income Tax Withholding Table																													
Exemptions:		0								1							2												
Dependents:		0		1		2		3		4		5		6		0		1		2		3		4		5		6	
Salary Range:		0		1		2		3		4		5		6		0		1		2		3		4		5		6	
Min	Max																												
26,500.01	26,900.00	775.35	680.85	659.85	638.85	617.85	596.85	575.85	554.85	394.65	373.65	352.65	331.65	310.65	289.65	268.65													
26,900.01	27,300.00	794.55	700.05	679.05	658.05	637.05	616.05	595.05	574.05	408.45	387.45	366.45	345.45	324.45	303.45	282.45													
27,300.01	27,700.00	813.75	719.25	698.25	677.25	656.25	635.25	614.25	593.25	422.25	401.25	380.25	359.25	338.25	317.25	296.25													
27,700.01	28,100.00	832.95	738.45	717.45	696.45	675.45	654.45	633.45	612.45	436.05	415.05	394.05	373.05	352.05	331.05	310.05													
28,100.01	28,500.00	852.15	757.65	736.65	715.65	694.65	673.65	652.65	631.65	449.85	428.85	407.85	386.85	365.85	344.85	323.85													
28,500.01	28,900.00	871.35	776.85	755.85	734.85	713.85	692.85	671.85	650.85	463.65	442.65	421.65	400.65	379.65	358.65	337.65													
28,900.01	29,300.00	890.55	796.05	775.05	754.05	733.05	712.05	691.05	670.05	477.45	456.45	435.45	414.45	393.45	372.45	351.45													
29,300.01	29,700.00	909.75	815.25	794.25	773.25	752.25	731.25	710.25	689.25	491.25	470.25	449.25	428.25	407.25	386.25	365.25													
29,700.01	30,100.00	928.95	834.45	813.45	792.45	771.45	750.45	729.45	708.45	505.05	484.05	463.05	442.05	421.05	400.05	379.05													
30,100.01	30,500.00	948.15	853.65	832.65	811.65	790.65	769.65	748.65	727.65	518.85	497.85	476.85	455.85	434.85	413.85	392.85													
30,500.01	30,900.00	967.35	872.85	851.85	830.85	809.85	788.85	767.85	746.85	532.65	511.65	490.65	469.65	448.65	427.65	406.65													
30,900.01	31,300.00	986.55	892.05	871.05	850.05	829.05	808.05	787.05	766.05	546.45	525.45	504.45	483.45	462.45	441.45	420.45													
31,300.01	31,700.00	1,005.75	911.25	890.25	869.25	848.25	827.25	806.25	785.25	560.25	539.25	518.25	497.25	476.25	455.25	434.25													
31,700.01	32,100.00	1,024.95	930.45	909.45	888.45	867.45	846.45	825.45	804.45	574.05	553.05	532.05	511.05	490.05	469.05	448.05													
32,100.01	32,500.00	1,044.15	949.65	928.65	907.65	886.65	865.65	844.65	823.65	587.85	566.85	545.85	524.85	503.85	482.85	461.85													
32,500.01	32,900.00	1,063.35	968.85	947.85	926.85	905.85	884.85	863.85	842.85	601.65	580.65	559.65	538.65	517.65	496.65	475.65													
32,900.01	33,300.00	1,082.55	988.05	967.05	946.05	925.05	904.05	883.05	862.05	615.45	594.45	573.45	552.45	531.45	510.45	489.45													
33,300.01	33,700.00	1,101.75	1,007.25	986.25	965.25	944.25	923.25	902.25	881.25	629.25	608.25	587.25	566.25	545.25	524.25	503.25													
33,700.01	34,100.00	1,120.95	1,026.45	1,005.45	984.45	963.45	942.45	921.45	900.45	643.05	622.05	601.05	580.05	559.05	538.05	517.05													
34,100.01	34,500.00	1,140.15	1,045.65	1,024.65	1,003.65	982.65	961.65	940.65	919.65	656.85	635.85	614.85	593.85	572.85	551.85	530.85													
34,500.01	34,900.00	1,159.35	1,064.85	1,043.85	1,022.85	1,001.85	980.85	959.85	938.85	670.65	649.65	628.65	607.65	586.65	565.65	544.65													
34,900.01	35,300.00	1,178.55	1,084.05	1,063.05	1,042.05	1,021.05	1,000.05	979.05	958.05	684.45	663.45	642.45	621.45	600.45	579.45	558.45													
35,300.01	35,700.00	1,197.75	1,103.25	1,082.25	1,061.25	1,040.25	1,019.25	998.25	977.25	698.25	677.25	656.25	635.25	614.25	593.25	572.25													
35,700.01	36,100.00	1,216.95	1,122.45	1,101.45	1,080.45	1,059.45	1,038.45	1,017.45	996.45	712.05	691.05	670.05	649.05	628.05	607.05	586.05													
36,100.01	36,500.00	1,236.15	1,141.65	1,120.65	1,099.65	1,078.65	1,057.65	1,036.65	1,015.65	725.85	704.85	683.85	662.85	641.85	620.85	599.85													
36,500.01	36,900.00	1,255.35	1,160.85	1,139.85	1,118.85	1,097.85	1,076.85	1,055.85	1,034.85	739.65	718.65	697.65	676.65	655.65	634.65	613.65													
36,900.01	37,300.00	1,274.55	1,180.05	1,159.05	1,138.05	1,117.05	1,096.05	1,075.05	1,054.05	753.45	732.45	711.45	690.45	669.45	648.45	627.45													
37,300.01	37,700.00	1,293.75	1,199.25	1,178.25	1,157.25	1,136.25	1,115.25	1,094.25	1,073.25	767.25	746.25	725.25	704.25	683.25	662.25	641.25													
37,700.01	38,100.00	1,312.95	1,218.45	1,197.45	1,176.45	1,155.45	1,134.45	1,113.45	1,092.45	781.05	760.05	739.05	718.05	697.05	676.05	655.05													
38,100.01	38,500.00	1,332.15	1,237.65	1,216.65	1,195.65	1,174.65	1,153.65	1,132.65	1,111.65	794.85	773.85	752.85	731.85	710.85	689.85	668.85													
38,500.01	38,900.00	1,351.35	1,256.85	1,235.85	1,214.85	1,193.85	1,172.85	1,151.85	1,130.85	808.65	787.65	766.65	745.65	724.65	703.65	682.65													
38,900.01	39,300.00	1,370.55	1,276.05	1,255.05	1,234.05	1,213.05	1,192.05	1,171.05	1,150.05	822.45	801.45	780.45	759.45	738.45	717.45	696.45													
39,300.01	39,700.00	1,389.75	1,295.25	1,274.25	1,253.25	1,232.25	1,211.25	1,190.25	1,169.25	836.25	815.25	794.25	773.25	752.25	731.25	710.25													
39,700.01	40,100.00	1,408.95	1,314.45	1,293.45	1,272.45	1,251.45	1,230.45	1,209.45	1,188.45	850.05	829.05	808.05	787.05	766.05	745.05	724.05													
40,100.01	40,500.00	1,428.15	1,333.65	1,312.65	1,291.65	1,270.65	1,249.65	1,228.65	1,207.65	863.85	842.85	821.85	800.85	779.85	758.85	737.85													
40,500.01	40,900.00	1,447.35	1,352.85	1,331.85	1,310.85	1,289.85	1,268.85	1,247.85	1,226.85	877.65	856.65	835.65	814.65	793.65	772.65	751.65													
40,900.01	41,300.00	1,466.55	1,372.05	1,351.05	1,330.05	1,309.05	1,288.05	1,267.05	1,246.05	891.45	870.45	849.45	828.45	807.45	786.45	765.45													
41,300.01	41,700.00	1,485.75	1,391.25	1,370.25	1,349.25	1,328.25	1,307.25	1,286.25	1,265.25	905.25	884.25	863.25	842.25	821.25	800.25	779.25													
41,700.01	42,100.00	1,504.95	1,410.45	1,389.45	1,368.45	1,347.45	1,326.45	1,305.45	1,284.45	919.05	898.05	877.05	856.05	835.05	814.05	793.05													
42,100.01	42,500.00	1,524.15	1,429.65	1,408.65	1,387.65	1,366.65	1,345.65	1,324.65	1,303.65	932.85	911.85	890.85	869.85	848.85	827.85	806.85													
42,500.01	42,900.00	1,543.35	1,448.85	1,427.85	1,406.85	1,385.85	1,364.85	1,343.85	1,322.85	946.65	925.65	904.65	883.65	862.65	841.65	820.65													
42,900.01	43,300.00	1,562.55	1,468.05	1,447.05	1,426.05	1,405.05	1,384.05	1,363.05	1,342.05	960.45	939.45	918.45	897.45	876.45	855.45	834.45													
43,300.01	43,700.00	1,581.75	1,487.25	1,466.25	1,445.25	1,424.25	1,403.25	1,382.25	1,361.25	974.25	953.25	932.25	911.25	890.25	869.25	848.25													
43,700.01	44,100.00	1,600.95	1,506.45	1,485.45	1,464.45	1,443.45	1,422.45	1,401.45	1,380.45	988.05	967.05	946.05	925.05	904.05	883.05	862.05													
44,100.01	44,500.00	1,620.15	1,525.65	1,504.65	1,483.65	1,462.65	1,441.65	1,420.65	1,399.65	1,001.85	980.85	959.85	938.85	917.85	896.85	875.85													
44,500.01	44,900.00	1,639.35	1,544.85	1,523.85	1,502.85	1,481.85	1,460.85	1,439.85	1,418.85	1,015.65	99																		

2. Withholding formula used to compute the withholding tables is as follows:

W = Withholding tax.
S = Salary per period.
X = Number of personal exemptions claimed for withholding;
X may be 0, 1, or 2.
Y = Number of dependency credits claimed for withholding;
Y may be 0 or greater.
M = Income Brackets for tax rate change.
If X = 0 or 1, then M₁ = \$12,500, and M₂ = \$25,000
If X = 2, then M₁ = \$25,000, and M₂ = \$50,000
N = Number of pay-periods per year (for example, weekly = 52
or monthly =12).

If S > 0
Then A = (S * .021)
Else A = 0

If S > (M₁ / N)
Then B = .0135 [S - (M₁ / N)]
Else B = 0

If S > (M₂ / N)
Then C = .0135 [S - (M₂ / N)]
Else C = 0

D = .021 [(X * \$4,500) + (Y * \$1,000)] / N

If [(X * \$4,500) + (Y * \$1,000)] > M₁
Then E = .0135 [(X * \$4,500) + (Y * \$1,000) - M₁] / N

If (A + B + C) - (D + E) > 0
Then W = (A + B + C) - (D + E)
Else W = 0

3. In place of the withholding tables in Subsection C, employers may use the formula described in Paragraph D.2 or an alternative formula if it produces equivalent results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:112, R.S. 47:295 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, LR 28:2557 (December 2002).

Cynthia Bridges
Secretary

0212#021

RULE

Department of Social Services Office of Family Support

FITAP/KCSP Adverse Action and Reporting Requirements
(LAC 67:III.1209, 5307, and 5347)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Chapter 12, Family Independence Temporary Assistance Program (FITAP) and Chapter 53, Kinship Care Subsidy Program (KCSP).

Pursuant to the authority granted to the Department by the Temporary Assistance for Needy Families Block Grant, the agency amended §§1209 and 5307 to align FITAP and KCSP regulations for taking immediate action in reducing or terminating client benefits with Food Stamp Program regulations. The agency adopted §5347 to include KCSP

reporting requirements as a condition of eligibility. Adoption of the requirement in KCSP further aligns the program with FITAP and Food Stamp Program regulations that require the household to report only certain increases in household members' income.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

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

§1209. Notices of Adverse Actions

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

1. - 14. ...

15. the agency receives a written report signed by the head of household or other responsible household member which provides sufficient information for the agency to determine the household's benefit amount or ineligibility;

16. the agency receives a report of change through the semi-annual reporting process that would reduce or terminate benefits;

17. mass changes.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 26:349 (February 2000), LR 28:2565 (December 2002).

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

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

§5307. Notices of Adverse Actions

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

1. - 10. ...

11. the agency receives a written report signed by the head of household or other responsible household member which provides sufficient information for the agency to determine the client's ineligibility;

12. the agency receives a report of change through the semi-annual reporting process that would reduce or terminate benefits;

13. mass changes.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000), LR 28:2565 (December 2002).

§5347. Reporting Changes

A. A KCSP household shall report any change that affects eligibility. Changes in income must be reported if the

household's gross monthly income changes by more than \$100 in earned income or \$25 in unearned income.

B. Changes shall be reported within 10 days of the knowledge of the change unless the KCSP household is included in a food stamp semi-annual reporting household. The KCSP household is then subject to the semi-annual household reporting requirements in accordance with §2013.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2565 (December 2002).

Gwendolyn P. Hamilton
Secretary

0212#074

RULE

Department of Social Services Office of Family Support

TANF Initiatives CDiversion Assistance Program (LAC 67:III.Chapter 56)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, and pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature, the Department of Social Services, Office of Family Support, has adopted LAC 67:III, Subpart 15, Chapter 56, Diversion Assistance Program (DAP) as part of the Temporary Assistance For Needy Families (TANF) Initiatives. The agency implemented the Diversion Assistance Program to provide a one-time, lump sum cash payment for eligible families with dependent children who have a recent connection with the workforce, and are unemployed or facing the possibility of unemployment, due to a crisis or barrier to employment which may be overcome through the receipt of Diversion Assistance.

The program was effected July 1, 2002, by a Declaration of Emergency which was published in the July issue of the *Louisiana Register*.

Title 67

SOCIAL SERVICES

Part III. Family Support

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

Chapter 56. Diversion Assistance Program (DAP)

§5601. General Authority

A. The Diversion Assistance Program (DAP) is established in accordance with state and federal laws effective July 1, 2002, to help prevent the dependence of needy families on government benefits by providing cash assistance to low-income families in order to promote job retention and work. Applications will be accepted and eligible households certified based upon the availability of funding.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2566 (December 2002).

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

§5603. Application Date

A. All individuals applying for DAP shall file a written and signed application form under penalty of perjury. The date the application form is received in the parish office shall be considered the date of application.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2566 (December 2002).

§5605. Standard Filing Unit

A. The mandatory filing unit includes the dependent child, the dependent child's siblings (including half and step-siblings) and the parents (including legal stepparents) of any of these children living in the home. A dependent child must be under 19 years of age. In the case of the child of a minor parent, the filing unit shall include the child, the minor parent, the minor parent's siblings (including half and step) and the parents of any of these children living in the home. Supplemental Security Income (SSI) recipients, FITAP recipients, and children receiving Kinship Care Subsidy Payments may not be included in the filing unit.

B. All persons who live in the same home and are eligible for inclusion in a DAP assistance unit as specified in §5605.A., must be included in the same certification. A separate DAP assistance unit is necessary if unrelated families living together experience an eligible crisis.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2566 (December 2002).

§5607. Application Time Limit

A. The time within which the worker shall dispose of the application is limited to within 30 days from the date on which the signed application is received in the local office. The payment shall be issued or the applicant shall be notified that he has been found ineligible for a payment by the 30th day, unless an unavoidable delay has occurred.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2566 (December 2002).

§5609. Certification Period and Payment Amounts

A. Families shall receive Diversion Assistance only once within a 12-month period with a lifetime limit of two payments.

B. The DAP payment amount shall be equal to four times the Family Independence Temporary Assistance Program (FITAP) flat grant amount applicable to the household's size as specified in LAC 67:III.1229.D

C. Adults in the assistance unit will be ineligible for FITAP benefits for four months from the effective date of certification for DAP unless certain, severe circumstances occur during that four-month period. These include but are not limited to:

1. loss of job;
2. natural disaster;
3. incapacity or disability of the adult(s); or
4. domestic violence.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2566 (December 2002).

§5611. Domestic Violence

A. The DAP household is subject to regulations governing domestic violence issues in accordance with LAC 67:III.1213.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2567 (December 2002).

Subchapter B. Conditions of Eligibility

§5613. Citizenship

A. Citizenship requirements outlined in LAC 67:III.1223. must be met for each member included in the DAP payment.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2567 (December 2002).

§5615. Enumeration

A. Each applicant for DAP is required to furnish a social security number or to apply for a social security number if such a number has not been issued or is not known.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2567 (December 2002).

§5617. Living in the Home of a Qualified Relative

A. A child must reside in the home of a parent or other qualified relative who is responsible for the day-to-day care of the child. Benefits will not be denied when the qualified relative or the child is temporarily out of the home. Good cause must be established for a temporary absence of more than 45 days. The following relatives are qualified relatives and these may be either biological or adoptive relatives:

1. grandfather or grandmother (extends to great-great-great);
2. brother or sister (including half-brother and half-sister);
3. uncle or aunt (extends to great-great);
4. first cousin (including first cousin once removed);
5. nephew or niece (extends to great-great);
6. stepfather or stepmother;
7. stepbrother or stepsister.

B. Eligibility for assistance for minor unmarried parents shall require that the individual and dependent child reside in the residence of the individual's parent, legal guardian, other relative, or in a foster home, maternity home or other adult-supervised supportive living arrangement, and that where possible, aid shall be provided to the parent, legal guardian or other adult relative on behalf of the individual and dependent. The following exceptions apply:

1. the minor parent has no parent or guardian (of his or her own) who is living and whose whereabouts are known;
2. no living parent or legal guardian allows the minor parent to live in his/her home;

3. the minor parent lived apart from his/her own parent or legal guardian for a period of at least one year before the birth of the dependent child or the parent's having made application for DAP;

4. the physical or emotional health or safety of the minor parent or dependent child would be jeopardized if he/she resided in the same household with the parent or legal guardian;

5. there is otherwise good cause for the minor parent and dependent child to receive assistance while living apart from the minor parent's parent, legal guardian or other adult relative, or an adult-supervised supportive living arrangement.

C. Essential persons are individuals who may be included in the DAP payment and are defined as follows:

1. a person providing child care which enables the qualified relative to work full-time outside the home;

2. a person providing full-time care for an incapacitated family member living in the home;

3. a person providing child care that enables the qualified relative to receive full-time training;

4. a person providing child care that enables a qualified relative to attend high school or General Education Development (GED) classes full-time;

5. a person providing child care for a period not to exceed two months that enables a caretaker relative to participate in employment search or another FITAP work program; or

6. children not within the degree of relationship to be DAP eligible who live in the home and who meet all other DAP requirements.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2567 (December 2002).

§5619. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining eligibility and payment amounts except income from:

1. adoption assistance;
2. earned income of a child, including a minor unmarried parent, who is in school and working toward a high school diploma, GED, or special education certificate;
3. disaster payments;
4. Domestic Volunteer Service Act;
5. Earned Income Credits (EIC);
6. education assistance;
7. energy assistance;
8. foster care payments;
9. monetary gifts up to \$30 per calendar quarter;
10. Agent Orange Settlement payments;
11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program;
12. income in-kind;
13. Indian and Native Claims and Lands;
14. irregular and unpredictable sources;
15. lump sum payments;
16. nutrition programs;
17. job training income that is not earned;

18. relocation assistance;
19. a bona fide loan which is considered bona fide if the client is legally obligated or intends to repay the loan;
20. Supplemental Security Income;
21. Wartime Relocation of Civilians Payments;
22. Developmental Disability Payments;
23. Delta Service Corps post-service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education, repayment of a student loan, or for closing costs or down payment on a home;
24. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage);
25. Radiation Exposure Compensation Payments;
26. payment to victims of Nazi persecution;
27. restricted income received for a person not in the assistance unit or not in the income unit. Restricted income is income which is designated specifically for a person's use by federal statute or court order and may include RSDI, VA benefits and court-ordered-support payments;
28. crime victim compensation program payments to an applicant/recipient whose assistance is necessary, in full or in part, because of the commission of a crime against the applicant, and to the extent it is sufficient to fully compensate the applicant for losses suffered as a result of the crime; or
29. post-FITAP payments.

B. Income Eligibility Standards

1. The income eligibility standards for DAP shall be based on gross income with no income disregards.

a. Gross Income shall be 130 percent of the Office of Management and Budget's (OMB) nonfarm income poverty guidelines for the 48 states and the District of Columbia.

b. The income eligibility limits, as described in this Paragraph, are revised annually, to reflect OMB's annual adjustment to the nonfarm poverty guidelines for the 48 states and the District of Columbia, for Alaska, and for Hawaii.

C. Income and Resources of Alien Sponsors

1. In determining the eligibility and benefits of an alien with an affidavit of support executed under 213A of the INA (8 U.S.C. 1183a), the income and resources of the sponsor and the sponsor's spouse shall be considered except as follows in §5619.C.a-b. This attribution shall continue for the period prescribed in 8 U.S.C. 1631.

a. Indigence Exception. If an alien has been determined indigent, as provided in 8 U.S.C. 1631(e), the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

b. Special Rule for Battered Spouse and Child. If an alien meets the requirements of the special rule for a battered spouse or child, as provided in 8 U.S.C. 1631(f), and subject to the limitations provided therein, the provisions of §5619.C.1. shall not apply during a 12-month period. After a 12-month period, the batterer's income and resources shall not be considered if the alien demonstrates that the battery

and cruelty as defined in 8 U.S.C. 1631(f)(1) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty has, in the department's opinion, a substantial connection to the need for benefits.

2. The agency has opted not to apply the deeming Rule of 42 U.S.C. 608 in determining the eligibility and benefits of non-213A.

D. Income of Alien Parent

1. When determining eligibility, income of an alien parent who is disqualified is considered available to the otherwise eligible child. The needs and income of disqualified alien siblings are not considered in determining the eligibility of an otherwise eligible dependent child.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2567 (December 2002).

§5621. Residency

A. DAP recipients must reside in Louisiana with intent to remain.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2568 (December 2002).

§5623. Resources

A. The DAP household is subject to regulations governing FITAP resources in accordance with LAC 67:III.1235.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2568 (December 2002).

§5625. Work Requirements

A. At least one adult member of the income unit must have worked for pay at least 40 hours or earned the equivalent of 40 times the federal minimum wage during any 30-day period within the three months preceding the date of application.

B. Adult members of the income unit shall register for work with the Louisiana Department of Labor Job Center, unless receiving unemployment compensation benefits, and provide verification of registration. An exemption from work registration may be allowed if there are bonafide reasons or hardships which would negate any possible benefit of registration. These can include but are not limited to:

1. disability of an adult member;
2. the adult member is needed to provide care for a disabled household member;
3. certain domestic violence situations; or
4. transportation problems.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2568 (December 2002).

§5627. Job Loss Factors

A. A DAP payment may be made to a family with dependent children who is experiencing an employment-related crisis. An eligible crisis is a job loss or barrier to

employment due to a significant, out-of-the-ordinary expense that could be paid with a one-time cash benefit. The causative factor leading to the crisis and necessary expenditure must be verified and can include but is not limited to:

1. loss or lack of transportation;
2. loss or lack of tools necessary for employment;
3. eviction, threat of eviction, or some other housing emergency;
4. a need for job skills training certification or licensing;
5. loss of clothing through fire, flood, or theft, or loss or lack of appropriate work attire;
6. escape from domestic violence; or
7. serious injury of the individual or dependent child.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2568 (December 2002).

§5629. Fleeing Felons and Probation/Parole Violators

A. DAP household shall be subject to regulations governing fleeing felons and probation/parole violators in accordance with LAC 67:III.1251.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2569 (December 2002).

§5631. Strikers

A. DAP payments cannot be paid to families in which the caretaker relative or stepparent is participating in a strike on the last day of the month and, if any other member of the household is participating in a strike, his or her needs cannot be considered in computing the DAP payment.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2569 (December 2002).

Gwendolyn P. Hamilton
Secretary

0212#073

RULE

Department of Treasury Teachers' Retirement System

Withdrawal of Funds from a DROP Account (LAC 58:III.509 and 511)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of Teachers' Retirement System of Louisiana has amended policies governing the withdrawal of funds from Deferred Retirement Option Plan (DROP) accounts.

Title 58 RETIREMENT

Part III. Teachers' Retirement System of Louisiana Chapter 5. Deferred Retirement Option Plan

§509. Withdrawal of Funds from a Drop Account

A. - A.6.a. ...

b. changes to the monthly or annual withdrawals may only be made in accordance 511.A;

c. if a member is 70 1/2 or older when he chooses a partial single sum after withdrawals have begun, even though he retired at a younger age, he will have the required minimum distribution calculated using the "Single Life Table" (SLT), or he may choose the "Uniform Lifetime Table" (ULT), or the "Joint and Last Survivor Table" (JLST), whichever applies. The result of using one of these tables may allow a member to lower his monthly or annual withdrawal.

7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:499 (March 1998), amended LR:28:1031 (May 2002), LR 28:2569 (December 2002).

§511. Change of DROP Withdrawal Method

A. The participant will have one opportunity per 12-month period to change the chosen withdrawal method and/or amount if the original method selected was either §509.A.2, 3, 4, or 5. Any change must be made in accordance with the life expectancy of the participant.

1. For participants under age 70 1/2, any change in the withdrawal method must be made in accordance with the life expectancy of the participant at the time of his retirement, and at no time may the disbursement from the account be less than the amount of the originally selected periodic payment.

2. For participants over age 70 1/2 at the time of the change, the change in the withdrawal method may allow the participant to reduce the disbursement only if the participant was not age 70 1/2 at the time he began withdrawals. Otherwise the rule under §511.A.1 will apply.

B. When the life expectancy of the participant governs the selected periodic withdrawal method, disbursements from the DROP account shall be made in accordance with the "Single Life Table" (SLT) for participants first eligible to begin withdrawing on or after January 1, 2003. Exception: if a retiree is 70 1/2 or older, he must meet a required minimum distribution (RMD) and may request the use of the "Single Life Table" (SLT), "Uniform Lifetime Table" (ULT) or the "Joint and Last Survivor Table" (JLST), whichever applies. Once the election has been made he cannot elect to make a change at a later date.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:499 (March 1998), amended LR 24:961 (May 1998), LR 28:1032 (May 2002), LR 28:2569 (December 2002).

Brian N. Minturn
Director/CEO

0212#030

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Control of Wild Nuisance Quadrupeds (LAC 76:V.125)

The Wildlife and Fisheries Commission has adopted Rules governing control of nuisance wild quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§125. Control of Nuisance Wild Quadrupeds

A. This Rule applies only to the control of the wild quadrupeds listed below and only when they are conclusively proven to be creating a nuisance or causing damage to property. The burden of establishing that the animal in question is causing the property damage shall rest with the property owner.

B. The following wild quadrupeds may be taken year-round without permit by the property owner or his designee, but only by trapping or shooting during legal daylight hours: coyote, armadillo, nutria, beaver, skunks, and opossums.

C. Squirrels, rabbits, foxes, bobcats, mink, otter, muskrat, raccoons and any of the other species listed above may be trapped alive and relocated to suitable habitat without permit provided the following conditions are met.

1. Written permission is obtained from the property owner where the animals are to be released and such written permission is carried in possession while transport and release activities are taking place.

2. Animals are treated in a responsible and humane manner and released within 12 hours of capture.

D. Traps shall be set in such a manner that provides the trapped animal protection from harassment from dogs and other animals and direct sun exposure.

E. Nuisance animals listed above may be so controlled only on the owner's property to prevent further damage.

F. Property owners must comply with all additional local laws and/or municipal ordinances governing the shooting or trapping of wildlife or discharge of firearms.

G. No animal taken under this provision or parts thereof shall be sold. A valid trapping license is required to sell or pelt nuisance furbearers during the open trapping season.

H. No species taken under the provisions of this rule shall be kept in possession for a period of time exceeding 12 hours.

I. This rule has no application to any species of bird as birds are the subject of other state and federal laws, rules and regulations.

J. Game animals, other than squirrels and rabbits, may only be taken by hunting during the open season under the conditions set forth under Title 56 of the Louisiana Revised Statutes and the rules and regulations of the Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, 56:6(10) and (15), R.S. 56:112, et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:2570 (December 2002).

Thomas M. Gattle, Jr.
Chairman

0212#063

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational Electronic Licensing (LAC 76:I.327)

The Wildlife and Fisheries Commission has adopted a Rule, LAC 76:I.327.P, which provides a special outdoor press license for purchase by nonresident members of the outdoor press for a fee of \$20. The license shall be valid for four consecutive days. Authority for adoption of this Rule is included in R.S. 56:647.1.

Title 76

WILDLIFE AND FISHERIES

Part I. Wildlife and Fisheries Commission and Agencies

Thereunder

Chapter 3. Special Powers & Duties

Subchapter H. Electronic Licenses Issuance

§327. Recreational Electronic Licensing

A. - O. ...

P. In lieu of recreational basic fishing and recreational saltwater fishing license the Department may issue a special Outdoor Press Fishing License to nonresident members of the outdoor press which will include basic and saltwater fishing; in lieu of basic hunting and Louisiana duck license the Department may issue a special Outdoor Press Hunting License to nonresident members of the outdoor press which will include migratory bird hunting and Louisiana duck license.

1. A fee of \$20 will be charged for each outdoor press fishing license issued and the license shall be valid for a period of four consecutive days; a fee of \$20 will be charged for each Outdoor Press Hunting License and the license shall be valid for a period of three consecutive days; or a fee of \$20 will be charged for both if purchased for periods that begin on the same date.

2. All outdoor press licenses will be issued from the Baton Rouge Headquarters location.

3. To qualify for certification an applicant must submit to the Department of Culture, Recreation and Tourism one or more of the following:

- a. recent tear sheets of published articles;
- b. letter of assignment from publication, television or radio company;
- c. a written recommendation from one of the Department of Culture, Recreation and Tourism's international offices;
- d. a written recommendation from Travel South USA, Louisiana Travel Promotion Association or similar organizations.

4. In no case will the Department of Culture, Recreation and Tourism forward an application from any individual or group not directly involved in producing stories or broadcast materials pertaining to Louisiana fishing and/or outdoor recreation opportunities.

5. Certified applications with all supporting documents and license fees shall be forwarded to the Department of Wildlife and Fisheries for approval. The license fee shall be returned to the applicant for any application not certified by the Department of Culture, Recreation and Tourism or approved by the Secretary of the Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(21) and R.S. 56:641.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Management and Finance, LR 24:505 (March 1998), amended by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:1078 (May 2000), amended by Department of Wildlife and Fisheries, Office of Management and Finance, LR 27:1243 (August 2001), amended by Department of Wildlife and Fisheries Commission, Wildlife and Fisheries Commission, LR 28:2570 (December 2002).

Thomas M. Gattle, Jr.
Chairman

0212#062

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Excise Tax (LAC 76:VII.365)

The Wildlife and Fisheries Commission has adopted a Rule relative to the excise tax on shrimp in accordance with Act 75 of the 2002 Regular Session of the Louisiana Legislature.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§365. Shrimp Excise Tax

A. Shrimp Excise Tax, Shrimp Records, Shrimp Packaging

1. A shrimp excise tax shall be paid in accordance with the provisions as set forth in R.S. 56:506. Dealers shall file monthly tax reports and furnish all information required thereon on forms provided by the department. A wholesale/retail seafood dealer shall file a monthly report indicating "zero" in amount due, for each month in which such wholesale/retail seafood dealer does not import shrimp into the state and does not purchase or acquire shrimp harvested in Louisiana directly from a harvesting vessel.

2. Wholesale/retail seafood dealers, retail seafood dealers, restaurants and retail grocers shall maintain records in accordance with R.S. 56:306.5 and 56:506. In addition to the requirements therein, wholesale/retail seafood dealers when selling or otherwise transferring shrimp shall specify on each invoice of sale or transfer required to be delivered to

retail dealers, restaurants and/or retail grocers the specific country of origin of the shrimp being sold or transferred. All purchase and sales records of wholesale/retail seafood dealers, which are required to be maintained by law, shall specify the country of origin of all shrimp acquired and sold or transferred. All purchase records of retail dealers, restaurants and retail grocers which are required to be maintained by law, shall specify the country of origin of shrimp acquired or purchased. Shrimp from different countries shall be recorded separately on all records.

3. All records for shrimp, which are harvested from Louisiana waters or which are landed in Louisiana from a harvesting vessel, shall indicate such shrimp are a "Product of Louisiana" or "Louisiana Shrimp" or "Louisiana (and shrimp species)".

4. It shall be a violation of this section for any wholesale/retail seafood dealer to purchase, barter, sell, exchange or possess any shrimp without paying all excise taxes owed on the shrimp as provided by law.

5. Wholesale/retail seafood dealers shall provide all information required on forms provided for the purpose of data collection relating to the shrimp excise tax. Such information shall include but not be limited to:

- a. wholesale/retail seafood dealer license number;
- b. month and year, indicating reporting month and year;
- c. date of submission, date in which the dealer or authorized representative completes and submits shrimp excise report form;
- d. legal name of business;
- e. if purchasing or acquiring shrimp from vessels harvesting or landing in Louisiana waters, pounds of such shrimp purchased or acquired; shrimp that are landed in Louisiana by harvesting vessels are deemed to be taken in Louisiana waters;
- f. if purchasing, importing, storing, brokering, or receiving shrimp domestically harvested within the United States, pounds of such shrimp purchased, imported, stored, brokered or received;
- g. if purchasing, importing, storing, brokering, or receiving shrimp from a foreign country, pounds of such shrimp purchased, imported, stored, brokered or received;
- h. if purchasing, importing, storing, brokering, or receiving shrimp which were taken, harvested or landed in Louisiana and excise tax has previously been paid and such shrimp are packaged, labeled and recorded to be a "Product of Louisiana" or "Louisiana Shrimp" or "Louisiana (and shrimp species)", indicate the pounds of such shrimp. No shrimp excise tax is due again on such shrimp;
- i. for all shrimp reported, the shrimp excise report form shall indicate the form in which all shrimp is purchased, imported, received, brokered or stored (i.e. heads-on, headless, or peeled). Shrimp which are fully cooked, canned cooked or breaded cooked, and frozen cooked shrimp ready for immediate consumption, shall be exempt from the requirements herein;
- j. all lines, columns and blocks on the shrimp excise tax report form shall be filled out in order for the form to be deemed completed;

k. signature of dealer or authorized representative, (first and last name) and date.

6. No wholesale/retail seafood dealer, retail seafood dealers, restaurants or retail grocers shall knowingly possess, package, process, sell, barter, exchange or attempt to sell, barter, trade or exchange shrimp which is represented to be a product of the United States or a product of Louisiana unless such shrimp is actually a product of the United States or a product of Louisiana.

7. No wholesale/retail seafood dealer, retail seafood dealers or restaurants shall possess, package, process, sell, barter, exchange or attempt to sell, barter, trade or exchange shrimp from a foreign country which is commingled with

shrimp caught in the United States or which is represented to be a product of the United States.

B. Violations of the provisions of this Section shall constitute a class four violation as defined in R.S. 56:34.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:506.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:2571 (December 2002).

Thomas M. Gattle, Jr.
Chairman

0212#061

Notices of Intent

NOTICE OF INTENT

Department of Economic Development Office of Business Development

Enterprise Zone Program (LAC 13:I.Chapter 7)

The Department of Economic Development, Office of Business Development, pursuant to the authority of R.S. 51:1786(5) and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice to amend LAC 13.I.Chapter 7, Enterprise Zone Program. The following Sections are repealed: §§702, 703, 718, 735, 745, 747 and 751. The following Sections are adopted and contain new language: §§703, 713-745. The following Sections are amended: §§701, 705-711, and 749. The purpose of the amended Rules is to comply with changes to the Enterprise Zone legislation made by Acts 2002 1st Extra Session, No. 4, which changed the basis of determining Enterprise Zones to the most recent census and extended the \$5,000 per job tax credit for motor vehicle parts manufacturers. The changes also further clarify requirements for creating the minimum number a jobs.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 7. Enterprise Zone Program

§701. Scope

A. Intent of Program. The intent of the program is to stimulate employment for residents in depressed areas of the State which are designated as enterprise zones by providing tax incentives to a business hiring from these areas.

B. Description of Program. The Louisiana Enterprise Zone Program is a jobs program which gives tax incentives to a business hiring from Enterprise Zones in Louisiana or from one of the other targeted groups. Enterprise Zone Program incentives are in addition to other State sponsored incentives such as the Industrial Tax Exemption Program and the Restoration Tax Abatement Program. Enterprise Zone and Quality Jobs programs are mutually exclusive.

C. The following incentives are available.

1. A one-time tax credit of \$2,500 for each net new job filled with a Louisiana resident added to the applicant's payroll. The tax credit may be used to satisfy State Income tax and/or Franchise tax liabilities. If the entire tax credit cannot be used in the year created, the remainder may be applied against the State Income tax and/or Franchise tax liabilities for the succeeding 10 taxable years or until the entire credit is used, whichever occurs first.

2. In lieu of §701.C.1 tax credit, aviation and aerospace industries (as defined in the 3720s and 3760s Standard Industrial Classification (SIC) manual) and auto parts manufacturers (as defined in 3363s North American Industrial Classification System (NAICS) manual) are eligible for a one-time tax credit of \$5,000 for each net new job filled with a Louisiana resident added to the applicant's

payroll. The tax credit may be used to satisfy State Income tax and/or Franchise tax liabilities. If the entire tax credit cannot be used in the year created, the remainder may be applied against the State Income tax and/or Franchise tax liabilities for the succeeding 10 years, or until the entire credit is used, whichever occurs first. The \$5,000 tax credit for auto parts manufacturers will sunset June 30, 2006.

3. An additional \$2,500 tax credit is available to an applicant hiring Temporary Assistance for Needy Families (TANF) recipients. This Tax Credit is in addition to the incentive for new jobs created in §701.C.1 and §701.C.2. The TANF recipient must receive compensation which will disqualify them from continued participation in TANIF and must be employed for two years to generate the additional Tax Credit. The Tax Credit may be used to satisfy State Income tax and/or Franchise tax liabilities. If the entire Tax Credit cannot be used in the year created the remainder may be applied against the State Income tax and/or Franchise tax liabilities for the succeeding 10 years or until the entire credit is used, whichever occurs first. An employer shall not obtain the Jobs Tax Credit for more than 10 TANIF employees in the first year of participation in the program.

4. Rebates can consist of sales/use taxes imposed by the State and imposed by local governmental subdivisions, upon approval of the governing authority of the appropriate municipality, parish, or district, where applicable, on all eligible purchases during the specified Project/Construction Period per §725.H. The Project/Construction Period is limited to a 24 month period. Upon a written request, a Project/Construction Period extension, not to exceed six months, may be granted by the Office of Business Development, Business Incentives Division (BI). Rebates paid by local governmental subdivisions can only consist of those sales/use taxes that are not dedicated to the repayment of bond indebtedness or dedicated to schools. Final requests for the payment of any rebate must be filed with the Louisiana Department of Revenue (LDOR) and/or its local governmental subdivision no later than six months after the project's completion is documented or six months after the date of the governor's signature on the contract, whichever is later. Documentation of the completion of a project shall be either by using the application certification section or the filing of a separate Project Completion Report (PCR), as applicable, whichever date is later. An extension of up to six months on filing the rebate request with the LDOR may be granted upon written request to the BI. This request must be received by BI prior to the standard rebate request time period has expired.

D. Qualifications

1. The applicant's current level of employment must be increased by 10 percent (minimum of one net new job) within the first 12 months or a minimum of five net new jobs must be added to the current payroll within the first two years of the contract period. See 703. *Minimum Net New Jobs Required*. Thirty-five percent net new employees must meet §§709, 711, 713, or 715 as applicable.

2. Any business, except residential developments, (including but is not limited to the construction, selling, or leasing of single-family or multi-family dwellings, apartment buildings, condominiums, town houses, etc), churches, and businesses with gaming (See Title 13.1.3 Gaming Ineligibility) may apply for Enterprise Zone benefits.

3. An applicant in an urban parish must certify that a minimum of 35 percent of its net new employees meet the requirements of §709.

4. An applicant located in a rural parish and in an enterprise zone must certify that a minimum of 35 percent of its net new employees meet the requirements of §711.

5. An applicant located in a rural parish and not in an enterprise zone must certify that a minimum of 35 percent of its net new employees meet the requirements of §713.

6. An applicant located in an Economic Development Zone must certify that a minimum of 35 percent of its net new employees meet the requirements of §715.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:252 (March 1991), amended by Department of Economic Development, Office of Commerce and Industry, LR 22:446 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:

§702. Future Contract Availability

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5) et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, amended LR 22:447 (June 1996), repealed Department of Economic Development, Office of Business Development, LR 29:

§703. Definitions

Affiliate

1. any business entity that is:
 - a. controlled by the applicant business;
 - b. a controlling owner of the applicant business; or
 - c. controlled by an entity described in i or ii.
2. for purposes of this definition, *Control* is defined as owning either directly, or indirectly through control of or by another business entity:
 - a. a majority of the voting stock or other voting interest of such business entity or the applicant business; or
 - b. stock or other interest whose value is a majority of the total value of such business entity or the applicant business.

3. a business entity may be treated as a non-affiliate if the applicant business proves that neither the applicant business nor any of its controlling owners exercise authority over the management, business policies and operations of the business entity.

Beginning of Project/Construction the first day on which foundations are started or where foundations are unnecessary, the first day on which installation of the facility begins or the first day that materials or equipment purchased for that project are received. Where there is no construction, the first day on which a new hire is made in connection with the project shall mean "Beginning of Project/Construction" for the purposes of this Chapter.

Contract Effective Date either the day that the Advance Notification was received by BI or the beginning date of the

Project/Construction shown on the Application. The Contract Effective Date cannot be earlier than the date the Advance Notification was received by BI unless a waiver of timely filing has been approved by the Board of Commerce and Industry (Board).

Date of Hire the first day of work for which the applicant directly pays an employee and is reported on the applicant's Louisiana Department of Labor (LDOL) Quarterly Report of Wages Paid.

Economic Development Zone (EDZ)—a geographic area of contiguous real properties defined by a visible boundary, designated as such by the State or the local governmental subdivision in which it is located and approved by the Board. The location of an EDZ once defined is permanent, cannot be moved, expanded, or relocated, and is owned or operated by the State or a political subdivision of the State or operated by an entity created by the State or a political subdivision of the State. EDZs must have been created by State statute and are defined to include the following:

1. industrial park;
2. business park;
3. airport or air park;
4. research park;
5. research and development park;
6. downtown development district with taxing and bonding authority;
7. former federal facility cannot be a single building or small grouping of prior federally owned and occupied buildings. The immediate previous occupant of this facility must have been a federal governmental entity; and
8. port Only the contiguous real property actually owned by that port.

Enterprise Zone Can area of high unemployment, low income and/or an area where a large number of residents are receiving some form of public assistance. For purposes of R.S.51:1787.B.4 and D.4 the term "some form of public assistance" shall include any program of assistance financed in whole or in part by a Federal, State, or any local government agency, eligibility for which is dependant upon the employment status or income level of the individual. Any such assistance must have been received by the individual within a six month period prior to their employment. Receiving unemployment is not public assistance.

Full Time Employee Can employee reported on the applicant's Louisiana Department of Labor (LDOL) Quarterly Report of Wages Paid and who is scheduled to work 35 hours per week on a permanent basis and receive benefits.

Lacking Basic Skills Can employee that exhibits below a 9th grade level proficiency in reading or writing or math.

Louisiana Resident shall be someone who has lived in Louisiana at least 30 consecutive days prior to being hired by the applicant.

Net New Job Can in addition to all the other employees reported on the applicant's LDOL Quarterly Report of Wages Paid based at the site of the Enterprise Zone project.

Minimum Net New Jobs Required Can applicant must create the lesser of expanding their current workforce by a minimum of 10 percent of their present statewide workforce, minimum of 1, within the first 12 months of the contract or expand their workforce by a minimum of five net new

employees within the first 24 months of the contract. The applicant's statewide workforce and the statewide workforce of all of its Louisiana affiliates will be considered when calculating the 10 percent.

Part Time Employee Can employee reported on the applicant's LDOL Quarterly Report of Wages Paid and works a minimum of 20 hours each week for six consecutive months.

Project/Construction Ending Date the date all construction and purchasing is completed for the project.

Project/Construction Period the time encompassed by the Contract Effective Date and the Project/Construction Ending Date.

Rural Parish Ca parish having a current U.S. Census population of 75,000 or less.

Some Form of Public Assistance Cany program of assistance financed in whole or in part by a Federal, State, or any local government agency, eligibility for which is dependant upon the employment status or income level of the individual. Any such assistance must have been received by the individual within a six month period prior to their employment.

Unemployable by Traditional Standards Can employee that qualifies as physically challenged.

Urban Parish Ca parish having a current U.S. Census population greater than 75,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§705. Endorsement Resolution

A. An applicant seeking a local sales/use tax rebate must obtain an endorsement resolution(s) from the local governmental subdivision(s) where those taxes are paid. The endorsement resolution must clearly state if the local governmental subdivision intends to rebate the allowable sales/use taxes for the project. This endorsement resolution must be passed by the local governmental subdivision(s) before the Board approves the EZ application. Each project seeking a local sales/use tax rebate must have an endorsement resolution specific to the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:253 (March 1991), Department of Economic Development, Office of Commerce and Industry, LR 22:447 (June 1996), amended by the Department of Economic Development, Office of Commerce and Industry, Business Incentives Division, LR 23:295 (March 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:

§707. Documentation of Location

A. A current U.S. Census or the appropriate EDZ map with the project site location clearly marked shall be filed with the BI before the Board approves the EZ application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the

Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:253 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:447 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:

§709. Targeted Employees for an Applicant in an Urban Parish

A. Applicant located in an urban parish and receiving the benefits of this Chapter must certify that all net new employees creating tax credits are Louisiana residents and at least 35 percent meets one of the following requirements:

1. are residents of an Enterprise Zone in the same parish at the project's location of the applicant's;
2. are residents of an Enterprise Zone in a contiguous parish if the applicant has 500 or more employees at the project's location;
3. are/were receiving some form of public assistance, as defined in Section 703. *Some Form Of Public Assistance*, within a six month period prior to their employment by the applicant;
4. are lacking basic skills; or
5. are unemployable by traditional standards.

AUTHORITY NOTE: Promulgated In accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Finance Division, LR 17:253 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:447 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:

§711. Targeted Employees for an Applicant in a Rural Parish and in an Enterprise Zone

A. Applicant located in an Enterprise Zone in a rural parish and receiving the benefits of this Chapter must certify that all net new employees creating tax credits are Louisiana residents and at least 35 percent meets one of the following requirements:

1. are residents of the same parish as the project's location of the applicant's;
2. are residents of an Enterprise Zone in a contiguous parish if the applicant business has 500 or more employees at the project's location;
3. are/were receiving some form of public assistance within the six month period prior to their employment by the applicant. (See §703. *Some Form of Public Assistance*);
4. are lacking basic skills; or
5. are unemployable by traditional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:254 (March 1991), amended by the Department of

Economic Development, Office of Commerce and Industry, LR 22:448 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:

§713. Targeted Employees for an Applicant in a Rural Parish and not in an Enterprise Zone

A. Applicant located in a rural parish and not located in an Enterprise Zone and receiving the benefits of this Chapter must certify that all net new employees creating tax credits are Louisiana residents and at least 35 percent meets one of the following requirements:

1. are residents of an Enterprise Zone in the same parish as the project's location of the applicant;
2. are residents of an Enterprise Zone in a contiguous parish if the applicant has 500 or more employees at the project's location;
3. are/were receiving some form of public assistance within a six month period prior to their employment by the applicant. (See Rule 703. *Some Form of Public Assistance*);
4. are lacking basic skills; or
5. are unemployable by traditional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§715. Targeted Employees for an Applicant in an Economic Development Zone

A. Applicant business located in an EDZ and receiving the benefits of this Chapter must certify that all net new employees creating tax credits are Louisiana residents and at least 35 percent meets one of the following requirements:

1. are residents of the same parish as the project's location of the applicant;
2. are residents of an Enterprise Zone in a contiguous parish if the applicant has 500 or more employees at the project's location;
3. are/were receiving some form of public assistance within a six month period prior to their employment by the applicant. (See Rule 703. *Some Form of Public Assistance*);
4. are lacking basic skills; or
5. are unemployable by traditional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§717. Annual Employee Certification

A. An annual Employee Certification Report (ECR) must be filed with the BI by March 1 on all active contracts validating compliance with Rules 709, 711, 713, and 715. Failure to file may result in contract cancellation.

B. The "beginning number" from which the net new jobs will be determined shall meet one of the following:

1. the number of employees that an applicant has on the day before the contract effective date; or
2. the last annual average number of employees that was certified under a valid Enterprise Zone contract the day prior to the new Contract Effective Date on contiguous contracts.

C. An employee count will be taken from the applicant's entire contiguous site for the purposes of calculating the Jobs Tax Credit generated. If the applicant has more than one site within the metropolitan area where the project is located, BI may consider the total employee count using all locations in calculating the Jobs Tax Credits generated.

D. Monthly totals of permanent full time employees will be averaged over a minimum of six months to determine the number of Jobs Tax Credit generated. Only employees reported on the LDOL Quarterly Report of Wages Paid will be used to calculate this average monthly total. In no case shall the new employees exceed the net increase in total employment.

E. Part time employees may be counted after completing a minimum of 20 hours every week for that continuous six month period. Only employees reported on the LDOL Quarterly Report of Wages Paid will be used to calculate this average monthly total. In no case shall the new employees exceed the net increase in total employment.

F. If the ECR substantiates that the company has not met the hiring requirements in this Chapter, the Board shall cancel the contract and no Jobs Tax Credit will be granted. The Department of Economic Development (LDED) will notify LDOR within thirty days after cancellation of a contract. Upon notification by LDED of the failure to meet the minimum jobs requirement, LDOR will immediately assess tax liability to the applicant equal to all State sales/use tax rebates paid pursuant to this Chapter plus any penalty and interests due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§718. Advance Notification, Timely Filing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development Office of Commerce and Industry, Business Incentives Division, LR 23:295 (March 1997), repealed by the Department of Economic Development, Office of Business Development, LR 29:

§719. Arbitrary Termination of Employees

A. The Board shall not accept an application from an applicant which performs essentially the same job at the same or new location but for a different ownership in order to qualify for the benefits of this Chapter. New Jobs Tax Credits shall not be generated by those persons whether or not the name or owner of the business changes over a short period of time (less than two weeks), i.e., a business closes on Friday under one ownership and opens on Monday under a different ownership. These are not net new jobs and shall not generate Jobs Tax Credits under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§721. Items Eligible for Sales/Use Tax Rebate

A. Materials that are permanently at the Enterprise Zone project site during the Project/Construction Period are eligible for sales/use tax rebates.

B. Materials that originate from a contractor/subcontractor's inventory and are permanently installed at the Enterprise Zone project site during the Project/Construction Period are eligible for sales/use tax rebates.

C. Machinery and/or equipment purchased for the Enterprise Zone project site during the Project/Construction Period are eligible for sales/use tax rebates.

D. Machinery and or equipment transferred into Louisiana for the Enterprise Zone project site during the Project/Construction Period are eligible for sales/use tax rebates.

E. Software purchased, capitalized, and used by the applicant primarily at the Enterprise Zone project site during the Project/Construction Period are eligible for sales/use tax rebates.

F. Consumable items are not eligible for sales/use tax rebate. A partial listing of ineligible items are: per diem, labor, service contracts, storage, freight, radios, laptop computers, utilities, permits and fees, office supplies, construction consumables, blades, drill bits, PVC sheeting, tape, gloves, dusk masks, and all leases and rentals.

G. Lease-purchases may be eligible for a sales/use tax rebate upon LDOR's approval. A copy of the lease-purchase agreement must be submitted with the Claim for Rebate Request to LDOR, Office Audit Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§723. Filing of Advance Notification

A. An Advance Notification form and fee shall be filed prior to the Beginning of Project/Construction with BI. All incentives for the same project must be indicated on one Advance Notification and be identified by one project number. It is not acceptable to apply for Enterprise Zone Program and use the same project in a Miscellaneous Capital Addition application for the Industrial Tax Exemption Program. Internet filing of the Advance Notification may be made at <http://www.laemall.com>.

B. An Advance Notification lacking the proper application will expire one year after the Project/Construction Ending Date" shown on the Advance Notification unless a written request for a date revision request is received by BI prior to the expiration date.

C.1. An Advance Notification received by BI after the Beginning of the Project/Construction will obligate the applicant to file written reason(s) for the late filing. The Board will accept reasons that fall within the following two categories in determining if it will consider waiving the late filing:

- a. events beyond the control of the applicant caused the late filing; or
- b. there was some documented fault or error on the part of the BI that caused the applicant's late filing.

2. Lack of knowledge of the existence of the Enterprise Zone Program or its benefits will not be accepted as a valid reason for waiving the timely filing requirement.

D. An Advance Notification which receives a waiver of late filing will allow the applicant to proceed as if the Advance Notification was filed timely.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development LR 29:

§725. Filing of Applications

A. Applications must be filed with the Office of Business Development, Business Incentives Division, P.O. Box 94185, Baton Rouge, Louisiana, 70804-9185, on the form prescribed, within three months after Project/Construction

Ending Date. Internet filing of the Application may be made at <http://www.laemall.com>.

B.1. An Application Fee shall be submitted with the each application based on the following formula:

Application Fee = Total Estimated Tax Relief x 0.2% (.002)

Total Estimated Tax Relief =

Jobs Tax Credit* + State sales/use tax rebate

Application Fee = Total Estimated Tax Relief x .2% (.002)

(Minimum fee is \$200 and the maximum fee is \$5,000 application per Program.)

2. An additional Application Fee will be due if a project's employment or investment scope is increased, resulting in a minimum fee of \$100 more than what has already been submitted, unless the maximum has been paid.

3. Jobs Tax Credit the total amount calculated by multiplying all the new jobs estimated to be created within the five year contract period by \$2,500 (\$5,000 for aerospace or auto parts manufacturers).

4. All fees shall be made payable to: Louisiana Department of Economic Development.

D. The applicant shall file an original and a copy of the Inspection/Audit Affidavit Form showing a complete list of building(s) and equipment and the cost of each item on the project with the appropriate fee for the inspection which will be conducted by the BI. This Affidavit must be filed within six months of the Project/Construction Ending Date or when the signed original contracts are returned to the BI, whichever is later.

E. The BI reserves the right to return the Advance Notification, Application, or Inspection/Audit Affidavit to the applicant if the estimated tax relief or the fee submitted is incorrect. The Application or Inspection/audit Affidavit may be resubmitted within 30 days with the correct fee without penalty.

F. The Advance Notification, Application, and the Inspection/audit Affidavit will not be considered officially received or accepted without the appropriate fee being received by BI. Processing fees for the Advance Notification, Application, or Inspection/Audit Affidavit, which have been received and accepted, will not be refunded.

G. Applications must be submitted to the BI at least 45 days prior to the Board meeting where it is intended to be presented for approval.

H. The applicant proposing a project with a construction period greater than two years is required to separate the project into phases with no phase having over a two year construction period. Each construction phase shall require a separate Advance Notification, Application and fee to be filed with the BI. The applicant must comply with Rule 701.D for each application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§727. Recommendations of the Secretaries of Economic Development and Revenue

A. BI shall forward the Applications with recommendations to the Secretary of Louisiana Department of Revenue and the Secretary of Louisiana Department of Economic Development for their review. The Secretaries of

LDOR and LDED may submit a Letter of No Objection in lieu of a letter of recommendation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§729. Application Shall Be Presented to the Board of Commerce and Industry

A. BI shall present an agenda of applications to the Board and with recommendations based upon its findings.

B. Applicant or their representatives will be notified of the Board meeting date at which their application will be considered. The applicant business should have someone present who is able to answer any questions the Board may have regarding the information contained in the Application. In the event there is no representative present, the Application may be deferred or denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§731. Board of Commerce and Industry Enters into Contract

A. Upon approval of the Application, the Board shall enter into contract with the applicant for the benefits allowed by this Chapter. The applicant must execute their portion of the contract and return it within 30 days to BI. The State will complete the execution. A fully executed original contract will be returned to the applicant. An original and a copy will be sent to the LDOR and, if applicable, a copy sent to the local governmental subdivision.

B. BI must be notified of any change that will effect the contract. This includes, but is not limited to, changes in the ownership or operational name of the applicant business holding a contract, or the suspension, closing, or abandonment of operations. Failure to report any changes within six months may constitute a breach of contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§733. Rebates of Sales/Use Taxes

A. The contract will not authorize the applicant to make tax exempt purchases from vendors. The applicant will be contacted by the LDOR on the proper procedures to obtain the State sales/use tax rebate. Rebates will be obtained by the filing of a rebate request with the LDOR, Office Audit Division, which must include the following:

1. a list of eligible purchases (See Rule 721) including a brief description of each item, the vendor's name, date of the delivery, sales price and the amount of State sales/use tax paid. The listed items must have been purchased by the applicant of the project, a builder, a contractor, or other party that contracted with the owner to provide materials, equipment, machinery, or software that is used by the applicant primarily at the project site or is listed in Schedule 3 of the Enterprise Zone contract;

2. a certification that the listed materials are reasonably expected to qualify for a rebate under provisions of this Chapter; and

3. a certification that State sales/use taxes have been paid on the listed items.

B. The request may be filed on the official LDOR "Claim for Rebate" form or on other forms prepared by the applicant. After LDOR has validated the information on the Claim for Rebate, a rebate check will be issued for the amount of substantiated State sales/use taxes paid.

C. The applicant should contact the local governmental subdivision issuing the endorsement resolution to determine the procedure for local sales/use tax rebate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§735. Applicant with a Contract Must File State Income and Franchise Tax Returns

A. Applicant that have satisfied their Louisiana Income tax and/or Franchise tax liability by applying Jobs Tax Credits earned under this Chapter shall file the same required forms and tax returns with the LDOR that are required if no Jobs Tax Credit were taken. Each annual return where Jobs Tax Credit are taken will have a copy the letter from BI certifying the tax credits and the unused Jobs Tax Credits from previous years provided. If total Jobs Tax Credits are less than the total taxes, remittance in the amount of the difference must be enclosed with the tax return. Limited Liability Companies, Sub Chapter S Corporations, etc., must have the name(s) of owners and their social security numbers listed on the contract in order for Job Tax Credits to flow through to the owner(s).

B. Partnerships and sole Proprietorships shall file the same returns that are required if the Jobs Tax Credit had not been granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§737. Violations of Rules, Statutes, or Documents

A. On the initiative of the Board or whenever a written complaint of violation of the terms of the Rules, the contract documents, or the Statutes, is received the Board or its representative shall determine if a full investigation should be made. The Board shall have full authority for such investigation, including but not exclusively, the authority to call for reports, pertinent records, or other information from the applicant. If the investigation appears to substantiate a violation the Board or its representative will present the subject contract for formal action. If an applicant is found to be in violation of these Rules or the contract, the applicant shall remit back to the State all Jobs Tax Credit taken on Income tax and/or Franchise returns, all sales and use tax rebates, and any other taxes that would have been imposed but for the issuance of this contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§739. Economic Development Zone Annual Reporting

A. Each EDZ will submit an annual report which will compare activity in the last completed year to the previous year's activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§741. Multi-Tenant Facility

A. For a multi-tenant facility to be eligible for the benefits of this Chapter, the applicant must meet one of the following:

1. occupy a minimum of 33 percent of the total floor area of the building;
2. tenants are businesses new to the State;
3. tenants are Louisiana businesses increasing their number of locations within the State by placing a new location within this facility;
4. tenants are relocating within Louisiana and will generate the minimum of new job credits over and above the total jobs at their previous location per Rule 701.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§743. Relocation of Enterprise Zones

A. A local governmental subdivision requesting the relocation of an Enterprise Zone must provide valid reason(s) for requesting the move and must have the approval of the Board. All Relocation of Enterprise Zone requests must be accompanied by a single map showing the location of the old and the new Enterprise Zones.

B. The residents of originally designated Enterprise Zone may qualify as part of the 35 percent residency requirement.

C. The effective date of a relocation approved by the Board shall be the date of passage affixed to the resolution by the local governing authority requesting the relocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§745. Appeals and Petition Procedure

A. Applicants who wish to appeal an action of the Board of Commerce and Industry must submit their appeals along with any necessary documentation to the Office of Business Development, Business Incentives Division no later than 90 days after the Board action to be appealed. The appeal shall not be considered by the Board less than one month after it is submitted.

B. Petitions, and all documentation, on matters not yet presented to or ruled on, by the board, must be submitted to the Office of Business Development, Business Incentives Division at least one month prior to the meeting of the board or any of its committees in which the petition will be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§747. Exclusion of Residential Developments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 9:546 (August 1983), amended by the Department of commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:97 (February 1985), amended by the Department of Commerce, Office of Commerce and Industry Finance Division, LR 12:660 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:257 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:451 (June 1996), repealed by the Department

of Economic Development, Office of Business Development, LR 29:

§749. Prohibit Local Fees and Prohibit Local Conflicting Employment Practices

A. No local governmental subdivision shall charge any fees or require any employment practices which conflict with state law as a precondition to authorize tax benefits under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:257 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:451 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:

§751. Application Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:257 (March 1991), amended LR 22:451 (June 1996), repealed by the Department of Economic Development, Office of Business Development, LR 29:

Family Impact Statement

The proposed amendments to LAC 13:I. Chapter 7 Enterprise Zone Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Daryl Manning through the close of business on January 30, 2001, at Post Office Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802.

Don J. Hutchinson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Enterprise Zone Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The additional administrative work due to these rules changes will be absorbed and done by personnel already in place. No cost increase is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

An estimated fee revenue increase of \$2,000 is probable based upon an addition 10 applications from auto parts manufacturers. There will be a reduction in revenue collections

equal to \$5,000 multiplied by each new permanent job created by these 10 applicants.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Auto parts manufacturers will receive tax credits of \$5,000 for each net new permanent job created which can be applied to their income and/or corporate franchise tax. In addition, sales/use taxes may be refunded on new machinery and equipment. It is estimated only 10 applications will be received in this category. No estimate of the total impact can be made.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Intent of the Enterprise Zone Program is to stimulate business and industrial growth in depressed areas of the state which are designated as enterprise zones; and, in certain other areas designated as Economic Development Zones, by providing tax incentives for new jobs created. No estimate of the number of new jobs can be made.

Michael Williams
Director
Resource Services
0212#083

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of Business Development
Business Resources Division**

Quality Jobs Program
(LAC 13:I.Chapter 11)

The Department of Economic Development, Office of Business Development, pursuant to the authority of R.S. 51:2459 and R.S. 51:2451-2462 and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to amend §§1101-1111, 1115-1119, of the following rules of the Quality Jobs Program, to repeal §1113, and to adopt the following Sections with new language: §§1121, 1123, 1125, 1127, 1129. and 1131. The purpose of the amended Rules is to comply with changes to the Quality Jobs legislation made by Acts 2002 1st Extraordinary Session, No. 153, which made significant changes to the Program including lowering the amount a wages required to be paid in order to qualify, providing for a sales/use tax rebate, changing to a fixed benefit rate rather a calculated benefit rate, setting minimum wage requirements, and increasing the health care benefits requirement.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 11 Quality Jobs Program

§1101. General

A. Intent of Law

1. To provide benefits used primarily as an inducement for businesses to locate or expand existing operations in Louisiana in accordance with *Louisiana Vision 2020* with a focus on Louisiana's traditional and seed clusters:

a. to provide appropriate incentives to support employers who will make significant contributions to the development of the economy of the state;

b. to provide or make available incentives that shall be directly related to the new direct jobs created as the result of the employer locating or expanding existing operations in the state;

c. the Departments of Economic Development, Revenue and Labor shall implement the provisions of this program.

B. Program Description

1. A qualified employer must create a minimum of five new direct jobs. If the employer employs more than 50 employees prior to the beginning of the contract, it must have an annual gross payroll for new direct jobs equal to or greater than \$500,000. If the employer employs 50 or less employees, it must have an annual gross payroll for new direct jobs equal to or greater than \$250,000. The annual payroll for new direct jobs must be created by the third fiscal year of the contract.

2. A qualified employer must employ full-time employees working 35 or more hours per week in new direct jobs. If the qualified employer is a Call Center (NAICS code 56142) it must employ full-time employees working 30 or more hours per week in new direct jobs.

3. The amount of the rebate is directly related to the new direct jobs created and to the new annual gross payroll generated as the result of a qualified employer locating or expanding in the state.

4. The qualified employer is entitled to sales and use tax rebates authorized in R.S. 51:1787 if the employer meets the Enterprise Zone Program hiring requirements.

5. Approval by the Louisiana Board of Commerce and Industry and the Governor of Louisiana is required, after consultation with the Secretary of the Department of Labor and the Secretary of the Department of Revenue.

6. An establishment that is engaged in retail; business associations and professional organizations; state and local government enterprises; real estate agents, operators, and lessors; automotive rental and leasing; local solid waste disposal, local sewage systems, and local water systems; nonprofit organizations; the gaming industry; and attorneys shall not be eligible for rebates under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1103. Definitions

Affiliate

1. any business entity;
 - a. controlled by the applicant business;
 - b. which is a controlling owner of the applicant business; or
 - c. which is controlled by an entity described in a or b.

2. for purposes of this definition, "Control" is defined as owning either directly or indirectly through control of or by another business entity:

- a. A majority of the voting stock or other voting interest of such business entity or the applicant business; or
- b. Stock or other interest whose value is a majority of the total value of such business entity or the applicant business.

3. a business entity may be treated as a non-affiliate if the applicant business proves that neither the applicant business nor any of its controlling owners exercise authority over the management, business policies and operations of the business entity.

Basic Health Benefits Plan or the *Health Insurance Coverage* that which is required to be offered and/or provided shall include coverage for basic hospital care, coverage for physician care, and coverage for health care which shall be the same as that provided to executive, administrative, or professional employees.

Benefit Rate One of the following percentages:

1. for new direct jobs created which pay at least 1 3/4 times the federal minimum hourly wage rate, the benefit rate shall be 5 percent;

2. for new direct jobs created which pay at least 2 1/4 the federal minimum hourly wage rate and meet one of the following criteria, the benefit rate shall be 6 percent;

a. the new direct jobs are located in a distressed region designated by the Department of Economic Development. If an area is designated a distressed region, such designation shall be maintained for the period of the initial contract and during the renewal contract. To qualify an employer shall either be located in a distressed region or at least 50 percent of the new direct jobs of the employer shall be filled by persons who reside in a distressed region; or

b. the new direct jobs are with an employer categorized in a traditional or seed cluster identified by the Louisiana Economic Development Council and the Department of Economic Development. The Department of Economic Development shall promulgate rules and regulations defining traditional or seed cluster employers prior to these rules taking effect.

Department the Louisiana Department of Economic Development.

Distressed Region shall be defined as one of the following:

1. a parish with a per capita income in the lowest 25 percent of the parishes; or

2. a census tract and block group that is below the state median per capita income, based on the most recent federal decennial census.

Employer a legal person who executes a contract with the department pursuant to the provisions of R.S. 51:2452-2462, and who offers, or will offer within 90 days of the effective date of qualifying for the incentive rebates, a basic health benefits plan to the individuals it employs in new direct jobs:

1. for advance notifications filed with the department before June 1, 2000, the employer shall pay not less than 50 percent of the insurance premium;

2. for advance notifications filed with the department on or after June 1, 2000, but before May 1, 2002, the employer shall pay not less than 75 percent of the premium for full-time employees. The employer shall offer group coverage for dependents of full-time employees, but the employer is not required to pay the premium;

3. for advance notifications filed with the department on or after May 1, 2002, the employer shall offer the employee with the choice of one of the following health insurance coverage programs.

a. the employer shall pay not less than 85 percent of the total premium for full-time employees choosing to participate under individual coverage and shall offer coverage for dependents of full-time employees, but the employer is not required to pay the premium; or

b. the employer shall pay not less than 50 percent of the total premium for full-time employees who choose to participate and choose to cover their dependents.

Gross Payroll wages for the new direct jobs upon which the specified benefit rate is calculated.

NAICS North American Industrial Classification System
New Direct Job

1. employment in the state of an employee

a. working the average hours per week provided in §1101.B.2; and

b. who was not previously on the payroll of;

i. the employer;

ii. the employer's parent entity, subsidiary, or affiliate; or

iii. any business whose physical plant and employees are substantially the same as those of the employer.

2. a new direct job:

a. shall be with an employer that has qualified for the incentive rebate;

b. did not exist in this state prior to the advance notification being filed by the employer with the department pursuant to the provisions of R.S. 51:2455;

c. shall be filled by an individual domiciled in the state of Louisiana;

d. shall not be a job that is the result of job shifts due to the gain or loss of an in-state contract to supply goods and services; and

e. shall not include an employee retained following the acquisition of all or part of an in-state business by an employer.

Wages all remuneration for services from whatever source, including commissions and bonuses and the cash value of all remuneration in any medium other than cash, and dismissal payments which the employer is required by law or contract to make. Gratuities shall be estimated in accordance with the Internal Revenue Code and its rules and regulations. Wages shall not include the following:

1. the amount of any payment with respect to services performed after January 1, 1951, to or on behalf of an individual in its employ under a plan or system established by an employer which makes provision for individuals in its employ generally, or for a class or classes of such individuals, including any amount paid by an employer for insurance or annuities, or into a fund to provide for any such payment, on account of:

a. retirement;

b. sickness or accident disability;

c. medical and hospitalization expenses in connection with sickness or accident disability;

d. death, provided the individual in its employment does not have the option to receive, instead of provision of such death benefit, any part of such payment or, if such death benefit is insured, any part of the premium or contributions to premiums paid by his employer or does not have the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to

assign such benefit or to receive cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon the termination of such plan or system or policy of insurance or of his services with such employer; or

e. a bona fide thrift or savings fund, providing such payment is conditioned upon a payment of a substantial sum by such individuals in its employment and such sum paid by the employer cannot under the provisions of such plan be withdrawn by an individual more frequently than once in any 12 month period, except upon an individual's separation from that employment

2. any payment made to, or on behalf of, an employee or his beneficiary under a cafeteria plan of the type described in 26 U.S.C. 125 and referred to in 26 U.S.C. 3306(b)(5)(G);

3. any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such financing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under an educational assistance program as described in 26 U.S.C. 127 or a dependent care assistance program as described in 26 U.S.C. 129 and as referred to in 26 U.S.C. 3306(b)(13);

4. the payment by an employer, without deduction from the remuneration of the individual in its employ, of the tax imposed upon such individual in its employ under Section 3101 of the federal Internal Revenue Code with respect to domestic services in a private home of the employer or for agricultural labor performed after December 31, 1980.

5. dismissal payments that the employer is not required by law or contract to make; or

6. the value of any meals and lodging furnished by or on behalf of an employer to an individual in his employ, provided the meals and lodging are furnished on the business premises of the employer for the convenience of the employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1105. Qualified Employers

A. To qualify for a contract an employer must meet one of the following provisions:

1. be one of the six Vision 2020 cluster industries
 - a. Medical and Biomedical;
 - b. Micromanufacturing;
 - c. Software, Auto Regulation, Internet, and Telecommunications Technology;
 - d. Environmental Technologies;
 - e. Food Technologies; or
 - f. Materials

2. be a manufacturer whose primary function is identified by NAICS codes 113310, 211, 213111, 541360, 311-339, 511-512, and 54171.

3. be an oil and gas field services business as defined by the NAICS code 213112 and must pay not less than \$30,000 per year for each new direct job, and Louisiana must be the national or regional headquarters of a multi-state

business whose service territory includes Louisiana and the Gulf of Mexico;

4. have or will have sales of at least 75 percent of its total sales within one year to:

- a. out-of-state customers or buyers;
- b. in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use; or
- c. the federal government.

5. meet the requirements of both a and b:

a. have or will have sales of at least 50 percent of its total sales within one year to:

- i. out-of-state customers or buyers;
- ii. in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use; or
- iii. the federal government; and

b. meet one of the following requirements:

i. be classified as an industry defined by NAICS codes that have a direct state employer multiplier of 2.0 or greater in accordance to the Regional Input/Output Multiplier System II or its successor.

ii. be a central administrative office that influences the environment in which data processing, customer service, credit accounting, telemarketing, claims processing, and other administrative functions are accomplished.

iii. have data processing, back office operations, and telephone call center operations (NAICS Code 56142).

iv. be a wholesale trade business (NAICS Code 42) and have a distribution center of not less than 25,000 square feet.

6. must be a National Basketball Association Team, which relocates to Louisiana and may enter into a contract prior to November 1, 2003; however, contracts with such teams:

a. shall not grant a tax rebate greater than \$3,650,000 in any taxable year;

b. shall not allow the salary of any person who owns more than 25 percent of such team to be included in the gross payroll to calculate the rebate;

c. may be renewed for an additional five years, provided the team has complied with all the terms of the contract, has not performed, or failed to perform, any act which made the applicant liable for suspension;

d. shall be awarded a benefit rate of no more than 5 percent; and

e. shall include the wages of players and coaches of the team subject to Louisiana income tax in the calculation of the gross payroll, even though the players and coaches may be non-residents of Louisiana.

B. The following employers or persons shall not be eligible for benefits provided under this chapter:

1. retail employers identified by NAICS Code Sections 44 and 45;

2. business associations and professional organizations identified by NAICS Code 8139;

3. state and local government enterprises;

4. real estate agents, operators, and lessors;

5. automotive rental and leasing;

6. local solid waste disposal, local sewage systems, and local water systems businesses;

7. nonprofit organizations;
8. employers engaged in the gaming industry identified by NAICS Code Sections 713210 and 721120; and
9. attorneys.

C. The Department may promulgate rules annually listing other ineligible employers, professions, or service industries that are not eligible for rebates under the provisions of this program. Such rules shall not take place until the Louisiana Economic Development Council, the House Committee on Ways and Means, and the Senate Committee on Revenue and Fiscal Affairs approves.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1107. Application Fees, Timely Filing

A. The applicant shall submit an advance notification on the prescribed form before locating the establishment or the creation of any new direct jobs in the state. All financial incentive programs for a given project shall be filed at the same time, on the same advance notification form. An advance notification fee of \$100, for each program applied for, shall be submitted with the advance notification form. An advance notification filing shall be considered by the department to be a public record under Louisiana Revised Statutes, Title 44, Chapter 1, Louisiana Public Records Law, and subject to disclosure to the public.

B. An application for the Quality Jobs Program must be filed with the Office of Business Development, P.O. Box 94185, Baton Rouge, Louisiana 70804-9185 on the prescribed forms within 90 days of the creation of the jobs or completion of the project, whichever occurs first. Failure to file an application may result in the application being denied or restricted.

C. An application fee shall be submitted with the application based on the following:

1. 0.2% percent times the estimated total incentive rebates (see application fee worksheet to calculate);
2. the minimum application fee is \$200 and the maximum application fee is \$5,000 for a single project;
3. the check is made payable to the Louisiana Department of Economic Development.

D. A Project Completion Report shall be filed within 90 days after the completion of construction/installation.

E. An Affidavit of Annual Certification shall be filed within 90 days of completing a company's fiscal year. A fee of \$100 must be filed with the initial report.

F. An application to renew a contract shall be filed within 60 days of the initial contract expiring. A fee of \$50 must be filed with the renewal contract.

G. The Office of Business Development reserves the right to return the advance notification, application, or affidavit of annual certification to the applicant if the estimated exemption or the fee submitted is incorrect. The document may be resubmitted with the correct fee. The document will not be considered officially received and accepted until the appropriate fee is submitted. Processing fees for advance notifications, applications, or affidavits of annual certification that have been accepted for eligible projects, shall not be refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1109. Application Review, Analysis, Evaluation, Determination

A. Application Review

1. The department will assign a project number and review the advance notification form to determine if the employer is qualified pursuant to §1105.A. The employer will be notified of the project number and due date of the application packet.

2. The application packet must be completed and returned to the Department of Economic Development by the due date. The department must authorize any omissions to the application by the employer in writing. If the application is incomplete, the department may request additional information prior to further action. The application fee must accompany the application packet pursuant to §1107.C.

B. Analysis, Evaluation, Determination

1. The department shall determine qualification for the employer:

- a. the employer shall create a minimum of five new direct jobs;
- b. the employer shall meet the annual payroll requirements pursuant to §1101.B.1 and 2;
- c. the employer shall offer a basic health benefits plan to the individuals it employs in new direct jobs pursuant to §1103.B. A copy of said plan must be provided to the department;
- d. the department will analyze the proposed new direct jobs to determine they meet the program criteria;
- e. the employer must furnish all sources of remuneration that make up the wages that are used in the determination of the gross payroll. A listing that will identify all positions and wages of all employees shall be furnished to verify the gross payroll;
- f. the department will determine the effective date of the contract.

2. The department shall determine the benefit rate pursuant to §1103.E and F and §1105.A.5.c.(5).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:964 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1111. Consultation with the Departments of Labor and Revenue

A. The department will provide a copy of the application and all relative information to the Department of Labor and the Department of Revenue for review. Either the Department of Labor or the Department of Revenue or both may require additional information from the applicant.

B. The department must obtain a letter-of-no-objection or a letter-of-approval from the Department of Labor and the Department of Revenue, prior to submitting the application to the Board of Commerce and Industry for action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:964 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1113. Application to Department of Revenue and Taxation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), repealed by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1115. Economic Development Recommendations to Board

A. The department after review and analysis will prepare the application information in a format suitable for presentation to the Board of Commerce and Industry.

B. The department will make a presentation to the Board of Commerce and Industry as to the economic impact and the benefits to be received.

C. The department will make recommendations for approval or disapproval, and will provide information on behalf of the Department of Labor and the Department of Revenue.

D. The Board of Commerce and Industry must approve the application prior to a contract being issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1117. The Contract

A. The Board of Commerce and Industry or its successor, after no-objection from the secretaries of the Department of Labor and the Department of Revenue, with the approval of the governor, may enter into a contract with an employer for a period up to five years.

1. A contract with an employer shall be limited to a single physical location, and the benefits the employer shall receive will be based solely upon the operations at that location.

2. An employer may have more than one contract covering multiple locations; however, the eligibility of each location shall be determined separately, with the exception of determining new direct jobs. The department shall certify that the employer has a net overall increase in employment statewide for each new direct job.

B. The contract may be renewed for an additional five years provided that:

1. the employer has complied with all the terms of the contract; and

2. the employer has met the statutory minimum hourly wage for the new direct jobs subject to the benefit rate established when the contract was entered into and the hourly wage has increased by an amount which is equal to or greater than one of following:

a. the wage rate has grown by the percentage increase in the Consumer Price Index published by the U.S. Department of Labor for the five years of the initial term of the contract, compounded; or

b. the wage rate has increased by 2 percent for the five years of the initial term of the contract, compounded.

C. No contract shall be executed if:

1. the employer has defaulted, not repaid a loan, or not repaid an obligation involving public funds.

2. the employer declared bankruptcy and the obligation to pay or repay public funds or monies was discharged as part of such bankruptcy a contract shall not be executed;

3. the employer is in default on any filing or payment to the state, to any of its agencies, or to any of its political subdivisions, and in which an assessment or judgment is final; or

4. the employer employs more than 50 employees and has entered into a contract or other agreement with any person or entity where required payment is contingent upon their success in obtaining the benefits of this program.

D. Contract Voided. Violation of the provisions of §1117.C shall void the contract and any rebates paid to the employer prior to the date the violation is discovered, the rebates will be recovered by adding to the income tax liability for the taxable year the violation occurred. Additionally, interest will be assessed from the date of the violation and the employer shall receive no further rebates.

E. Contract Suspended

1. If a rebate is received by an employer as provided under this provision and the employer is rendered an assessment or judgment that is final and nonappealable in favor of the state or any of its agencies or any of its political subdivisions, the contract shall be suspended pending the settlement of the assessment. No rebate shall accrue to the employer under the contract during the period of suspension.

2. If at any time during the 10-year contract period the employer applies for a rebate following the end of the employer's fiscal year, and the verified gross payroll for the fiscal year does not demonstrate the required minimum of five new direct jobs and the gross payroll does not equal or exceed a total of \$500,000 or \$250,000, whichever is applicable to said contract, the rebates shall be suspended and shall not be resumed until such time as the payroll and job requirements are met. No rebate shall accrue or be paid to the employer during a period of suspension.

F. Contract Rebates Reduced

1. If the employer receives a rebate and it is subsequently determined the employer did not qualify for the rebate, future rebates will be reduced by the amount received by the employer.

2. If there are no future rebates to deduct the amount owed the state, the tax liability of the employer will be increased by the amount of the rebate for the taxable period non-qualification was determined.

3. The secretary of the Department of Revenue may recover any rebates previously granted to an employer but which rebates disallowed as authorized by R.S. 47:1561.2. The employer shall waive prescription for the purpose of recovering any disallowed rebates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1119. Incentive Rebates

A. Except as otherwise provided herein an employer who has entered into a contract may receive a rebate that is calculated by multiplying the benefit rate, as defined in LCA 1103.F.1 and 2, times the annual gross payroll of new direct jobs, as defined in LCA 1103.H.1-9, for the specified period in the contract.

B. Notwithstanding anything to the contrary in either Chapter 1 or Chapter 5 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as amended, the following rules shall apply with respect to the application of the rebate allowed:

1. The incentive rebate allowed an S corporation shall be paid to the S corporation entity and not the individual shareholders of the corporation.

2. The incentive rebate allowed a partnership, limited liability partnership (LLP), or limited liability company (LLC) shall be paid to the entity and shall not be paid to the individual partners or members of the entity.

C. Notwithstanding any other provision of law to the contrary in Title 47 of the Louisiana Revised Status of 1950, as amended, the Secretary of the Department of Revenue shall make the rebate.

D. In order to receive the rebate provided for by the contract, an employer shall apply with the Department.

1. The application shall be filed on the prescribed form designated by the Department and shall contain the required information to determine if the applicant is qualified.

2. The application shall contain a sworn statement, by a duly authorized officer of the employer, listing the names of persons or other entities who have received or who will receive any payment or other consideration from the employer for the purpose of representing the employer in applying for or receiving the benefits of this program.

E. In order to qualify to receive the rebate, the employer applying shall meet the requirements of LCA 1101.B.1 and 2.

F. The Department shall determine if an applicant is qualified to receive rebates.

G. The approved employer shall apply annually for rebates with the Department in the prescribed format and provide the information as described in LCA 1123. The employer may be audited by the department to verify eligibility. The rebates may continue as long as the employer complies with the approved contract and remains eligible.

H. The benefit rate shall be determined annually based on information provided by the employer on the rebate claim reports made annually.

I. The payroll rebates shall be paid annually after the employer submits the required annual report as specified in LCA 1123 and the department determines the employer is eligible for the rebate for that fiscal year. The report shall be filed within 90 days following the end of the employer's fiscal year with the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1121. Rebate Payments

A. In addition to the payroll rebates, an employer shall be entitled to sales and use tax rebates as authorized in R.S. 51:1787, if the employer meets the hiring requirements as defined in the Enterprise Zone Program and meets the other limitations, procedures, and requirements of R.S. 51:1787 and the rules promulgated there under, Louisiana Administrative Code, Title 13, Part I, Chapter 7.

B. An employer may request rebates of local sales and use taxes. This request must be accompanied by an endorsement resolution approved by the local governing authority of the appropriate municipality, parish, port district, or industrial district board in whose jurisdiction the employer is or will be located and taxes are paid. The endorsement resolution must clearly state if the local governmental subdivision intends to rebate the allowable sales and use taxes for the project. A copy of the resolution must be filed with the Department of Economic Development prior to action taken by the board on the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1123. Rebate Claim Filing

A. Payroll Rebate

1. A qualified employer must file annually an Affidavit of Annual Certification within 90 days of the completion of employer's fiscal year with the department to claim the payroll rebate.

2. The annual report will provide information on the number of employees at the site, the number of employees statewide, the number of new direct jobs created at the site, the number of hours worked by each employee weekly, the hourly wage paid employees in the new direct jobs, the position title, the employee's address, the hire date, the term date, the insurance acceptability, the percentage of the insurance paid by the employer, and the annual gross wages.

3. The department may request additional information from the employer as may be necessary to determine the eligibility for the annual rebate for that fiscal year or may request the employer revise the annual report.

4. Upon approval the department will advise the Department of Revenue the eligible rebate. The Department of Revenue shall make payment of the rebate after offset, if applicable, under R.S. 47:1622. The rebate shall be considered a refundable overpayment for the purpose of such offset.

5. If the actual verified gross payroll for the employer's third annual fiscal year does not show a minimum of five new direct jobs and does not equal or exceed a total annual payroll of \$500,000 or \$250,000, whichever is applicable, the employer will be determined to be ineligible under this Chapter. The Department of Revenue will be notified and the tax liability for the current tax period in which the failure to meet the requirements occurs shall be increased by the amount of rebates previously allowed.

B. Sales and Use Tax Rebate

1. An annual Employee Certification Report must be filed on all active contracts for the employer to qualify for the sales and use tax rebate under this Chapter.

2. The "beginning number" from which the net new jobs will be determined shall be the number of employees that an employer has on the day before the effective date of the contract.

3. An employee count will be taken from the employer's entire contiguous site for the purposes of calculating the jobs.

4. Monthly totals of permanent full time employees will be averaged over a minimum of six months to determine the number of jobs generated. Part time employees may be counted after completing a minimum of six months of continuous employment comprised of a minimum of 20 hours every week during that continuous period. Only employees reported on the Department of Labor's Unemployment Insurance Report will be used to calculate the average monthly total. In no case shall the new employees exceed the net increase in the total employment.

5. If the Employee Certification Report substantiates that the company has not met the hiring requirements under these rules, the employer will not be eligible for the sales and use tax rebate. The department will notify the Department of Revenue of the ineligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1125. Prohibited Incentives

A. A qualified employer that enters into a contract under this Chapter shall not be eligible to receive the other credits or exemptions provided for in the following provisions of law except as provided for in R.S. 51:2456(B):

1. R. S. 47:34 (tax credit for generation of new jobs in Louisiana);

2. R.S. 47:38 and 287.757 (income tax credit for conversion of vehicles to alternate fuel usage);

3. R.S. 47:4301 through 4306 (Industry Assistance Program - income tax, corporate franchise tax, state sales tax, and excise tax exemptions for manufacturing establishments);

4. R.S. 47:6004 (employer credit for employment of previously unemployed person);

5. R.S. 47:6009 (Louisiana basic skills training tax credit-income tax credit);

6. R.S. 47:6010 (employer income tax credit for employee alcohol and substance abuse treatment programs);

7. R.S. 51:1787 (Enterprise Zone Program - incentives tax exemption from sales and use tax materials to be used in the construction of a building and for machinery and income tax credit for each employee in an enterprise zone);

8. R.S. 47:287.748 (re-entrant jobs credit for formerly incarcerated employees-corporate income tax);

9. R.S. 47:287.749 (corporate income tax credit for new jobs);

10. R.S. 47:287.753 (neighborhood assistance income tax credit).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1127. Penalties

A. Penalties are provided under R.S. 51:2460 for false or fraudulent information in making application, making a claim for rebate, or other instrument.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1129. Termination of Program

A. The Board of Commerce and Industry shall approve no new applications for rebates as provided for under this chapter on and after January 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1131. Severability

A. If any Section or provision of this Chapter is held invalid, such invalidity shall not affect other provisions of this Chapter. Any provision of this Chapter that is in conflict with R.S. 51:2451-R.S. 51:2462 or any other statute will be invalid and will be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

Family Impact Statement

The proposed amendments to Rules 13:I. Chapter 11 Quality Jobs Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Daryl Manning through the close of business on January 30, 2001, at P.O. Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802.

Don J. Hutchinson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Quality Jobs Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Estimated implementation costs to state are \$37,051 in FY 2002/03, \$31,745 in FY2003/04 and \$32,845 in FY 2004/05. There is o estimate on local government cost possible.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Estimated additional state revenues are based upon the Fiscal Note's 190 new applications which could generate an additional \$76,000 in fees.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
If the 190 applications come into being, the minimum benefits would be \$125,000 for each contract, over a 10 year period. That yields a total of \$23,750,000 in lost state revenues for the anticipated 190 applications.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Since this incentive is based upon payroll it is impossible to estimate the number of new jobs but the payrolls of the 190 applications at minimum would amount to \$475,000,000 over the 10 year period of each contract. (190 contracts x 10 years x \$250,000 min. payroll to qualify)

Michael Williams
Director
Resource Services
0212#086

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of Business Development
Economic Development Corporation**

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

The Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, pursuant to the authority of R.S. 51:2341(B) and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to amend §§101-117 of the following rules of the Economic Development Award Program, and to adopt Sections §§119, 121, and 123. The purpose of the amended rules is to establish guidelines for both the basic EDAP as well as the Opportunity Fund projects. The inclusion of rules for the Opportunity Fund will allow the state to provide larger EDAP awards in an effort to be more competitive in trying to attract larger economic development projects. Securing such projects will create additional job opportunities and infrastructure for Louisiana citizens and businesses. In addition the amended rules comply with changes to the organizational placement of the EDAP within the Department and changes to the approval procedures provided by Acts 2001, No. 9.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 1. Economic Development Award Program (EDAP)

§ 101. Purpose

A. The purpose of the program is to finance publicly-owned infrastructure for industrial or business development projects that promote cluster economic development and that require state assistance for basic infrastructure development. Additionally, through the Louisiana Opportunity Fund, under circumstances hereinafter set forth, the governor, with the approval of the board of directors of Louisiana Economic Development Corporation, may take necessary steps to successfully secure projects in highly competitive bidding circumstances.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), amended LR 25:237 (February 1999), LR 26:236 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§ 103. Definitions

Applicants Cthe company and the public entity, collectively, requesting financial assistance from DED under this program.

Award Cfunding of financial assistance, appropriations, grants or loans approved under this program for eligible applicants.

Award Agreement Cthat agreement or contract hereinafter referred to between the company, the public entity, DED and LEDC through which, by cooperative endeavor or otherwise, the parties set forth the terms, conditions and performance objectives of the award provided pursuant to these rules.

Awardee Can applicant receiving an award under this program.

Basic Infrastructure Project Crefers to those infrastructure projects other than those for which the governor and the LEDC Board have made a determination that the Louisiana Opportunity Fund is applicable.

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

DEDC Cthe Louisiana Department of Economic Development.

Infrastructure Project Crefers to the undertaking for which an award is granted hereunder for the new construction, improvement or expansion of roadways, parking facilities, equipment, bridges, railroad spurs, water works, sewerage, buildings, ports and waterways.

LEDC Cthe Louisiana Economic Development Corporation.

Opportunity Fund Cthe Louisiana Opportunity Fund provides for infrastructure project financial assistance, appropriations, grants or loans in order to attract new in-state business investment or in-state expansion of existing businesses when, in the opinion of the governor of Louisiana, there exists a highly competitive project bidding situation where a company is in the final stages of site

selection and considers Louisiana to be roughly equivalent in terms of factor advantages to one or more other states.

Program—the Economic Development Award Program, including Basic Infrastructure Projects and Opportunity Fund Projects that are undertaken by DED, LEDC, the public entity and the company pursuant to these rules and the bylaws of LEDC.

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

Public Entity—the public or quasi-public entity responsible for engaging in the award agreement and pursuant thereto, for the performance and oversight of the project and for supervising with DED the company's compliance with the terms, conditions and performance objectives of the award agreement.

Secretary—the Secretary of the Department of Economic Development, who is also the President of LEDC.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), amended LR 25:237 (February 1999), LR 26:236 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§105. General Principles

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

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

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

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

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

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

6. Appropriate cost matching among project beneficiaries is a factor in the consideration of the award.

7. A two year moratorium will be required on additional EDAP awards to the same company at the same location.

8. Award funds shall be utilized for the approved project only.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1639 (December 1997), amended LR 25:238 (February 1999), LR 26:237 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§107. Eligibility

A. An eligible application for the award must meet the general principles set forth above and the criteria set forth below, and the ownership benefits or rights resulting from the infrastructure project must inure to the benefit of one of the following:

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

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

C. Businesses not eligible for awards under this program are:

1. retail business operations;
2. real estate developments;
3. hospitality operations;
4. gaming operations;
5. this ineligibility provision shall not apply to

wholesale, storage warehouse or distribution centers; catalog sales or mail-order centers; home-office headquarters or administrative office buildings; even though such facilities are related to ineligible business enterprises, provided that retail sales, hospitality services and gaming activities are not provided directly and personally to individuals in any such facilities.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1639 (December 1997), amended LR 25:238 (February 1999), LR 26:237 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§109. Criteria for Basic Infrastructure Projects

A. In addition to the general principles set forth above, Basic Infrastructure Projects must meet the criteria hereinafter set forth for an award under the Program.

1. Job Creation/Retention and Capital Investment

a. Basic Infrastructure Projects must create or retain at least 10 permanent jobs in Louisiana.

b. Consideration will be given for projects having a significant new private capital investment.

c. The number of jobs to be retained and/or created as stated in the application for basic infrastructure projects will be strictly adhered to, and will be made an integral part of the award agreement.

2. Preference will be given to projects for industries identified by DED or LEDC as cluster industries, and to projects located in areas of the state with high unemployment levels.

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

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

5. No assistance may be provided for Louisiana companies relocating their operations to another labor market area (as defined by the US Census Bureau) within Louisiana, except when the company gives sufficient evidence that it is otherwise likely to relocate outside of Louisiana, or the company is significantly expanding and increasing its number of employees and its capital investment.

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

7. Consideration will be given for wages substantially above the prevailing regional wage.

8. If a company does not begin construction of the project, or make substantial progress toward preparation of architectural and engineering plans and specifications and/or permit applications, within 365 calendar days after its application approval, the LEDC Board of Directors, at its discretion, may cancel funding for the project, or require reapplication.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1639 (December 1997), amended LR 25:238 (February 1999), LR 26:237 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§111. Criteria for Louisiana Opportunity Fund Projects

A. The governor shall determine that a project meets the general principles set forth above, and that a company meets the following criteria, it is either:

1. in the final stages of site selection and considers Louisiana to be equivalent in terms of factor advantages to one or more other states for locating here; or

2. the governor determines that a company operating in Louisiana is in the final stages of deciding whether or not to expand, invest new capital and to retain or create jobs in Louisiana, or to do so in another state or states rather than in Louisiana.

B. The governor shall provide notice to the chairman of the board of directors of LEDC and request that a special meeting of the board be called in accordance with the bylaws of LEDC, and a meeting of the LEDC Board of Directors shall be called to consider such financial benefits by way of financial assistance, appropriations, grants or loans as may facilitate and provide for necessary infrastructure improvements so as to induce a company to locate in Louisiana, or to expand and invest additional capital in Louisiana.

C. The governor shall certify to LEDC and provide appropriate information and documentation through which the LEDC Board must determine:

1. the project would, because of competition from other states and other pertinent factors, not happen in Louisiana in the absence of the infrastructure assistance being provided;

2. the project does not require government funding in order to be successful, but stands on its own merits;

3. the project provides an important interconnection between constituent companies of cluster-based economic development, and either provides or fulfills critical mass for targeted cluster-based development;

4. the project will result in fulfilling one or more of the purposes for which the offices of DED are created as defined by R.S. 36:108;

5. if the project is a new one for a company not currently located in Louisiana, or a new facility separate and apart from a company's existing facility in Louisiana;

a. the project will be instrumental in the creation of a \$15 million minimum new private capital investment by the company, with at least a 5 to 1 ratio of new private capital investment to the award under this Program;

b. the project will result in the creation of a minimum of 100 new permanent jobs with salaries at least equal to the respective parish's average weekly wage for the respective industry, or where no industry average is available, at least equal to 10 percent above the parish's per capita average weekly wage, as determined by the Louisiana Department of Labor; and

c. the company must offer health care insurance coverage for the employees;

6. if the project is for an existing business operation in Louisiana, there is evidence:

a. of either:

i. a written commitment from another state of the United States or foreign country setting forth the terms and conditions for relocation of the Louisiana operation outside of this state; or

ii. that the company will pursue a project for expansion of capital facilities and/or additional jobs, either in Louisiana or in a state other than Louisiana; and

b. that the company will substantially modernize and/or increase its capital investment in Louisiana, creating or retaining at least 50 permanent jobs, with a minimum new private capital investment of \$30 million in improvements and/or modernization of Louisiana facilities, with at least a 5 to 1 ratio of new private capital investment to the award under this program.

D. If a company does not begin construction of the project, or make substantial progress toward preparation of architectural and engineering plans and specifications and/or permit applications, within 180 calendar days after its application approval, the LEDC Board of Directors, at its discretion, may cancel funding for the project, or require reapplication.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1639 (December 1997), amended LR 25:238 (February 1999), LR 26:237 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§113. Application Procedure for Basic Infrastructure Projects

A. The applicants must submit an application to DED or LEDC on a form provided by DED or LEDC which shall contain, but not be limited to, the following:

1. a business plan that contains an overview of the company, its history, and the business climate in which it operates, including financial statements and business projections;

2. a description of the project along with the factors creating the need, including construction, operation and

maintenance plans, and a timetable for the project's completion;

3. evidence of the number, types and compensation levels of jobs to be created or retained by the project, and the amount of capital investment for the project; and

4. any additional information that DED or LEDC may require.

B. The applicants and their applications must meet the general principles of §105, the eligibility requirements under §107, and meet the criteria set forth in §109 above, in order to qualify for an award under this Program.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1639 (December 1997), amended LR 25:238 (February 1999), LR 26:237 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§115. Application Procedure for Louisiana Opportunity Fund Projects

A. The applicants must submit an application to the Governor on a form provided by DED or LEDC which shall contain, but not be limited to, the following:

1. a business plan that contains an overview of the company, its history, and the business climate in which it operates, including financial statements and business projections;

2. a description of the project along with the factors creating the need, including construction, operation and maintenance plans, and a timetable for the project's completion;

3. evidence of the number, types and compensation levels of jobs to be created or retained by the project, and the amount of capital investment for the project; and

4. any additional information that may be required by DED or LEDC.

B. In order for the application to be considered by the LEDC Board of Directors, the governor must submit it to the board along with his certifications, as required by §111 above.

C. When, in the opinion of the governor, use of the Louisiana Opportunity Fund is warranted under circumstances of highly competitive bidding for a new business or an existing business that meets the general principles of §105, the eligibility requirements under §107, and meets the criteria set forth in §111 above, the governor may request the chairman of the Board of LEDC to call a special meeting of the Board of Directors of LEDC pursuant to the Bylaws of LEDC; and thereafter, a meeting of the Board of Directors of LEDC shall be called in order for the Board to consider the use of funds from the Louisiana Opportunity Fund as may be recommended by the governor. The LEDC Board may take such action as may be necessary promptly and expeditiously because of and consistent with the competition presented by other states, and shall approve or reject the application.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1640 (December 1997), amended LR 25:239 (February 1999), LR

26:238 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§117. Submission and Review Procedure for Basic Infrastructure Projects

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

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

B. An economic cost-benefit analysis of the project, including an analysis of the direct and indirect net economic impact and fiscal benefits to the state and local communities, including an evaluation based on the Regional Input/Output Model System II (RIMS), or its successor, will be prepared by DED or LEDC.

C. Upon determination that an application meets the general principles of §105, the eligibility requirements under §107, and meets the criteria set forth for this program under §109, DED staff will then make a recommendation to the LEDC Board of Directors. The application will then be reviewed and approved or rejected by the LEDC Board.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:405 (March 1999), amended LR 26:239 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§119. Submission and Review Procedure for Louisiana Opportunity Fund Projects

A. DED shall provide staff for prompt and timely review of submissions by the governor of projects to be funded by the Louisiana Opportunity Fund. Input may be required from the company, the public entity, other divisions of DED, LEDC, and other state agencies or political subdivisions of the state as needed in order to:

1. evaluate the strategic importance to the state of the project and its importance to the economic well being of the state and its local communities;

2. validate the information presented, and determine whether or not the project meets the general principles of §105, the eligibility requirements of §107, and falls within the criteria for use of the Opportunity Fund as provided in §111 above;

3. determine the feasibility of the company's plan in the context of the criteria for use of the Opportunity Fund as provided in §111 above;

4. prepare a preliminary economic cost-benefit analysis of the project, including a preliminary analysis of the direct and indirect net economic impact and fiscal benefits to the state and local communities, including an evaluation based on the Regional Input/Output Model System II (RIMS), or its successor;

5. make recommendations based upon the foregoing to the Board of Directors of LEDC, and the LEDC Board shall review and approve or reject the application.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§121. General Award Provisions

A. Except where indicated, these provisions shall be applicable to Basic Infrastructure Awards and to Louisiana Opportunity Fund awards. Agreement resulting from the expedited procedures for the Louisiana Opportunity Fund award shall demonstrate the intent of the company, the public entity, DED, and LEDC to enter into the following.

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

2. Funding

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

- i. engineering and architectural expenses;
- ii. site acquisition;
- iii. site preparation;
- iv. construction expenses;
- v. building materials;
- vi. capital equipment when located on public property and having an Internal Revenue Service (IRS) depreciable life of at least seven years.

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

- i. recurrent expenses associated with the project (e.g., operation and maintenance costs);
- ii. company moving expenses;
- iii. expenses already approved for funding through the General Appropriations Bill, or for cash approved through the Capital Outlay Bill, or approved for funding through the state's capital outlay process for which the Division of Administration and the Bond Commission have already approved a line of credit and the sale of bonds;
- iv. improvements to privately-owned property, unless provisions are included in the project for the transfer of ownership to a public or quasi-public entity;
- v. refinancing of existing debt, public or private;
- vi. furniture, fixtures, computers, consumables, transportation equipment, rolling stock or equipment not located on public property and/or having an IRS depreciable life of less than seven years.

B. Amount of Award. Following the appropriation of funds for each fiscal year, the Board of Directors of LEDC shall allocate the amount of such funds available for Basic Infrastructure Awards and for Louisiana Opportunity Fund Awards.

1. For Basic Infrastructure Awards

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

- i. 90 percent for projects located in parishes with per capita personal income below the median for all parishes; or
- ii. 75 percent for projects in parishes with unemployment rates above the statewide average; or
- iii. 50 percent for all other projects.

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

c. All monitoring will be done by DED or LEDC. Expenditures for monitoring or fiscal agents may be deducted from awards.

d. The award amount shall not exceed 25 percent of the total funds allocated to the Basic Infrastructure Awards Program during a fiscal year, unless the project creates in excess of 200 jobs, or creates an annual payroll in excess of \$3.1 million.

e. The LEDC Board of Directors, in its discretion, may limit the amount of awards to effect the best allocation of resources based upon the number of projects requiring funding and the availability of program funds.

2. For Louisiana Opportunity Fund Awards. Resources shall be allocated in accordance with the recommendations of the Governor and as approved by the Board of Directors of LEDC and shall effect the best allocation of resources, based upon the number of projects anticipated to require similar funding and the availability of program funds.

C. Conditions for Disbursement of Funds

1. Award funds will be available to the public entity on a reimbursement basis following submission of required documentation to DED or LEDC from the public entity.

2. Program Funding Source

a. If the program is funded through the state's general appropriations bill, only funds spent on the project after the approval of the LEDC Board of Directors will be considered eligible for reimbursement.

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

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

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

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

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

4. Awardees will be eligible for reimbursement at 85 percent until all or substantially all of the tasks or work required by the award agreement have been performed or completed. After the awardee has performed or completed or substantially performed or substantially completed the tasks or work required by the award agreement, the final 15 percent of the award amount will be paid after DED or LEDC staff or its designee inspects the project to assure that

all or substantially all of the tasks or work required by the award agreement have been performed or completed. Such tasks or work shall be considered substantially performed or substantially completed when DED or LEDC has determined that the benefits to the state anticipated or expected as a result of the project, tasks or work performed have been achieved, even though 100 percent of all stated objectives of the award agreement may not have been fully achieved.

E. Compliance Requirements

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

2. In the event a company or public entity fails to meet its performance objectives specified in its agreement with DED and LEDC, DED and LEDC shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or public entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state. Reclamation shall not begin unless DED or LEDC has determined, after an analysis of the benefits of the project to the state and the unmet performance objectives, that the state has not satisfactorily or adequately recouped its costs through the benefits provided by the project.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§123. Conflicts of Interest

A. No member of Louisiana Economic Development Corporation, employee thereof, or employee of the Louisiana Department of Economic Development, nor members of their immediate families, shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with either the corporation or the department for any matter, cause, or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such corporation or department. If any contract or agreement shall be made in violation of the provisions of this Section, the same shall be null and void, and no action shall be maintained thereon against either the corporation or the department.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

Family Impact Statement

The proposed amendments to LAC 13:III. Chapter regarding the Economic Development Award Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Daryl Manning through the close of business on January 30, 2003, at P.O. Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802.

Don J. Hutchinson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Economic Development
Award Program (EDAP)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs to state or local government as a result of these rule changes.

Act 23 of the 2002 Legislature provides \$8,700,000.00 in funding for the Economic Development Award Program, including the Louisiana Opportunity Fund for Infrastructure Programs and Projects. The new rules establish guidelines for both the basic EDAP as well as the Opportunity Fund projects. These rule changes will not result in additional staff or equipment.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effects on Revenue collections are expected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs are anticipated.

The inclusion of rules for the Opportunity Fund will allow the state to provide larger EDAP awards in an effort to be more competitive in trying to induce larger economic development projects. Securing such projects will create additional job opportunities and infrastructure for Louisiana citizens and businesses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The program's goals include the creation of new jobs, diversifying the economy, and increasing state and local tax collections.

Michael Williams
Director
Resource Services
0212#084

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of Business Development Economic Development Corporation

Matching Grants Program
(LAC 19:VII.Chapter 79)

The Department of Economic Development, Office of Business Development, Economic Development Corporation, pursuant to the authority of R.S. 51:2312 and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to adopt the following Rules for the Louisiana Matching Grants Program. The purpose of the Rules is to establish a program to leverage state and local funding in order to maximize matching funds from federal and other grants. The program is set up to assist qualified Louisiana businesses, minority-owned businesses, high-growth potential businesses, women-owned businesses, small business enterprises and disabled persons' business enterprises as a result of the grant. LEDC will provide a portion of the match required for these grants. There are federal and private grants available for local governments to access. However, many local governments do not have sufficient funds available to fund the required matches for the grants. In order to give more local governments access to these grants LEDC has proposed the matching grant program to provide some of the match required. This program provides funding that is not available in the private sector or from any other public sector entity.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 11. Louisiana Matching Grants Program

Chapter 79. Matching Grants Program

§7901. Purpose

A. The purpose of this program is to leverage state and local funding in order to maximize matching funds from federal and other grants for the purpose of assisting, whether individually or collectively, qualified Louisiana businesses, minority-owned businesses, high-growth potential businesses, women-owned businesses, small business enterprises and disabled persons' business enterprises as those terms are defined by R.S. 39:2303, in such manner and as may be determined by the board in its discretion, and may also include providing matching funding for federal grants for infrastructure and basic infrastructure projects under the Louisiana Economic Development Award Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Economic Development Corporation, LR 29:

§7903. Definitions

Applicant Cthe public entity requesting matching grant funds under this program. The public entity may be joined in the application by any other entity.

Award Cthe funding of matching grant money under this program for eligible applicants.

Award Agreement Cthe agreement of contract hereinafter referred to between the public entity, DED and LEDC, and

where applicable, any other entity through which the parties by cooperative endeavor or otherwise, set forth the terms, conditions and performance objectives of the award provided pursuant to these rules.

DEDC the Louisiana Department of Economic Development.

Project C a proposal by a public entity that promotes economic development for which matching grant funds are sought under this program. Where matching grant funds are sought for projects that are defined as Basic Infrastructure or Infrastructure under the EDAP Rules, then the Rules pertaining to EDAP, in addition to these Rules, apply to the determination as to the funding of the matching grant funds.

Public Entity C the applying public or quasi-public entity that will be responsible for receiving and administering the performance and oversight of the project and for supervising compliance with the terms, conditions and performance objectives of the award agreement.

Secretary C the Secretary of the Department of Economic Development, who is also the President of LEDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Economic Development Corporation, LR 29:

§7905. General Principles

A. The following general principles will direct the administration of the Matching Grant Award Program.

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

2. An award must reasonably be expected to be a significant factor in improving or enhancing economic development, whether in a particular circumstance, or overall.

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

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

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

6. Appropriate cost sharing among project beneficiaries is a factor in the consideration of the award.

7. Whether or not an award will be made is entirely at the discretion of the LEDC Board and shall depend upon the facts and circumstances of each case, funds available, funds already allocated, and other such factors as the board may, in its discretion deem to be pertinent. The grant or rejection of an application for an award shall not establish any precedent and shall not bind the board to any future course of action with respect to any application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§7907. Eligibility

A. In order to be eligible for a Matching Grant Award pursuant to this program, the applicant must demonstrate the following to the satisfaction of the board.

1. The Award sought must be consistent with the Principles set forth above, the applicant must demonstrate a need for the matching grant funds, the ability to administer the funds in accordance with all applicable laws, rules and regulations governing the receipt of the grant, and that management are, or will be, in place to provide the services the grant is intended to provide. Where it is represented that certain contingent actions will be taken in order to comply with these conditions, then the LEDC may, in its discretion, withhold funding until there is substantial performance of the contingencies.

2. Preference will be given to applicants representing rural communities, or those communities designated as renewal communities.

3. The applicant must demonstrate that the matching funds and resulting grant from available matching funds will serve, individually, or collectively, the purposes of the program as defined in §7901 and the General Principles defined in §7905 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Economic Development Corporation, LR 29:

§7909. Application for Matching Grant

A. The applicant must submit an application to the DED or LEDC on a form provided which shall contain the following information:

1. a copy of the application or a valid description of the grant for which matching funds are sought;

2. a letter of commitment or such other information as will provide the board necessary information to assure that if the funds are made available and other necessary and appropriate steps are taken, the grant will be matched by the granting authority;

3. an explanation for the reason that LEDC provide the match to the grant;

4. a plan which shall include a budget as to how and when the match and the grant are to be spent;

5. résumés or other appropriate information on the grant administrator or grant monitor;

6. a statement that reflects that the value of the matching funds to the project and to the economic development of the state sought through the project will equal or exceed the benefits given to the recipient of the grant funds;

7. how matching the grant funds will serve the best interests of the businesses defined in the purposes set forth in §7901 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Economic Development Corporation, LR 29:

§7911. Matching Grant Funding

A. The award shall not be drawn down before the grant is funded by the federal or other entity that is providing the funds for which the matching grant is being awarded.

B. There shall be a contribution from the applicant that in the opinion of the board constitutes a commitment to the project for which the funds are being sought.

C. The Louisiana Economic Development Corporation may allocate funds to this program on a case by case basis

and may, by vote, determine a maximum amount to be allocated for the fiscal year.

D. This program shall be evaluated by the board in one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Economic Development Corporation, LR 29:

Family Impact Statement

The proposed amendments to Rules 19:VII. Chapter 79 regarding the Economic Development Award Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Daryl Manning through the close of business on January 30, 2001, at P.O. Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802.

Don J. Hutchinson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Louisiana Matching Grants Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated costs in implementing the program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that State and local governments will be able to collect \$3,000,000 in federal or private grants because of this program. The increase comes from the fact that many local governments do not have sufficient funds to match the grants.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that State and local governments will be benefited as much as \$3,000,000 in federal or private grants because of this program. The small and medium business will be the direct beneficiary of the grant dollars. This program is intended to be a match for federally funded or privately funded grants and that match is estimated to be no more than one third of the total grant. Since the board of LEDC has earmarked \$1,000,000 for the program then the following formula applies:

+\$4,000,000	Grant with state self generated funds and leveraged federal or private dollars
<u>-\$1,000,000</u>	in self generated state funds
\$3,000,000	Net new dollars

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This program does not provide funding that is available in the private sector or from any other public sector. Therefore, the program will not negatively affect private sector employment or be in direct competition with other government programs. Because economic development is the purpose of the program, net new jobs will be created through the development of new and expanded businesses as a result from federal or foundation grants made possible by this program.

Michael Williams
Director
Resource Services
0212#085

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741C 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 State Board of Elementary and Secondary Education (SBESE), at the October 2002 meeting, approved a change to policy number 1.025.01 in Bulletin 741C Louisiana Handbook for School Administrators. The Rule change updates the list of state and federal rules, laws and statutes that schools and districts must comply with in regards to data collection and dissemination.

The action is necessary to bring Louisiana's school administrative policy in line with Family Education Rights to Privacy Act (FERPA) guidelines. Specific information regarding FERPA guidelines can be obtained at <http://www.ed.gov/offices/OM/fpco/ferpa/index.html>.

**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 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:

Proposed Policy

1.025.01 The maintenance, use, and dissemination of information included in system records and reports shall be governed by written policies adopted by the local educational governing authority and/or other applicable educational governing authorities. The policies shall conform to the requirements of all applicable state and federal laws, including, but not limited to, the Louisiana

Public Records Act, R.S. 44:1 et seq., the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g and 45 CFR 99.1 et seq., the Individual with Disabilities Education Act, 20 U.S.C 1400 et seq., 17:1941 et seq. and R.S. 17:1237.

2.025.01 The maintenance, use and distribution of information included in school records and reports shall be governed by written policies adopted by the local educational governing authority. The policies shall conform to the requirements of all applicable state and federal laws, including, but not limited to, the Louisiana Public Records Act, R.S. 44:1 et seq., the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g and 45 CFR 99.1 et seq., the Individual with Disabilities Education Act, 20 U.S.C 1400 et seq., 17:1941 et seq. and R.S. 17:1237.

* * *

Interested persons may submit written comments until 4:30 p.m., February 8, 2003, to Nina A. Ford, Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Bulletin 741C Louisiana Handbook For School Administrators

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no additional cost or savings to state or local governmental units as a result of this proposed Rule change. The proposed Rule change updates the list of state and federal rules, laws and statutes that schools and districts must comply with in regards to data collection and dissemination.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed Rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule change imposes no direct costs nor provides any direct economic benefits to persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect is expected on competition or employment as a result of the proposed Rule change.

Weegie Peabody
Executive Director
0212#024

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook For School Administrators (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, 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).

At its October 2002 meeting, the State Board of Elementary and Secondary Education revised Standards 2.037.12, 2.037.13, 1.090.03, and 2.090.03 of *Bulletin 741*. These standards relate to the length of the school day and the minimum time requirements for pre-kindergarten classes. This action was necessary to include pre-kindergarten in policy that previously applied to K-12. The revision mandated that 360 minutes shall be the minimum instructional day for a full day pre-kindergarten program, defined instructional time for pre-kindergarten and clarified suggested minimum time requirements for pre-kindergarten.

**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 28:269-271 (February 2002), LR 28:272-273 (February 2002), LR 28:991-993 (May 2002), LR 28:1187 (June 2002), LR 29:

Length of School Day Requirements

2.037.12 The minimum instructional day for a full-day pre-kindergarten and kindergarten program shall be 360 minutes.

2.037.13 For grades pre-kindergarten – 12, the minimum school day shall include 360 minutes of instructional time, exclusive of recess, lunch, and planning periods.

**Elementary Program of Studies/Minimum
Time Requirements**

1.090.03

2.090.03 Schools providing pre-kindergarten programs shall offer a curriculum that is developmentally appropriate and informal in nature.

Suggested Minimum Time Requirements for Pre-Kindergarten:

Teacher directed activities indoor and outdoor whole and small group)	35%
Child initiated activities indoor and outdoor learning centers)	35%
Snack and restroom time	10%
A. Lunch	
Rest Periods	20%

The above suggested minimum time requirements shall be flexibly scheduled to meet the developmental needs of young students.

* * *

Interested persons may submit comments until 4:30 p.m., February 8, 2003, to Nina A. Ford, Board of Elementary and

Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741C Louisiana Handbook For
School Administrators**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no additional implementation costs (savings) to state or local governmental units. The proposed Rule change revises standards that relate to the length of the school day and the minimum time requirements for pre-kindergarten classes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should 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 should be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no affect on competition and employment.

Weegie Peabody
Executive Director
0212#026

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). 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 proposed changes integrate subgroup performance into existing policy by creating a means to evaluate subgroup (ethnic, poverty, limited english proficient, and disabled) growth, and establishing incentives for schools to improve subgroup performance.

**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 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:

**The Louisiana School And District
Accountability System**

Growth Targets

2.006.05 Each school shall receive a growth target that represents the amount of progress it must make every two years to reach the state's 10-and 20-Year Goals.

In establishing each school's growth target, the SPS inclusive of students with disabilities shall be used as the baseline. (See Standard 2.006.18.) However, the percentage of students with disabilities varies significantly across schools and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of students with disabilities eligible to participate in the CRT or NRT in each school will be a factor in determining the growth target for each school.

Growth Targets [K-12]

During the first ten years, the formula is the following:

$$[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]$$
 or 5 points, whichever is greater where

PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. For purposes of this calculation, gifted, talented, and 504 students shall not be counted as special special education students, but shall be included in the calculations as regular education students.

PropRE = 1-PropSE. PropRE is the proportion of students not in special education.

Prop LEP = the number of limited English proficient students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. A limited English proficient student shall be defined as an individual who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or participate fully in our society and who: 1) was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or 2) is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or 3) is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant.

SPS = School Performance Score

N = Number of remaining accountability cycles in the 10-Year Goal period

The maximum amount of growth that a school shall be required to attain is 20 points. The minimum amount of growth required shall be 5 points.

During the second ten years, the formula is the following:

$$[\text{PropRE} * (150 - \text{SPS})/N] + [\text{PropSE} * ((150 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((150 - \text{SPS})/(N+5))]$$
, or 5 points, whichever is greater.

For cycle 1 only (2003), the Louisiana Department of Education shall calculate a growth target for 9-12 schools using the following formula

$$.75 * [[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]]$$
.

For combination schools, the Louisiana Department of Education shall use 2 years of data (2002 and 2003) to determine if a school has met its growth target for cycle 1. Combination schools shall use the following formula to calculate a growth target:

$$[[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]]$$
, or 5 points, whichever is greater.

Growth Targets for New or Reconfigured Schools
 Once a baseline for the new or reconfigured school has been established, a growth target shall be set based on the number of cycles remaining until 2009 (K-8) and 2011 (9-12), with a maximum growth target of 20 points. For example, suppose an elementary school enters the Accountability System in 2003 and establishes a baseline SPS of 50 in 2005. Normally, the school's growth target would be $(100 - 50)/2 = 25$. Under this rule, the school's growth target shall be 20, the maximum.

Growth Targets for Reconstituted Schools
 Until 2009 (for K-8 schools) and 2011 (for 9-12 schools), the reconstituted school's growth target shall be equal to 100 minus the SPS divided by 5 minus the number of cycles since reconstitution. For example, suppose a school is reconstituted in 2005 and has a SPS of 50 (based on previous year's data). The school's growth target for the first cycle after reconstitution shall be $10 \text{ points } [(100 - 50)/5]$.

Growth Targets for Subgroups (Subtargets)
 Beginning in 2003, a Subtarget shall be calculated for each subgroup within a school. The Subtarget(s) reflect the amount of growth each subgroup within a school must achieve in order to meet the state's 10-year goal. Subtargets shall be calculated in each school for the following subgroups*:

- American Indian or Alaskan Native
- Asian or Pacific Islander
- Black
- Hispanic
- White
- Economically Disadvantaged
- Special Education
- Limited English Proficient

*Subgroup participation will be determined based on SIS reporting and according to guidelines established by federal law. Subtargets are calculated only when minimum population requirements for subgroups are met.
 The minimum and maximum subtarget values shall be 5.0 and 20.0, respectively.

The Subtargets shall be equal to 100 minus the subgroup's SPS divided by the number of cycles remaining.

Subtarget calculations are demonstrated in the following K-8 example:

Subgroup	2003 Subgroup SPS	Subtarget [(100-SPS) / # cycles remaining]
American Indian/Alaskan Native	53.2	15.6
Asian or Pacific Islander	92.1	2.6
Black	71.4	9.5
Hispanic	62.7	12.4
White	80.9	6.4
Economically Disadvantaged	75.0	8.3
Special Education	44.2	18.6
Limited English Proficient	70.1	10.0

Growth Labels

2.006.06 A school shall receive a label based on its success in attaining its growth target.

2003 Growth Labels

A school exceeding its growth target by five points or more shall receive a label of Exemplary Academic Growth.

A school exceeding or meeting its growth target by fewer than five points shall receive a label of Recognized Academic Growth.

A school improving (at least 0.1 points) but not meeting its growth target, shall receive a label of Minimal Academic Growth.

A school with a change in SPS (0 to -5.0 points), shall receive a label of No Growth.

A school with a declining SPS (more than -5.0 points) shall receive a label of School in Decline.

For the accountability cycle ending in 2005 and for all subsequent cycles, a school shall receive a label based on its success in attaining its school growth target and subgroup subtargets.

2005 Growth Labels

For the accountability cycle ending in 2005 and for all subsequent cycles:

A school meeting or exceeding its growth target with all subgroups meeting or exceeding their respective subtargets shall receive a label of Exemplary Academic Growth.

A school meeting or exceeding its growth target with all subgroups meeting or exceeding the growth target of the school shall receive a label of Recognized Academic Growth.

A school meeting or exceeding its growth target with any subgroup failing to meet at least the growth target of the school shall receive a label of Adequate Academic Growth.

A school improving (at least 0.1 points) but not meeting its growth target, shall receive a label of Minimal Academic Growth.

A school with a change in SPS (0 to -5.0 points), shall receive a label of No Growth.

A school with a declining SPS (more than -5.0 points) shall receive a label of School in Decline.

When a school's SPS is greater than or equal to the state's goal, "Minimal Academic Growth," "No Growth", and "School in Decline" labels shall no longer apply.

Rewards/Recognition

2.006.08 A school shall receive recognition and monetary awards (as appropriated by the Legislature) when it meets or exceeds its growth target and when it shows growth in the performance of subgroups. For 2001 and 2003 only, the SBESE shall determine distribution of rewards based on a school's SPS and on the amount of growth (at least 0.1 points) shown in the performance of students who are classified as high poverty.

For the accountability cycle ending in 2005 and for all subsequent cycles, rewards shall be distributed to schools based on the following criteria:

A school meeting or exceeding its growth target with all subgroups meeting or exceeding their respective subtargets shall be rewarded for *Exemplary Academic Growth*.

A school meeting or exceeding its growth target with all subgroups meeting or exceeding the growth target of the school shall be rewarded for *Recognized Academic Growth*.

School personnel shall decide how any monetary awards shall be spent; however, possible monetary rewards shall not be used for salaries or stipends. Other forms of recognition shall also be provided for a school that meets or exceeds its growth target (s).

Districts and the LDE shall evaluate any instance of Irregularity or Unusual Data (See Standard 2.006.04) in the following respects for determining the allocation of rewards:

- If irregularities are resolved and the data is corrected before re-provided, then the rewards will be based upon the corrected data.
- If the irregularities are resolved and the data is corrected after rewards have been distributed, then the school shall be required to repay any rewards for which it was ineligible as determined by the audit findings or the SBESE will subtract the reward amount from future funds to be awarded to the district or from some other source.

* * *

Interested persons may submit written comments until 4:30 p.m., February 8, 2003, to Nina A. Ford, Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741C Louisiana Handbook For School Administrators C Policy for Louisiana's Public Education Accountability System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs to state governmental units. The proposed changes integrate subgroup performance into existing policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Weegie Peabody
Executive Director
0212#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1943C Policies and Procedures for Louisiana
Teacher Assistance and Assessment
(LAC 28:XXXVII.503, 701, and 901)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education approved for advertisement revisions to Bulletin 1943C Policies and Procedures for Louisiana Teacher Assistance and Assessment, referenced in LAC 28:I.917.C. The State Board of Elementary and Secondary Education (SBESE) approved the Louisiana Teacher Assistance and Assessment Programs, Bulletin 1943: Policies and Procedures for Louisiana Teacher Assistance and

Assessment, at their September 2002 meeting. Bulletin 1943 is revised to be in conformity with R.S. 17:3881-3884, 17:3891-3896, and 17:3901-3904, Act 838 of the Regular Session of the 1997 Louisiana Legislature. These revisions include the new Louisiana teacher certification and licensure structure and the Teacher Preparation Program Accountability Survey for new teachers. The new Louisiana teacher certification and licensure structure, approved by the State Board of Elementary and Secondary Education, was implemented on July 1, 2002. The *Policies and Procedures for Louisiana Teacher Assistance and Assessment* are the criteria by which new teachers will be assessed under the Louisiana Teacher Assistance and Assessment Program.

Title 28

EDUCATION

Part XXXVII. Bulletin 1943C Policies and Procedures for Louisiana Teacher Assistance and Assessment

Chapter 5. Assessment

§503. Teachers Subject to the Program

A. New teachers subject to this assistance and assessment program, as specified by Act 1 of the 1994 Third Extraordinary Session of the Louisiana Legislature and its 1997 amendments, include general education teachers, vocational education teachers, special education teachers, and "any person employed as a full-time employee of a local board who is engaged to directly and regularly provide instruction to students." Teachers required to participate in this program include those who hold standard certificates (Type C, Level 1), those who hold non-standard certificates (Temporary Authority to Teach, Out-of-Field Authorization to Teach, Practitioner License, or Temporary Employment Permit), teachers moving for the first time from Louisiana nonpublic schools to public schools, and new teachers from out-of-state who do not meet the conditions outlined in Subsection B of this Section.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17: 3871-3873; R.S. 3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:278 (February 2002), LR 29:

Chapter 7. Glossary

§701. Assessment Terminology

Nonstandard Certificate Ca temporary license issued to one who has not yet completed all requirements for Louisiana certification but who is authorized to teach on a provisional basis in Louisiana schools while pursuing completion of all certification requirements.

Standard Certificate Ca license issued to one who has completed a teacher education program and satisfied other requirements for certification in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17: 3871-3873; R.S. 3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:279 (February 2002), LR 29:

Chapter 9. Responsibilities

§901. Duties and Responsibilities of Each Party

A. - A.3.h. ...

4. Responsibilities of Mentor Teachers or Mentor Support Teams. One of the first responsibilities of the Mentor or Mentor Support Team leaders is to remind the assigned new teacher to complete the *Teacher Preparation Program Accountability Survey*. This survey must be completed during the first semester of the assistance period. Additional responsibilities include:

4.a. - 4.c.v. ...

5. Responsibilities of Principals or Principal Designees

a. Introduce the new teacher to school and system policies and procedures, to faculty and staff, to teaching responsibilities, the school improvement plan, the school accountability program, to the *Teacher Preparation Program Accountability Survey*, to the availability of district resources, and the Teacher Assistance and Assessment Program;

5.b. - 6.c. ...

7. Responsibilities of New Teachers

a. Complete the *Teacher Preparation Program Accountability Survey* during the first semester of the assistance period.

b. Perform new teacher responsibilities in accordance with the Code of Ethics for new teachers appearing in the appendices of this bulletin.

c. Meet regularly with his/her mentor at agreed upon times.

d. Take responsibility for his/her own professional growth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17: 3871-3873; R.S. 3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:280 (February 2002), LR 29:

Interested persons may submit comments until 4:30 p.m., February 8, 2003, to Nina A. Ford, Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1943C Policies and Procedures for Louisiana Teacher Assistance and Assessment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately \$730 (printing and postage) to disseminate this policy. Copies will be mailed to each superintendent, to the Louisiana Teacher Assistance and Assessment Program contact persons, and to all assessor trainers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Teachers who hold standard certificates (Type C, Level 1), those who hold non-standard certificates (Temporary Authorization to Teach, Practitioner License, or Temporary Employment Permits) are required to participate in the Louisiana Teacher Assistance and Assessment Program. Teachers participating in the program are required to complete a Teacher Preparation Program Accountability Survey.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The printing of the *Bulletin 1943 Policies and Procedures for Louisiana Teacher Assistance and Assessment* has no effect on competition or employment.

Weegie Peabody
Executive Director
0212#023

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Scholarship/Grant Programs
(LAC 28:IV.501, 503, and 803)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant Rules (R.S. 17:3021-3026, R.S. 3041.10-15, and R.S. 17:3042.1, R.S. 17:3048.1).

The full text of these proposed Rules may be viewed in the Emergency Rule section of this issue of the *Louisiana Register*.

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., February 20, 2002, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

In addition to the nominal cost of publishing in the Louisiana Register, the agency anticipates no costs to the program as a result of these changes.

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)

These changes permit students to file the appropriate year FAFSA to apply for TOPS awards during their first year of first-time/full-time enrollment instead of the year of high

school graduation, and clarify that TOPS Tech applicants need not apply for federal aid if they can demonstrate that they are not eligible for it.

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
0212#082

Johnny R. Rombach
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Commercial Laboratories Pending Accreditation
(LAC 33:I.4501 and 4719) (OS039)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.4501 and 4719 (Log #OS039).

As a result of deadlines established in current Louisiana regulations, the Department is prohibited from accepting data from commercial laboratories that have not received departmental accreditation. This rule will allow the Department to accept data from laboratories that have submitted complete applications and supporting documents, have submitted documentation verifying certification/accreditation by a department-approved accreditation program or supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory, and have paid all appropriate fees. The Department is adding an exemption for personnel monitoring services and those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 Code of Federal Regulations, due to the fact that they are licensed under other department regulations and to prevent an additional economic burden and duplication of effort by the department. The department relies on the analytical data to determine permit compliance, enforcement issues, and effectiveness of remediation of soils and groundwater. Permit issuance and compliance are effective means of determining the impact on human health and the environment. The basis and rationale for this Rule are to establish regulations to allow the department to have access to accurate, reliable, precise analytical data in order to meet its mandate to protect human health and the environment. This Rule will promulgate the regulation changes in Emergency Rule OS039E3, which was effective on November 11, 2002.

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 I. Office of the Secretary
Subpart 3. Laboratory Accreditation

Chapter 45. Policy and Intent

§4501. Description and Intent of Program

A. - D. ...

E. This Subpart shall not apply to the following:

1. laboratory analyses programs accredited under the regulatory and statutory authority of the Louisiana Department of Health and Hospitals; and

2. personnel monitoring services in accordance with LAC 33:XV.430.C and to those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 *Code of Federal Regulations*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:917 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1434 (July 2000), LR 29:

Chapter 47. Program Requirements

§4719. Implementation

A. - B. ...

C. The department will accept analytical data generated by laboratories that do not comply with the deadlines established in Subsection B of this Section for accreditation if such laboratories:

1. have submitted a complete application form and supporting documents;

2. have submitted documentation verifying certification/accreditation by a department-approved accreditation program or supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory; and

3. have paid appropriate fees.

D. These regulations shall not apply to field tests as defined in LAC 33:I.4503.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 29:

A public hearing will be held on January 24, 2003, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by OS039. Such comments must be received no later than January 31, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by e-mail to

lynnw@deq.state.la.us. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of OS039.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 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

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: Commercial Laboratories
Pending Accreditation

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.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule changes should have no effect on the revenue collections of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should have no effect on competition and employment.

James H. Brent, Ph.D.
Assistant Secretary
0212#067

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Fee Increases for FY03 and FY04
(LAC 33:I, III, V, VII, IX, XI, and XV)(OS041)

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 Environmental Quality regulations, LAC 33:I, III, V, VII, IX, XI, and XV (Log #OS041).

Act 134 of the 2002 Extraordinary Session of the Louisiana Legislature provided for a 20 percent increase in fees effective for Fiscal Year 2003 and a 10 percent increase in fees above that effective for Fiscal Year 2004. This action is required to fund some portion or all of the 150 positions

that are currently authorized in the FY02 budget, but which are below the line in the FY03 Executive Budget. The basis and rationale for this rule are to provide additional funds for the continued operation of the department.

The department has submitted a report to the Legislative Fiscal Office and the Joint Legislative Committee on the Budget demonstrating that the environmental and public health benefits outweigh the social and economic costs reasonably expected to result from the proposed rule. This report is published in the Potpourri Section of the December 20, 2002, issue of the *Louisiana Register*. 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 I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 14. Groundwater Fees

§1409. Groundwater Protection Fees

A. Assessment Oversight (Annual). The fee listed below covers the cost of reviewing, evaluating, and approving plans and/or reports that assess groundwater contamination and draw conclusions as to the need for further assessment and/or corrective action.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Hazardous Waste Facilities	\$9,450
Solid Waste Facilities	\$6,300
Nonregulated Facilities	\$3,150

Table 2 (effective July 1, 2003)	
Hazardous Waste Facilities	\$10,395
Solid Waste Facilities	\$6,930
Nonregulated Facilities	\$3,465

B. Corrective Action Oversight (Annual). The fee listed below covers the cost of reviewing, evaluating, and approving plans and/or actions to cleanup groundwater that has been contaminated by a facility.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Hazardous Waste Facilities	\$12,600
Solid Waste Facilities	\$9,450
Nonregulated Facilities	\$3,150

Table 2 (effective July 1, 2003)	
Hazardous Waste Facilities	\$13,860
Solid Waste Facilities	\$10,395
Nonregulated Facilities	\$3,465

C. Annual Report Review Fee. The fee listed below covers the cost of reviewing the groundwater annual report required by both the Hazardous and Solid Waste regulations.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Hazardous Waste Facilities	\$1,260
Solid Waste Facilities	\$314

Table 2 (effective July 1, 2003)	
Hazardous Waste Facilities	\$1,386
Solid Waste Facilities	\$346

D. Groundwater Monitoring Systems Installation. The fee listed below covers the cost of reviewing the geology and design of proposed groundwater monitoring systems to ensure compliance with department specifications.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Each well	\$600

Table 2 (effective July 1, 2003)	
Each well	\$660

E. Groundwater Monitoring Systems Surveillance Fee (Annual). The fee listed below covers the cost of inspecting monitoring systems to ensure that they are functioning properly and continue to maintain their integrity. The cost also includes other activities, such as the analysis of boring logs and site geology (cross sections, isopachs, etc.). The maximum fee that can be charged for this category is \$6,000, effective July 1, 2002. Effective July 1, 2003, the maximum fee will be \$6,600.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Each well	\$300

Table 2 (effective July 1, 2003)	
Each well	\$330

F. Facility Inspection Fee (Annual). The fee listed below covers the cost of inspecting the various facilities to ensure compliance with the groundwater protection aspects of the facilities' permits.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Hazardous Waste Facilities	\$1,200
With sampling	\$9,000
Solid Waste Facilities	\$600
With sampling	\$1,800

Table 2 (effective July 1, 2003)	
Hazardous Waste Facilities	\$1,320
With sampling	\$9,900
Solid Waste Facilities	\$660
With sampling	\$1,980

G. Oversight of Abandonment Procedures. The fee listed below covers the cost of reviewing plans to plug and abandon all nonpermitted groundwater monitoring systems (monitoring wells, piezometers, observations wells, and recovery wells) to ensure that they do not pose a potential threat to groundwater.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Casing pulled	\$120 each well
Casing reamed out	\$240 each well
Casing left in place	\$600 each well

Table 2 (effective July 1, 2003)	
Casing pulled	\$132 each well
Casing reamed out	\$264 each well
Casing left in place	\$660 each well

H. Maximum Total Fee Per Facility. The maximum fee that can be assessed a facility under these regulations is \$37,800, effective July 1, 2002. Effective July 1, 2003, the maximum fee will be \$41,580.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division in LR 18:729 (July 1992), amended LR 21:797 (August 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

Subpart 3. Laboratory Accreditation

Chapter 47. Program Requirements

§4707. Fees

A. - C. ...

D. The following basic fee structure will be used in determining the initial or annual fees due to the department.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Accreditation application fee payable every three years	\$600
Per major test category payable every year	\$300
Minor conventional category payable every year	\$240

Annual surveillance and evaluation applicable to minor conventional facilities and facilities applying for only one category of accreditation	\$300
Proficiency samples biannually	to be purchased by the laboratory
Bioassay/biomonitoring annually	to be purchased by the laboratory
Third-party audit	to be billed directly to the laboratory

Table 2 (effective July 1, 2003)	
Accreditation application fee payable every three years	\$660
Per major test category payable every year	\$330
Minor conventional category payable every year	\$264
Annual surveillance and evaluation applicable to minor conventional facilities and facilities applying for only one category of accreditation	\$330
Proficiency samples biannually	to be purchased by the laboratory
Bioassay/biomonitoring annually	to be purchased by the laboratory
Third-party audit	to be billed directly to the laboratory

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:920 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 29:

Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§223. Fee Schedule Listing

Table 1 (effective July 1, 2002 - June 30, 2003)						
Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0010	Reserved					
0015 *Note 20*	Iron Ore Processing per Million Dollars in Capital Cost	1011	48.00	240.00	144.00	48.00
0020	Bituminous Coal and Lignite Mining	1211	688.00	3,437.00	2,064.00	688.00
0030	Coal Preparation	1211	1,720.00	8,596.00	5,158.00	1,720.00
0040	Crude Oil and Natural Gas Production (Less than 100 T/Yr Source)	1311	82.00	408.00	245.00	82.00
0041	Crude Oil and Natural Gas Production (equal to or greater than 100 T/Yr and less than 250 T/Yr Source)	1311	137.00	688.00	413.00	137.00
0042	Crude Oil and Natural Gas Production 250 T/Yr to 500 T/Yr Source	1311	425.00	2,123.00	1,273.00	425.00
0043	Crude Oil and Natural Gas Production Greater than 500 T/Yr Source	1311	707.00	2,830.00	2,123.00	707.00
0050	Natural Gas Liquids Per Unit	1321	345.00	1,720.00	1,031.00	344.00
0060	Construction Sand and Gravel	1442	137.00	688.00	413.00	137.00
0070	Industrial Sand	1446	137.00	688.00	413.00	137.00

Table 1
(effective July 1, 2002 - June 30, 2003)

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0080	Salt Mining	1476	1,720.00	8,596.00	5,158.00	1,720.00
0090	Sulfur Mining	1477	1,720.00	8,596.00	5,158.00	1,720.00
0100	Commercial Rice Milling	2044	688.00	3,437.00	2,064.00	688.00
0110	Animal Feed Preparation	2048	688.00	3,437.00	2,064.00	688.00
0120	Cane Sugar, Except Refining Only	2061	1,720.00	8,596.00	5,158.00	1,720.00
0130	Cane Sugar Refining per 1,000 Lb/Hr Rated Capacity	2062	13.74 MIN.	68.77 1,697.00	41.26 5,094.00	13.74 1,697.00
0140	Cottonseed Oil Mill	2074	344.00	1,720.00	1,031.00	344.00
0150	Soybean Oil Mill	2075	241.00	1,204.00	722.00	241.00
0160	Animal and Marine Fats and Oil (Rendering) 10,000 or More Ton/Yr	2077	823.00	4,126.00	2,474.00	823.00
0170	Animal and Marine Fats and Oil (Rendering) Less than 10,000 Ton/Yr	2077	413.00	2,064.00	1,238.00	413.00
0180	Shortening, Table Oils, Margarine, and Other Edible Fats and Oils	2079	170.00	860.00	515.00	170.00
0190	Malt Beverages	2082	170.00	860.00	515.00	170.00
0200	Coffee Roasting Per 1,000,000 Lb/Yr Rated Capacity	2095	136.80 MIN.	687.60 1,632.00	411.60 979.00	136.80 326.00
		MAX.	8,632.00	43,164.00	25,898.00	8,632.00
0210 *Note 9*	Sawmill and/or Planing Less than 25,000 Bd Ft/Shift	2421	345.00	1,720.00	1,031.00	344.00
0220 *Note 9*	Sawmill and/or Planing More than 25,000 Bd Ft/Shift	2421	1,031.00	5,158.00	3,095.00	1,031.00
0230 *Note 9*	Hardwood Mill	2426	618.00	3,095.00	1,856.00	618.00
0240 *Note 9*	Special Product Sawmill N.E.C.	2429	618.00	3,095.00	1,856.00	618.00
0250	Millwork with 10 Employees or More	2431	618.00	3,095.00	1,856.00	618.00
0260	Hardwood Veneer and Plywood	2435	1,375.00	6,876.00	4,126.00	1,375.00
0270	Softwood Veneer and Plywood	2436	1,375.00	6,876.00	4,126.00	1,375.00
0280	Wood Preserving	2491	345.00	1,720.00	1,031.00	344.00
0290	Particleboard/Waferboard Manufacture (O.S.B.)	2492	1,375.00	6,876.00	4,126.00	1,375.00
0300	Hardboard Manufacture	2499	1,031.00	5,158.00	3,095.00	1,031.00
0310	Furniture and Fixtures - A) 100 or More Employees	2511	435.00	2,177.00	1,306.00	434.00
0320	Furniture and Fixtures - B) More than 10 and Less than 100 Employees	2511	206.00	1,031.00	618.00	206.00
0330	Pulp Mills Per Ton Daily Rated Capacity	2611	5.14 MIN.	25.78 17,690.00	15.48 10,614.00	5.14 3,538.00
0340 *Note 1*	Paper Mill Per Ton Daily Rated Capacity	2621	5.14 MIN.	25.78 17,690.00	15.48 10,614.00	5.14 3,538.00
0350	Paperboard Mills Per Ton Daily Rated Capacity	2631	5.14 MIN.	25.78 17,690.00	15.48 10,614.00	5.14 3,538.00
0360	Paper Coating	2641	206.00	1,031.00	618.00	206.00
0365	Paper Bag Manufacture	2643	262.00	1,306.00	784.00	262.00
0370	Insulation Manufacture	2649	345.00	1,720.00	1,031.00	344.00
0375	Folding Paper Board Boxes Per Packaging Press Line	2651	345.00 MIN.	1,720.00 8,491.00	1,031.00 5,094.00	344.00 1,697.00
0380	Corrugated Boxes - Converters (with Boilers)	2653	515.00	2,578.00	1,548.00	515.00
0381	Corrugated Boxes - Sheet Plant	2653	217.00	1,088.00	653.00	217.00
0390	Building Board and Tile	2661	1,720.00	8,596.00	5,158.00	1,720.00
0400	Commercial Printing - Black and White Per Press	2752	205.00 MIN.	1,031.00 4,952.00	618.00 2,971.00	205.00 990.00
0410	Commercial Printing - Color Per Press	2752	343.00 MIN.	1,718.00 8,491.00	1,032.00 5,094.00	343.00 1,697.00
0420 *Note 2*	Caustic/Chlorine Per 1,000,000 Lb/Yr Rated Cap Posed on Chlorine	2812	3.44 MIN.	17.20 8,491.00	10.31 5,094.00	3.44 1,697.00
0440	Industrial Gases	2813	688.00	3,437.00	2,064.00	688.00
0450	Inorganic Pigments	2816	688.00	3,437.00	2,064.00	688.00
0460	Aluminum Sulfate Production Per 100 Ton/Yr Rated Capacity	2819	1.70 MIN.	8.60 7,075.00	5.14 4,246.00	1.70 1,415.00
0470	Alumina Per 1,000,000 Lb/Yr Rated Capacity	2819	6.85 MIN.	34.37 7,075.00	20.62 4,246.00	6.85 1,415.00
0480	Catalyst Mfg. and Cat. Regeneration Per Line	2819	1,720.00	8,596.00	5,158.00	1,720.00
0490	Fluosilicates	2819	1,031.00	5,158.00	3,095.00	1,031.00
0500	Industrial Inorganic Chemicals Mfg. N.E.C. Per 1,000,000 Lb/Yr	2819	1.70 MIN.	8.60 4,952.00	5.14 2,971.00	1.70 990.00

Table 1
(effective July 1, 2002 - June 30, 2003)

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0510	Industrial Inorganic Acids N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	17.20 1,697.00	85.96 8,491.00	51.58 5,094.00	17.20 1,697.00
0520	Nitric Acid Manufacture Per 1,000 Ton/Yr Rated Capacity	2819 MIN.	6.85 1,697.00	34.37 8,491.00	20.62 5,094.00	6.85 1,697.00
0530	Phosphoric Acid Mfg. Per Ton Daily Rated Cap	2819 MIN.	1.70 1,415.00	8.60 7,075.00	5.14 4,246.00	1.70 1,415.00
0540	Sulphuric Acid Manufacture Per Ton Daily Rated Capacity	2819 MIN.	1.70 1,415.00	8.60 7,075.00	5.14 4,246.00	1.70 1,415.00
0550	Polyethylene/Polypropolene Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	13.74 1,697.00	68.77 8,491.00	41.26 5,094.00	13.74 1,697.00
0560	PVC Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	17.20 1,697.00	85.96 8,491.00	51.58 5,094.00	17.20 1,697.00
0570	Synthetic Resins Manufacture N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	17.20 1,697.00	85.96 8,491.00	51.58 5,094.00	17.20 1,697.00
0580	Rubber Mfg. Per 1,000,000 Lb/Yr Rated Capacity	2822 MIN.	17.20 1,697.00	85.96 8,491.00	51.58 5,094.00	17.20 1,697.00
0585	Paint Manufacturing and Blending	2851	640.00	3,198.00	1,919.00	640.00
0590	Charcoal Per Oven	2861	344.00	1,720.00	1,031.00	344.00
0600	Gum and Wood Chemicals Per Unit	2861	1,031.00	5,158.00	3,095.00	1,031.00
0610	Styrene Monomer Per 1,000,000 Lb/Yr Rated Capacity	2865 MIN.	6.85 1,697.00	34.37 8,491.00	20.62 5,094.00	6.85 1,697.00
0620	Halo genated Hydrocarbons Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	10.31 1,697.00	51.58 8,491.00	30.95 5,094.00	10.31 1,697.00
0630	Organic Oxides, Alcohols, Glycols Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	6.85 1,697.00	34.37 8,491.00	20.62 5,094.00	6.85 1,697.00
0635	Olefins and Aromatics N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	6.85 1,697.00	34.37 8,491.00	20.62 5,094.00	6.85 1,697.00
0640	Ammonia Manufacture Per Ton Daily Rated Capacity	2873 MIN.	3.43 1,697.00	17.20 8,491.00	10.31 5,094.00	3.43 1,697.00
0650	Fertilizer Manufacture Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	1.70 990.00	8.60 4,952.00	5.14 2,971.00	1.70 990.00
0660	Urea and Ureaform Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	3.43 990.00	17.20 4,952.00	10.31 2,971.00	3.43 990.00
0670	Pesticides Mfg. Per Train	2879	1,375.00	6,876.00	4,126.00	1,375.00
0680	Carbon Black Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2895 MIN.	20.62 1,697.00	103.13 8,491.00	61.90 5,094.00	20.62 1,697.00
0690	Chemical and Chemical Prep. N.E.C. Per 1,000,000 Lb/Yr	2899 MIN.	17.20 1,415.00	85.96 7,075.00	51.58 4,246.00	17.20 1,415.00
0695	Chemical and Chemical Prep. N.E.C. with Output Less than 1,000,000 Lb/Yr	2899	979.00	4,898.00	2,939.00	979.00
0700	Drilling Mud-Storage and Distribution	2899	344.00	1,720.00	1,031.00	344.00
0710	Drilling Mud-Grinding	2899	1,375.00	6,876.00	4,126.00	1,375.00
0715	Salt Processing and Packaging Per 1,000,000 Lb/Yr	2899 MIN.	0.28 425.00	1.40 2,123.00	0.84 1,273.00	0.28 425.00
0720 *Note 3*	Petroleum Refining Per 1,000 BBL/Day Rated Capacity Crude Thruput	2911 MIN.	85.96 1,697.00	429.79 8,491.00	258.00 5,094.00	85.96 1,697.00
0730 *Note 4*	Asphaltic Concrete Paving Plants Per Ton/Hr Rated Capacity	2951 MIN.	2.59 707.00	12.92 3,538.00	7.75 2,123.00	2.59 707.00
0740	Asphalt Blowing Plant (Not to be Charged Separately if in Refinery)	2951	1,031.00	5,158.00	3,095.00	1,031.00
0760 *Note 5*	Blending, Compounding, or Refining of Lubricants Per Unit	2992	1,031.00	5,158.00	3,095.00	1,031.00
0770	Petroleum Coke Calcining Per 1,000 Ton/Yr Rated Capacity	2999 MIN.	13.74 1,697.00	68.77 8,491.00	41.26 5,094.00	13.74 1,697.00
0773	Fiberglass Swimming Pools	N/A	242.00	1,204.00	722.00	241.00
0775	Plastics Injection Moulding and Extrusion Per Line	3079	344.00	1,720.00	1,031.00	344.00
0780	Glass and Glass Container Mfg. Natural Gas Fuel Per Line	3229	515.00	2,578.00	1,548.00	515.00
0790	Cement Manufacture Per 1,000 Ton/Yr Rated Capacity	3241 MIN.	10.31 1,415.00	51.58 7,075.00	30.95 4,246.00	10.31 1,415.00
0800	Glass and Glass Container Mfg. Fuel Oil Per Line	3241	1,031.00	5,158.00	3,095.00	1,031.00
0810	Brick Manufacture Per 1,000 Ton/Yr Rated Capacity	3251 MIN.	5.14 707.00	25.78 3,538.00	15.48 2,123.00	5.14 707.00
0815	Concrete Products	3272	348.00	1,741.00	1,044.00	348.00
0820 *Note 12*	Ready-Mix Concrete	3273	860.00	2,612.00	1,720.00	860.00

Table 1
(effective July 1, 2002 - June 30, 2003)

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0830	Lime Manufacture Per 1,000 Ton/Yr Rated Capacity	3274 MIN.	10.31 990.00	51.58 4,952.00	30.95 2,971.00	10.31 990.00
0840	Gypsum Manufacture Per 1,000 Ton/Yr Rated Capacity	3275 MIN.	10.31 990.00	51.58 4,952.00	30.95 2,971.00	10.31 990.00
0850	Asbestos Products Per Site or Per Production Unit	3292	2,064.00	10,315.00	6,190.00	2,064.00
0860	Clay Kiln	3295	413.00	2,064.00	1,238.00	413.00
0870	Rock Crusher	3295	378.00	1,891.00	1,135.00	378.00
0880	Gray Iron and Steel Foundries A) 3,500 or More Ton/Yr Production	3321	551.00	2,749.00	1,650.00	551.00
0890	Gray Iron and Steel Foundries B) Less than 3,500 Ton/Yr Production	3321	274.00	1,375.00	824.00	274.00
0900	Malleable Iron Foundries A) 3,500 or More Ton/Yr Production	3322	551.00	2,749.00	1,650.00	551.00
0910	Malleable Iron Foundries B) Less than 3,500 Ton/Yr Production	3322	274.00	1,375.00	823.00	274.00
0920	Steel Investment Foundries A) 3,500 or More Ton/Yr Production	3324	551.00	2,749.00	1,650.00	551.00
0930	Steel Investment Foundries B) Less than 3,500 Ton/Yr Production	3324	274.00	1,375.00	823.00	274.00
0940	Steel Foundries Not Elsewhere Classified A) 3,500 or More Ton/Yr Production	3325	551.00	2,749.00	1,650.00	551.00
0950	Steel Foundries Not Elsewhere Classified B) Less than 3,500 Ton/Yr Production	3325	274.00	1,375.00	823.00	274.00
0960	Primary Smelting and Refining of Copper Per 100,000 Lb/Yr Rated Capacity	3331 MIN.	6.85 1,697.00	34.37 8,491.00	20.62 5,094.00	6.85 1,697.00
0970	Aluminum Production Per Pot	3334 MIN.	34.37 1,697.00	171.92 8,491.00	103.00 5,094.00	34.37 1,697.00
0980	Refining of Non-Ferrous Metals N.E.C. Per 1,000 Lb/Yr Rated Capacity	3339 MIN.	0.04 1,697.00	0.32 8,491.00	0.19 5,094.00	0.04 1,697.00
0990	Secondary Smelting of Non-Ferrous Metals Per Furnace	3341 MIN.	1,031.00 2,123.00	5,158.00 10,614.00	3,095.00 6,368.00	1,031.00 2,123.00
1000	Wire Manufacture	3357	688.00	3,437.00	2,064.00	688.00
1010	Aluminum Foundries (Castings) Per Unit	3361	274.00	1,375.00	823.00	274.00
1020	Brass/Bronze/Copper-Based Alloy Foundry Per Furnace	3362	344.00	1,720.00	1,031.00	344.00
1030	Metal Heat Treating Including Shotpeening	3398	206.00	1,031.00	618.00	206.00
1040	Metal Can Manufacture	3411	688.00	3,437.00	2,064.00	688.00
1050	Drum Manufacturing and/or Reconditioning	3412	1,031.00	5,158.00	3,095.00	1,031.00
1059	Fabricated Structural Steel with 5 or More Welders	3441	688.00	3,437.00	2,064.00	688.00
1060	Fabricated Plate Work with 5 or More Welders	3443	870.00	4,354.00	2,612.00	870.00
1070	Electroplating, Polishing and Anodizing with 5 or More Employees	3471	206.00	1,031.00	618.00	207.00
1080	Sandblasting or Chemical Cleaning of Metal: A) 10 or More Employees	3471	1,031.00	5,158.00	3,095.00	1,031.00
1090	Sandblasting or Chemical Cleaning of Metal: B) Less than 10 Employees	3471	515.00	2,578.00	1,548.00	515.00
1100	Coating, Engraving, and Allied Services: A) 10 or More Employees	3479	378.00	1,891.00	1,135.00	378.00
1110	Coating, Engraving, and Allied Services: B) Less than 10 Employees	3479	206.00	1,031.00	618.00	206.00
1120	Galvanizing and Pipe Coating Excluding All Other Activities	3479	413.00	2,064.00	1,238.00	413.00
1130	Painting Topcoat Per Line	3479	344.00	1,720.00	1,031.00	344.00
1140	Potting Per Line	3479	206.00	1,031.00	618.00	206.00
1150	Soldering Per Line	3479	206.00	1,031.00	618.00	206.00
1160	Wire Coating Per Line	3479	688.00	3,437.00	2,064.00	688.00
1170	Oil Field Machinery and Equipment	3533	344.00	1,720.00	1,031.00	344.00
1180	Power Chain Saw Manufacture Per Line	3546	515.00	2,578.00	1,548.00	515.00
1190	Commercial Grain Dryer	3559	413.00	2,064.00	1,238.00	413.00
1193	Commercial Laundry, Dry Cleaning, and Pressing Machines	3582	515.00	2,578.00	1,548.00	515.00
1195	Electric Transformers Per 1,000 Units/Year	3612 MIN.	159.92 434.00	799.60 2,177.00	479.76 1,306.00	159.92 434.00
1200	Electrode Manufacture Per Line	3624	481.00	2,405.00	1,444.00	481.00
1210	Telephone Manufacture Per Line	3661	1,204.00	6,017.00	3,610.00	1,204.00
1220	Electrical Connector Manufacture Per Line	3678	618.00	3,095.00	1,856.00	618.00

Table 1
(effective July 1, 2002 - June 30, 2003)

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1230	Battery Manufacture Per Line	3691	688.00	3,437.00	2,064.00	688.00
1240	Electrical Equipment Per Line	3694	413.00	2,064.00	1,238.00	413.00
1245	Automobile, Truck, and Van Assembly Per 1,000 Vehicles Per Year Capacity	3711 MIN. MAX.	171.92 1,088.00 34,390.00	859.55 5,443.00 171,950.00	515.72 3,265.00 103,170.00	171.92 1,088.00 34,390.00
1250	Ship and Boat Building: A) 5001 or More Employees	3732	5,158.00	25,787.00	15,473.00	5,158.00
1260	Ship and Boat Building: B) 2501 to 5000 Employees	3732	3,437.00	17,192.00	10,315.00	3,437.00
1270	Ship and Boat Building: C) 1001 to 2500 Employees	3732	1,720.00	8,596.00	5,158.00	1,720.00
1280	Ship and Boat Building: D) 201 to 1000 Employees	3732	1,031.00	5,158.00	3,095.00	1,031.00
1290	Ship and Boat Building: E) 200 or Less Employees	3732	344.00	1,720.00	1,031.00	345.00
1300	Playground Equipment Manufacture Per Line	3949	515.00	2,578.00	1,548.00	515.00
1310	Grain Elevators: A) 20,000 or More Ton/Yr	4221	1,098.00	5,500.00	3,300.00	1,098.00
1320	Grain Elevators: B) Less than 20,000 Ton/Yr	4221	551.00	2,749.00	1,650.00	551.00
1330 *Note 6*	A) Petroleum, Chemical Bulk Storage and Terminal (over 3,000,000 BBL Capacity)	4226	10,315.00	51,575.00	30,946.00	10,315.00
1340 *Note 6*	B) Petroleum, Chemical Bulk Storage and Terminal (1,000,000 - 3,000,000 BBL Capacity)	4226	6,876.00	34,382.00	20,629.00	6,876.00
1350 *Note 6*	C) Petroleum, Chemical Bulk Storage and Terminal (500,001 - 1,000,000 BBL Capacity)	4226	3,437.00	17,192.00	10,315.00	3,437.00
1360 *Note 6*	D) Petroleum, Chemical Bulk Storage and Terminal (500,000 BBL Capacity or Less)	4226	1,720.00	8,596.00	5,158.00	1,720.00
1361 *Note 8*	Wholesale Distribution of Coke and Other Bulk Goods Per 1,000 Ton/Yr Capacity	4463 MIN.	0.70 1,696.00	3.44 8,491.00	2.04 5,094.00	0.70 1,697.00
1362	Crude Oil Pipeline - Facility with Less than 100,000 BBLs Storage Capacity	4612	762.00	3,810.00	2,286.00	762.00
1363	Crude Oil Pipeline - Facility with 100,000 to 500,000 BBLs Storage Capacity	4612	1,088.00	5,443.00	3,265.00	1,088.00
1364	Crude Oil Pipeline - Facility with Over 500,000 BBLs Storage Capacity	4612	1,524.00	7,620.00	4,572.00	1,524.00
1366	Refined Oil Pipeline - Facility with Less than 100,000 BBLs Storage Capacity	4613	653.00	3,265.00	1,958.00	653.00
1367	Refined Oil Pipeline - Facility with 100,000 to 500,000 BBLs Storage Capacity	4613	870.00	4,354.00	2,612.00	870.00
1368	Refined Oil Pipeline - Facility with Over 500,000 BBLs Storage Capacity	4613	1,306.00	6,532.00	3,918.00	1,306.00
1370	Railcar/Barge/Tank Truck Cleaning Heavy Fuels Only	4742	344.00	1,720.00	1,031.00	344.00
1380	Railcar and Barge Cleaning Other Than Heavy Fuels	4742	1,720.00	8,596.00	5,158.00	1,720.00
1390	Tank Truck Cleaning Other Than Heavy Fuels	4742	1,031.00	5,158.00	3,095.00	1,031.00
1400	A) Electric Power Gen. Per MW (Over 0.7 percent S in Fuel)	4911 MIN.	15.97 3,254.00	79.94 16,274.00	47.96 9,764.00	15.97 3,254.00
1410 *Note 7*	B) Electric Power Gen. Per MW (0.7 percent S or Less in Fuel)	4911 MIN.	9.58 1,556.00	47.96 7,783.00	28.78 4,670.00	9.58 1,556.00
1420	C) Electric Power Gen. Per MW (Natural Gas Fired)	4911 MIN.	4.81 1,132.00	23.99 5,660.00	14.39 3,396.00	4.81 1,132.00
1430 *Note 11*	Natural Gas Comp Per 100 H.P. (Turbines)	4922	6.85	34.37	20.62	6.85
1440 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: A) 50,000 H.P.	4922	30.96	154.74	92.83	30.96
1450 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: B) 20,000 to 50,000 H.P.	4922	34.37	171.92	103.13	34.37
1460 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: C) 5,000 to 20,000 H.P.	4922	41.26	206.29	123.74	41.26
1470 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: D) 2,500 to 5,000 H.P.	4922	48.14	240.65	144.40	48.14
1480 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: E) 1,000 to 2,500 H.P.	4922	51.58	257.87	154.74	51.58
1490 *Note 11*	Recip. Nat Gas Comp: F) less than 1,000 H.P.	4922	688.00	1,720.00	688.00	688.00

Table 1
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Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1500 *Note 10*	Coal Gassification Per \$100,000 Capital Cost	4925 MIN. MAX.	6.85 1,088.00 55,052.00	34.37 5,443.00 275,262.00	20.62 3,265.00 165,156.00	6.85 1,088.00 55,052.00
1510 *Note 10*	Co-Generation Per \$100,000 Capital Cost	4939 MIN. MAX.	6.85 1,088.00 34,390.00	34.37 5,443.00 171,950.00	20.62 3,265.00 103,170.00	6.85 1,088.00 34,390.00
1520	Incinerators: A) 1,000 Lb/Hr and Greater Capacity	4953	434.00	2,177.00	1,306.00	434.00
1521	Incinerators: B) Less than 1,000 Lb/Hr Capacity	4953	140.00	707.00	425.00	140.00
1525	Sanitary Landfill per Million Mg of Planned Capacity	4953 MIN.	120.00 240.00	600.00 1,200.00	360.00 720.00	120.00 240.00
1530	Municipal Incinerators	4953	3,437.00	17,192.00	10,316.00	3,437.00
1532	Commercial Hazardous Waste Incinerator Per 1,000,000 BTU Per Hour Thermal Capacity	4953 MIN.	198.13 4,354.00	990.66 21,773.00	594.40 13,063.00	198.13 4,354.00
1533	Non Commercial Hazardous Waste Incinerator (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN.	99.06 2,830.00	496.01 14,152.00	297.19 8,491.00	99.06 2,830.00
1534	Commercial Hazardous Waste Disp. Facility N.E.C.	4953	28,304.00	141,523.00	84,913.00	28,304.00
1535	Commercial Hazardous Waste Underground Injection (Surface Facilities) Per Location	4953	5,660.00	28,304.00	16,982.00	5,660.00
1536	Recoverable/Re-usable Materials Proc. Facility (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN. MAX.	99.06 2,830.00 14,152.00	495.32 14,152.00 70,762.00	297.19 8,491.00 42,456.00	99.06 2,830.00 14,152.00
1540	Steam Gen. Units Per 1000 Lbs/Hr Steam Cap-Natural Gas or Comb Non-Fossil Fuels	4961 MIN.	1.70 282.00	8.60 1,415.00	5.14 848.00	1.70 282.00
1550	Steam Gen. Units Per 1000 Lbs/Hr Steam Cap-Fuels with 0.7 percent S or Less	4961 MIN.	3.44 707.00	17.20 3,538.00	10.31 2,123.00	3.44 707.00
1560	Steam Gen. Units Per 1000 Lbs/Hr Steam Cap-Fuels with More than 0.7 percent S	4961 MIN.	5.14 990.00	25.78 4,952.00	15.48 2,971.00	5.14 990.00
1570	Cement (Bulk Distribution)	5052	1,375.00	6,876.00	4,126.00	1,375.00
1580	Wholesale Distribution of Coal Per 1,000 Ton/Yr Throughput	5052 MIN.	0.32 990.00	1.70 4,952.00	1.01 2,971.00	0.32 990.00
1590	Automobile Recycling Scrap Per 1000 Ton/Yr	5093 MIN. MAX.	14.15 707.00 34,390.00	70.75 3,538.00 171,950.00	42.46 2,123.00 103,170.00	14.15 707.00 34,390.00
1600	Bulk Loader: Over 100,000 Ton/Yr Throughput	5153	3,437.00	17,192.00	10,315.00	3,437.00
1610 *Note 14a*	Bulk Loader: Less than or equal to 100,000 and more than 25,000 Ton/Yr Throughput	5153	1,720.00	8,596.00	5,158.00	1,720.00
1611 *Note 14a*	Bulk Loader: 25,000 Ton/Yr or Less Throughput	5153	979.00	4,898.00	2,939.00	979.00
1612 *Note 14a*	Bulk Loader – No Grain or Dusty Materials Transfer	5153	653.00	3,265.00	1,958.00	653.00
1620	Grain Elevators-Terminal Per 10,000 Bu/Yr Throughput	5153 MIN.	0.32 1,556.00	1.70 7,783.00	1.01 4,670.00	0.32 1,556.00
1630	Wholesale Distribution of Chemicals and Allied Products Per Facility	5161	860.00	3,437.00	2,578.00	860.00
1640	Petroleum Bulk Plants	5171	70.00	344.00	206.00	70.00
1650	Petroleum Bulk Terminal	5171	688.00	3,437.00	2,064.00	688.00
1660	Petroleum Bulk Station	5171	70.00	344.00	206.00	70.00
1670	Storage Tank	5171	0.00	688.00	344.00	344.00
1680	Crude Oil Distribution	5172	1,031.00	5,158.00	3,095.00	1,031.00
1690	Tire Recapping Plant	7534	140.00	707.00	425.00	140.00
1700	Chemical Waste Disposal Facility for Non Hazardous Waste	9998	3,198.00	15,992.00	9,595.00	3,198.00
1710	Negotiated Fee	9999	0.00	0.00	0.00	0.00
1711	Research Fee for Alternate Disposal of Hazardous Waste	9999	0.00	0.00	0.00	0.00
1720 *Note 15*	Small Business Sources	N/A	130.00	648.00	389.00	130.00
1722	Small Source Permit	N/A	130.00	648.00	389.00	130.00

Table 2
(effective July 1, 2002 - June 30, 2003)

Additional Fees		
Fee Number	Fee Description	Amount
2000	Company Ownership/Operator Change or Name Change Transfer of an Existing Permit	136.00
2010	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions	271.00
2015 *Note 15*	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions for Small Business Sources	130.00
2020	The Issuance of an Asbestos Demolition Verification Form (ADVF) - (at least 10 working days notification given)	60.00
2030	The Issuance of an Asbestos Demolition Verification Form (ADVF) - (less than 10 working days notification given)	90.00
2040	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	240.00
2050	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	360.00
2060	Worker Accreditation for Asbestos-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	60.00
2070	Worker Accreditation for Asbestos-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	90.00
2080	Duplicate Certificate	30.00
2090	Training Organization Recognition Plus Trainer Recognition Per Trainer-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	360.00
2100	Training Organization Recognition Plus Trainer Recognition Per Trainer-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	540.00
2200 *Note 13*	Air Toxics Annual Fee Per Ton Emitted on an Annual Basis:	
	Class I Pollutants	129.60
	Class II Pollutants	64.80
	Class III Pollutants	32.40
2300 *Note 14*	Criteria Pollutant Annual Fee Per Ton Emitted on an Annual Basis: Nitrogen oxides (NOx) Sulfur dioxide (SO2) Non-toxic organic (VOC) Particulate (PM10)	11.66/ton
2400	An application approval fee for Stage II Vapor Recovery	120.00
	An annual facility inspection fee for Stage II Vapor Recovery	180.00
2600 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 1	240.00
2620 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 2	480.00
2630 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 3	3,000.00
2800	An application fee for mobile sources emissions banking (auto scrappage)	60.00
2810	An application fee for point source emissions banking (not applicable when filing application with a new permit or permit modification)	60.00
	* * *	
	[See Prior Text in 2900-2914]	

Table 3
(effective July 1, 2003)

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0010	Reserved					
0015 *Note 20*	Iron Ore Processing per Million Dollars in Capital Cost	1011	52.80	264.00	158.00	52.00
0020	Bituminous Coal and Lignite Mining	1211	756.00	3,780.00	2,270.00	756.00
0030	Coal Preparation	1211	1,892.00	9,455.00	5,673.00	1,892.00
0040	Crude Oil and Natural Gas Production (Less than 100 T/Yr Source)	1311	90.00	449.00	269.00	90.00
0041	Crude Oil and Natural Gas Production (equal to or greater than 100 T/Yr and less than 250 T/Yr Source)	1311	150.00	756.00	454.00	151.00
0042	Crude Oil and Natural Gas Production 250 T/Yr to 500 T/Yr Source	1311	467.00	2,335.00	1,400.00	467.00
0043	Crude Oil and Natural Gas Production Greater than 500 T/Yr Source	1311	777.00	3,113.00	2,335.00	777.00
0050	Natural Gas Liquids Per Unit	1321	379.00	1,892.00	1,134.00	379.00
0060	Construction Sand and Gravel	1442	150.00	756.00	454.00	151.00
0070	Industrial Sand	1446	150.00	756.00	454.00	151.00
0080	Salt Mining	1476	1,892.00	9,455.00	5,673.00	1,892.00

**Table 3
(effective July 1, 2003)**

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0090	Sulfur Mining	1477	1,892.00	9,455.00	5,673.00	1,892.00
0100	Commercial Rice Milling	2044	756.00	3,780.00	2,270.00	756.00
0110	Animal Feed Preparation	2048	756.00	3,780.00	2,270.00	756.00
0120	Cane Sugar, Except Refining Only	2061	1,892.00	9,455.00	5,673.00	1,892.00
0130	Cane Sugar Refining per 1,000 Lb/Hr Rated Capacity	2062 MIN.	15.11 1,866.00	75.65 9,340.00	45.38 5,603.00	15.11 1,866.00
0140	Cottonseed Oil Mill	2074	379.00	1,892.00	1,134.00	379.00
0150	Soybean Oil Mill	2075	265.00	1,324.00	795.00	265.00
0160	Animal and Marine Fats and Oil (Rendering) 10,000 or More Ton/Yr	2077	906.00	4,538.00	2,722.00	906.00
0170	Animal and Marine Fats and Oil (Rendering) Less than 10,000 Ton/Yr	2077	454.00	2,270.00	1,362.00	454.00
0180	Shortening, Table Oils, Margarine, and Other Edible Fats and Oils	2079	187.00	946.00	566.00	187.00
0190	Malt Beverages	2082	187.00	946.00	566.00	187.00
0200	Coffee Roasting Per 1,000,000 Lb/Yr Rated Capacity	2095 MIN. MAX.	150.48 359.00 9,495.00	756.36 1,795.00 47,480.00	452.76 1,077.00 28,488.00	150.48 359.00 9,495.00
0210 *Note 9*	Sawmill and/or Planing Less than 25,000 Bd Ft/Shift	2421	379.00	1,892.00	1,134.00	379.00
0220 *Note 9*	Sawmill and/or Planing More than 25,000 Bd Ft/Shift	2421	1,134.00	5,673.00	3,404.00	1,134.00
0230 *Note 9*	Hardwood Mill	2426	680.00	3,404.00	2,042.00	680.00
0240 *Note 9*	Special Product Sawmill N.E.C.	2429	680.00	3,404.00	2,042.00	680.00
0250	Millwork with 10 Employees or More	2431	680.00	3,404.00	2,042.00	680.00
0260	Hardwood Veneer and Plywood	2435	1,513.00	7,564.00	4,538.00	1,513.00
0270	Softwood Veneer and Plywood	2436	1,513.00	7,564.00	4,538.00	1,513.00
0280	Wood Preserving	2491	379.00	1,892.00	1,134.00	379.00
0290	Particleboard/Waferboard Manufacture (O.S.B.)	2492	1,513.00	7,564.00	4,538.00	1,513.00
0300	Hardboard Manufacture	2499	1,134.00	5,673.00	3,404.00	1,134.00
0310	Furniture and Fixtures - A) 100 or More Employees	2511	478.00	2,394.00	1,436.00	478.00
0320	Furniture and Fixtures - B) More than 10 and Less than 100 Employees	2511	227.00	1,134.00	680.00	227.00
0330	Pulp Mills Per Ton Daily Rated Capacity	2611 MIN.	5.65 3,892.00	28.35 19,459.00	17.03 11,675.00	5.65 3,891.00
0340 *Note 1*	Paper Mill Per Ton Daily Rated Capacity	2621 MIN.	5.65 3,892.00	28.35 19,459.00	17.03 11,675.00	5.65 3,891.00
0350	Paperboard Mills Per Ton Daily Rated Capacity	2631 MIN.	5.65 3,892.00	28.35 19,459.00	17.03 11,675.00	5.65 3,891.00
0360	Paper Coating	2641	227.00	1,134.00	680.00	227.00
0365	Paper Bag Manufacture	2643	288.00	1,436.00	862.00	288.00
0370	Insulation Manufacture	2649	379.00	1,892.00	1,134.00	379.00
0375	Folding Paper Board Boxes Per Packaging Press Line	2651 MIN.	379.00 1,866.00	1,892.00 9,340.00	1,134.00 5,603.00	379.00 1,866.00
0380	Corrugated Boxes - Converters (with Boilers)	2653	566.00	2,835.00	1,703.00	566.00
0381	Corrugated Boxes - Sheet Plant	2653	239.00	1,197.00	718.00	239.00
0390	Building Board and Tile	2661	1,892.00	9,455.00	5,673.00	1,892.00
0400	Commercial Printing - Black and White Per Press	2752 MIN.	226.00 1,089.00	1,134.00 5,448.00	680.00 3,268.00	226.00 1,089.00
0410	Commercial Printing - Color Per Press	2752 MIN.	378.00 1,866.00	1,890.00 9,340.00	1,135.00 5,603.00	378.00 1,866.00
0420 *Note 2*	Caustic/Chlorine Per 1,000,000 Lb/Yr Rated Cap Posed on Chlorine	2812 MIN.	3.79 1,866.00	18.92 9,340.00	11.34 5,603.00	3.79 1,866.00
0440	Industrial Gases	2813	756.00	3,780.00	2,270.00	756.00
0450	Inorganic Pigments	2816	756.00	3,780.00	2,270.00	756.00
0460	Aluminum Sulfate Production Per 100 Ton/Yr Rated Capacity	2819 MIN.	1.87 1,556.00	9.46 7,783.00	5.65 4,670.00	1.87 1,556.00
0470	Alumina Per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	7.54 1,556.00	37.80 7,783.00	22.68 4,670.00	7.54 1,556.00
0480	Catalyst Mfg. and Cat. Regeneration Per Line	2819	1,892.00	9,455.00	5,673.00	1,892.00
0490	Fluosilicates	2819	1,134.00	5,673.00	3,404.00	1,134.00
0500	Industrial Inorganic Chemicals Mfg. N.E.C. Per 1,000,000 Lb/Yr	2819 MIN.	1.87 1,089.00	9.46 5,448.00	5.65 3,268.00	1.87 1,089.00

**Table 3
(effective July 1, 2003)**

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0510	Industrial Inorganic Acids N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	18.92 1,866.00	94.55 9,340.00	56.73 5,603.00	18.92 1,866.00
0520	Nitric Acid Manufacture Per 1,000 Ton/Yr Rated Capacity	2819 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0530	Phosphoric Acid Mfg. Per Ton Daily Rated Cap	2819 MIN.	1.87 1,556.00	9.46 7,783.00	5.65 4,670.00	1.87 1,556.00
0540	Sulphuric Acid Manufacture Per Ton Daily Rated Capacity	2819 MIN.	1.87 1,556.00	9.46 7,783.00	5.65 4,670.00	1.87 1,556.00
0550	Polyethylene/Polypropolene Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	15.11 1,866.00	75.65 9,340.00	45.38 5,603.00	15.11 1,866.00
0560	PVC Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	18.92 1,866.00	94.55 9,340.00	56.73 5,603.00	18.92 1,866.00
0570	Synthetic Resins Manufacture N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	18.92 1,866.00	94.55 9,340.00	56.73 5,603.00	18.92 1,866.00
0580	Rubber Mfg. Per 1,000,000 Lb/Yr Rated Capacity	2822 MIN.	18.92 1,866.00	94.55 9,340.00	56.73 5,603.00	18.92 1,866.00
0585	Paint Manufacturing and Blending	2851	704.00	3,518.00	2,111.00	704.00
0590	Charcoal Per Oven	2861	379.00	1,892.00	1,134.00	379.00
0600	Gum and Wood Chemicals Per Unit	2861	1,134.00	5,673.00	3,404.00	1,134.00
0610	Styrene Monomer Per 1,000,000 Lb/Yr Rated Capacity	2865 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0620	Halogenated Hydrocarbons Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	11.34 1,866.00	56.73 9,340.00	34.04 5,603.00	11.34 1,866.00
0630	Organic Oxides, Alcohols, Glycols Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0635	Olefins and Aromatics N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0640	Ammonia Manufacture Per Ton Daily Rated Capacity	2873 MIN.	3.78 1,866.00	18.92 9,340.00	11.34 5,603.00	3.78 1,866.00
0650	Fertilizer Manufacture Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	1.87 1,089.00	9.46 5,448.00	5.65 3,268.00	1.87 1,089.00
0660	Urea and Ureaform Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	3.78 1,089.00	18.92 5,448.00	11.34 3,268.00	3.78 1,089.00
0670	Pesticides Mfg. Per Train	2879	1,513.00	7,564.00	4,538.00	1,513.00
0680	Carbon Black Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2895 MIN.	22.68 1,866.00	113.44 9,340.00	68.09 5,603.00	22.68 1,866.00
0690	Chemical and Chemical Prep. N.E.C. Per 1,000,000 Lb/Yr	2899 MIN.	18.92 1,556.00	94.55 7,783.00	56.73 4,670.00	18.92 1,556.00
0695	Chemical and Chemical Prep. N.E.C. with Output Less than 1,000,000 Lb/Yr	2899	1,077.00	5,388.00	3,233.00	1,077.00
0700	Drilling Mud-Storage and Distribution	2899	379.00	1,892.00	1,134.00	379.00
0710	Drilling Mud-Grinding	2899	1,513.00	7,564.00	4,538.00	1,513.00
0715	Salt Processing and Packaging Per 1,000,000 Lb/Yr	2899 MIN.	0.30 467.00	1.54 2,335.00	0.92 1,400.00	0.30 467.00
Note 3	0720 Petroleum Refining Per 1,000 BBL/Day Rated Capacity Crude Thruptut	2911 MIN.	94.55 1,866.00	472.77 9,340.00	284.00 5,603.00	95.55 1,866.00
Note 4	0730 Asphaltic Concrete Paving Plants Per Ton/Hr Rated Capacity	2951 MIN.	2.85 777.00	14.22 3,891.00	8.53 2,335.00	2.85 777.00
0740	Asphalt Blowing Plant (Not to be Charged Separately if in Refinery)	2951	1,134.00	5,673.00	3,404.00	1,134.00
Note 5	0760 Blending, Compounding, or Refining of Lubricants Per Unit	2992	1,134.00	5,673.00	3,404.00	1,134.00
0770	Petroleum Coke Calcining Per 1,000 Ton/Yr Rated Capacity	2999 MIN.	15.11 1,866.00	75.65 9,340.00	45.38 5,603.00	15.11 1,866.00
0773	Fiberglass Swimming Pools	N/A	265.00	1,324.00	795.00	265.00
0775	Plastics Injection Moulding and Extrusion Per Line	3079	379.00	1,892.00	1,134.00	379.00
0780	Glass and Glass Container Mfg. Natural Gas Fuel Per Line	3229	566.00	2,835.00	1,703.00	566.00
0790	Cement Manufacture Per 1,000 Ton/Yr Rated Capacity	3241 MIN.	11.34 1,556.00	56.73 7,783.00	34.04 4,670.00	11.34 1,556.00
0800	Glass and Glass Container Mfg. Fuel Oil Per Line	3241	1,134.00	5,673.00	3,404.00	1,134.00
0810	Brick Manufacture Per 1,000 Ton/Yr Rated Capacity	3251 MIN.	5.65 777.00	28.35 3,891.00	17.03 2,335.00	5.65 777.00
0815	Concrete Products	3272	383.00	1,915.00	1,148.00	383.00
Note 12	0820 Ready-Mix Concrete	3273	946.00	2,874.00	1,892.00	946.00

**Table 3
(effective July 1, 2003)**

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0830	Lime Manufacture Per 1,000 Ton/Yr Rated Capacity	3274 MIN.	11.34 1,089.00	56.73 5,448.00	34.04 3,268.00	11.34 1,089.00
0840	Gypsum Manufacture Per 1,000 Ton/Yr Rated Capacity	3275 MIN.	11.34 1,089.00	56.73 5,448.00	34.04 3,268.00	11.34 1,089.00
0850	Asbestos Products Per Site or Per Production Unit	3292	2,270.00	11,347.00	6,809.00	2,270.00
0860	Clay Kiln	3295	454.00	2,271.00	1,362.00	454.00
0870	Rock Crusher	3295	416.00	2,080.00	1,249.00	416.00
0880	Gray Iron and Steel Foundries A) 3,500 or More Ton/Yr Production	3321	606.00	3,024.00	1,815.00	606.00
0890	Gray Iron and Steel Foundries B) Less than 3,500 Ton/Yr Production	3321	301.00	1,513.00	906.00	301.00
0900	Malleable Iron Foundries A) 3,500 or More Ton/Yr Production	3322	606.00	3,024.00	1,815.00	606.00
0910	Malleable Iron Foundries B) Less than 3,500 Ton/Yr Production	3322	301.00	1,513.00	906.00	301.00
0920	Steel Investment Foundries A) 3,500 or More Ton/Yr Production	3324	606.00	3,024.00	1,815.00	606.00
0930	Steel Investment Foundries B) Less than 3,500 Ton/Yr Production	3324	301.00	1,513.00	906.00	301.00
0940	Steel Foundries Not Elsewhere Classified A) 3,500 or More Ton/Yr Production	3325	606.00	3,024.00	1,815.00	606.00
0950	Steel Foundries Not Elsewhere Classified B) Less than 3,500 Ton/Yr Production	3325	301.00	1,513.00	906.00	301.00
0960	Primary Smelting and Refining of Copper Per 100,000 Lb/Yr Rated Capacity	3331 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0970	Aluminum Production Per Pot	3334 MIN.	37.80 1,866.00	189.12 9,340.00	113.00 5,603.00	37.80 1,866.00
0980	Refining of Non-Ferrous Metals N.E.C. Per 1,000 Lb/Yr Rated Capacity	3339 MIN.	0.04 1,866.00	0.36 9,340.00	0.21 5,603.00	0.04 1,866.00
0990	Secondary Smelting of Non-Ferrous Metals Per Furnace	3341 MIN.	1,134.00 2,335.00	5,673.00 11,675.00	3,404.00 7,005.00	1,134.00 2,335.00
1000	Wire Manufacture	3357	756.00	3,780.00	2,270.00	756.00
1010	Aluminum Foundries (Castings) Per Unit	3361	301.00	1,513.00	906.00	301.00
1020	Brass/Bronze/Copper-Based Alloy Foundry Per Furnace	3362	379.00	1,892.00	1,134.00	379.00
1030	Metal Heat Treating Including Shotpeening	3398	227.00	1,134.00	680.00	227.00
1040	Metal Can Manufacture	3411	757.00	3,780.00	2,270.00	756.00
1050	Drum Manufacturing and/or Reconditioning	3412	1,134.00	5,673.00	3,404.00	1,134.00
1059	Fabricated Structural Steel with 5 or More Welders	3441	756.00	3,780.00	2,270.00	756.00
1060	Fabricated Plate Work with 5 or More Welders	3443	957.00	4,789.00	2,874.00	957.00
1070	Electroplating, Polishing and Anodizing with 5 or More Employees	3471	227.00	1,134.00	680.00	227.00
1080	Sandblasting or Chemical Cleaning of Metal: A) 10 or More Employees	3471	1,134.00	5,673.00	3,404.00	1,134.00
1090	Sandblasting or Chemical Cleaning of Metal: B) Less than 10 Employees	3471	566.00	2,835.00	1,703.00	566.00
1100	Coating, Engraving, and Allied Services: A) 10 or More Employees	3479	416.00	2,080.00	1,249.00	416.00
1110	Coating, Engraving, and Allied Services: B) Less than 10 Employees	3479	227.00	1,134.00	680.00	227.00
1120	Galvanizing and Pipe Coating Excluding All Other Activities	3479	454.00	2,270.00	1,362.00	454.00
1130	Painting Topcoat Per Line	3479	379.00	1,892.00	1,134.00	379.00
1140	Potting Per Line	3479	227.00	1,134.00	680.00	227.00
1150	Soldering Per Line	3479	227.00	1,134.00	680.00	227.00
1160	Wire Coating Per Line	3479	756.00	3,780.00	2,270.00	756.00
1170	Oil Field Machinery and Equipment	3533	379.00	1,892.00	1,134.00	379.00
1180	Power Chain Saw Manufacture Per Line	3546	566.00	2,835.00	1,703.00	566.00
1190	Commercial Grain Dryer	3559	454.00	2,270.00	1,362.00	454.00
1193	Commercial Laundry, Dry Cleaning, and Pressing Machines	3582	566.00	2,835.00	1,703.00	566.00
1195	Electric Transformers Per 1,000 Units/Year	3612 MIN.	175.92 478.00	879.56 2,394.00	527.74 1,436.00	175.92 478.00
1200	Electrode Manufacture Per Line	3624	529.00	2,645.00	1,588.00	529.00
1210	Telephone Manufacture Per Line	3661	1,324.00	6,618.00	3,971.00	1,324.00
1220	Electrical Connector Manufacture Per Line	3678	680.00	3,404.00	2,042.00	680.00

**Table 3
(effective July 1, 2003)**

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1230	Battery Manufacture Per Line	3691	756.00	3,780.00	2,270.00	756.00
1240	Electrical Equipment Per Line	3694	454.00	2,270.00	1,362.00	454.00
1245	Automobile, Truck, and Van Assembly Per 1,000 Vehicles Per Year Capacity	3711 MIN. MAX.	189.12 1,197.00 37,829.00	945.50 5,998.00 189,145.00	567.30 3,592.00 113,487.00	189.12 1,197.00 37,829.00
1250	Ship and Boat Building: A) 5001 or More Employees	3732	5,673.00	28,365.00	17,020.00	5,673.00
1260	Ship and Boat Building: B) 2501 to 5000 Employees	3732	3,780.00	18,912.00	11,347.00	3,780.00
1270	Ship and Boat Building: C) 1001 to 2500 Employees	3732	1,892.00	9,455.00	5,673.00	1,892.00
1280	Ship and Boat Building: D) 201 to 1000 Employees	3732	1,134.00	5,673.00	3,404.00	1,134.00
1290	Ship and Boat Building: E) 200 or Less Employees	3732	379.00	1,892.00	1,134.00	379.00
1300	Playground Equipment Manufacture Per Line	3949	566.00	2,835.00	1,703.00	566.00
1310	Grain Elevators: A) 20,000 or More Ton/Yr	4221	1,208.00	6,050.00	3,630.00	1,208.00
1320	Grain Elevators: B) Less than 20,000 Ton/Yr	4221	606.00	3,025.00	1,815.00	606.00
1330 *Note 6*	A) Petroleum, Chemical Bulk Storage and Terminal (over 3,000,000 BBL Capacity)	4226	11,347.00	56,732.00	34,040.00	11,347.00
1340 *Note 6*	B) Petroleum, Chemical Bulk Storage and Terminal (1,000,000 - 3,000,000 BBL Capacity)	4226	7,564.00	37,821.00	22,692.00	7,564.00
1350 *Note 6*	C) Petroleum, Chemical Bulk Storage and Terminal (500,001 - 1,000,000 BBL Capacity)	4226	3,780.00	18,912.00	11,347.00	3,780.00
1360 *Note 6*	D) Petroleum, Chemical Bulk Storage and Terminal (500,000 BBL Capacity or Less)	4226	1,892.00	9,455.00	5,673.00	1,892.00
1361 *Note 8*	Wholesale Distribution of Coke and Other Bulk Goods Per 1,000 Ton/Yr Capacity	4463 MIN.	0.77 1,866.00	3.79 9,340.00	2.24 5,603.00	0.77 1,866.00
1362	Crude Oil Pipeline - Facility with Less than 100,000 BBLs Storage Capacity	4612	838.00	4,191.00	2,515.00	838.00
1363	Crude Oil Pipeline - Facility with 100,000 to 500,000 BBLs Storage Capacity	4612	1,197.00	5,988.00	3,592.00	1,197.00
1364	Crude Oil Pipeline - Facility with Over 500,000 BBLs Storage Capacity	4612	1,676.00	8,382.00	5,029.00	1,676.00
1366	Refined Oil Pipeline - Facility with Less than 100,000 BBLs Storage Capacity	4613	718.00	3,592.00	2,154.00	718.00
1367	Refined Oil Pipeline - Facility with 100,000 to 500,000 BBLs Storage Capacity	4613	957.00	4,789.00	2,874.00	957.00
1368	Refined Oil Pipeline - Facility with Over 500,000 BBLs Storage Capacity	4613	1,436.00	7,185.00	4,310.00	1,436.00
1370	Railcar/Barge/Tank Truck Cleaning Heavy Fuels Only	4742	379.00	1,892.00	1,134.00	379.00
1380	Railcar and Barge Cleaning Other Than Heavy Fuels	4742	1,892.00	9,455.00	5,673.00	1,892.00
1390	Tank Truck Cleaning Other Than Heavy Fuels	4742	1,134.00	5,673.00	3,404.00	1,134.00
1400	A) Electric Power Gen. Per MW (Over 0.7 percent S in Fuel)	4911 MIN.	17.57 3,580.00	87.94 17,902.00	52.76 10,741.00	17.57 3,580.00
1410 *Note 7*	B) Electric Power Gen. Per MW (0.7 percent S or Less in Fuel)	4911 MIN.	10.53 1,712.00	52.76 8,562.00	31.65 5,137.00	10.53 1,712.00
1420	C) Electric Power Gen. Per MW (Natural Gas Fired)	4911 MIN.	5.29 1,245.00	26.39 6,226.00	15.83 3,736.00	5.29 1,245.00
1430 *Note 11*	Natural Gas Comp Per 100 H.P. (Turbines)	4922	7.54	37.80	22.68	7.54
1440 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: A) 50,000 H.P.	4922	34.06	170.21	102.12	34.06
1450 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: B) 20,000 to 50,000 H.P.	4922	37.80	189.12	113.44	37.80
1460 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: C) 5,000 to 20,000 H.P.	4922	45.38	226.92	136.12	45.38
1470 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: D) 2,500 to 5,000 H.P.	4922	52.96	264.71	158.84	52.96
1480 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: E) 1,000 to 2,500 H.P.	4922	56.73	283.65	170.21	56.73
1490 *Note 11*	Recip. Nat Gas Comp: F) less than 1,000 H.P.	4922	756.00	1,892.00	756.00	756.00

**Table 3
(effective July 1, 2003)**

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1500 *Note 10*	Coal Gassification Per \$100,000 Capital Cost	4925 MIN. MAX.	7.54 1,197.00 60,558.00	37.80 5,988.00 302,788.00	22.68 3,592.00 181,672.00	7.54 1,197.00 60,558.00
1510 *Note 10*	Co-Generation Per \$100,000 Capital Cost	4939 MIN. MAX.	7.54 1,197.00 37,829.00	37.80 5,988.00 189,145.00	22.68 3,592.00 113,487.00	7.54 1,197.00 37,829.00
1520	Incinerators: A) 1,000 Lb/Hr and Greater Capacity	4953	478.00	2,394.00	1,436.00	478.00
1521	Incinerators: B) Less than 1,000 Lb/Hr Capacity	4953	154.00	777.00	467.00	154.00
1525	Sanitary Landfill per Million Mg of Planned Capacity	4953 MIN.	132.00 264.00	660.00 1,320.00	396.00 792.00	132.00 264.00
1530	Municipal Incinerators	4953	3,780.00	18,912.00	11,347.00	3,780.00
1532	Commercial Hazardous Waste Incinerator Per 1,000,000 BTU Per Hour Thermal Capacity	4953 MIN.	217.95 4,789.00	1,089.73 23,950.00	653.84 14,370.00	217.95 4,789.00
1533	Non Commercial Hazardous Waste Incinerator (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN.	108.97 3,113.00	545.61 15,567.00	326.91 9,340.00	108.97 3,113.00
1534	Commercial Hazardous Waste Disp. Facility N.E.C.	4953	31,135.00	155,676.00	93,405.00	31,135.00
1535	Commercial Hazardous Waste Underground Injection (Surface Facilities) Per Location	4953	6,226.00	31,135.00	18,681.00	6,226.00
1536	Recoverable/Re-usable Materials Proc. Facility (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN. MAX.	108.97 3,113.00 15,567.00	544.86 15,567.00 77,838.00	326.91 9,340.00 46,702.00	108.97 3,113.00 15,567.00
1540	Steam Gen. Units Per 1000 Lbs/Hr Steam Cap-Natural Gas or Comb Non-Fossil Fuels	4961 MIN.	1.87 310.00	9.46 1,556.00	5.65 933.00	1.87 310.00
1550	Steam Gen. Units Per 1000 Lbs/Hr Steam Cap-Fuels with 0.7 percent S or Less	4961 MIN.	3.79 777.00	18.92 3,891.00	11.34 2,335.00	3.79 777.00
1560	Steam Gen. Units Per 1000 Lbs/Hr Steam Cap-Fuels with More than 0.7 percent S	4961 MIN.	5.65 1,089.00	28.35 5,448.00	17.03 3,268.00	5.65 1,089.00
1570	Cement (Bulk Distribution)	5052	1,513.00	7,564.00	4,538.00	1,513.00
1580	Wholesale Distribution of Coal Per 1,000 Ton/Yr Throughput	5052 MIN.	0.36 1,089.00	1.87 5,448.00	1.11 3,268.00	0.36 1,089.00
1590	Automobile Recycling Scrap Per 1000 Ton/Yr	5093 MIN. MAX.	15.56 777.00 37,829.00	77.83 3,891.00 189,145.00	46.70 2,335.00 113,487.00	15.56 777.00 37,829.00
1600	Bulk Loader: Over 100,000 Ton/Yr Throughput	5153	3,780.00	18,912.00	11,347.00	3,780.00
1610 *Note 14a*	Bulk Loader: Less than or equal to 100,000 and more than 25,000 Ton/Yr Throughput	5153	1,892.00	9,455.00	5,673.00	1,829.00
1611 *Note 14a*	Bulk Loader: 25,000 Ton/Yr or Less Throughput	5153	1,077.00	5,388.00	3,233.00	1,077.00
1612 *Note 14a*	Bulk Loader – No Grain or Dusty Materials Transfer	5153	718.00	3,592.00	2,154.00	718.00
1620	Grain Elevators-Terminal Per 10,000 Bu/Yr Throughput	5153 MIN.	0.36 1,712.00	1.87 8,562.00	1.11 5,137.00	0.36 1,712.00
1630	Wholesale Distribution of Chemicals and Allied Products Per Facility	5161	946.00	3,780.00	2,835.00	946.00
1640	Petroleum Bulk Plants	5171	77.00	379.00	227.00	77.00
1650	Petroleum Bulk Terminal	5171	756.00	3,780.00	2,270.00	756.00
1660	Petroleum Bulk Station	5171	77.00	379.00	227.00	77.00
1670	Storage Tank	5171	0.00	756.00	379.00	379.00
1680	Crude Oil Distribution	5172	1,134.00	5,673.00	3,404.00	1,134.00
1690	Tire Recapping Plant	7534	154.00	777.00	467.00	154.00
1700	Chemical Waste Disposal Facility for Non Hazardous Waste	9998	3,518.00	17,592.00	10,555.00	3,518.00
1710	Negotiated Fee	9999	0.00	0.00	0.00	0.00
1711	Research Fee for Alternate Disposal of Hazardous Waste	9999	0.00	0.00	0.00	0.00
1720 *Note 15*	Small Business Sources	N/A	143.00	713.00	428.00	143.00
1722	Small Source Permit	N/A	143.00	713.00	428.00	143.00

**Table 4
(effective July 1, 2003)**

Additional Fees		
Fee Number	Fee Description	Amount
2000	Company Ownership/Operator Change or Name Change Transfer of an Existing Permit	150.00
2010	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions	300.00
2015 *Note 15*	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions for Small Business Sources	143.00
2020	The Issuance of an Asbestos Demolition Verification Form (ADVF) - (at least 10 working days notification given)	66.00
2030	The Issuance of an Asbestos Demolition Verification Form (ADVF) - (less than 10 working days notification given)	99.00
2040	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	264.00
2050	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	396.00
2060	Worker Accreditation for Asbestos-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	66.00
2070	Worker Accreditation for Asbestos-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	99.00
2080	Duplicate Certificate	33.00
2090	Training Organization Recognition Plus Trainer Recognition Per Trainer-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	396.00
2100	Training Organization Recognition Plus Trainer Recognition Per Trainer-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	594.00
2200 *Note 13*	Air Toxics Annual Fee Per Ton Emitted on an Annual Basis:	
	Class I Pollutants	142.56
	Class II Pollutants	71.28
	Class III Pollutants	35.64
2300 *Note 14*	Criteria Pollutant Annual Fee Per Ton Emitted on an Annual Basis: Nitrogen oxides (NOx) Sulfur dioxide (SO2) Non-toxic organic (VOC) Particulate (PM10)	12.83/ton
2400	An application approval fee for Stage II Vapor Recovery	132.00
	An annual facility inspection fee for Stage II Vapor Recovery	198.00
2600 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 1	264.00
2620 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 2	528.00
2630 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 3	3,300.00
2800	An application fee for mobile sources emissions banking (auto scrappage)	66.00
2810	An application fee for point source emissions banking (not applicable when filing application with a new permit or permit modification)	66.00
	* * *	
	[See Prior Text in 2900-2914]	

Explanatory Notes for Fee Schedule

Notes 1. – 10. ...

Note 11. The maximum annual maintenance fee for categories 1430 - 1490 is not to exceed \$34,390 total, effective July 1, 2002, for any one gas transmission company. Effective July 1, 2003, the maximum fee is not to exceed \$37,829.

Note 12. The maximum annual maintenance fee for one location with two or more plants shall be \$1,556, effective July 1, 2002. Effective July 1, 2003, the maximum fee shall be \$1,711.

Note 13. Fees will be determined by aggregating actual annual emissions of each class of toxic air pollutants (as delineated in LAC 33:III.Chapter 51.Table 51.1) for a facility and applying the appropriate fee schedule for that class. Fees shall not be assessed for emissions of a single toxic air pollutant over and above 4,000 tons per year from a facility. The minimum fee for this category shall be \$120, effective July 1, 2002. Effective July 1, 2003, the minimum fee shall be \$132.

Note 14. Fees will not be assessed for emissions of a single criteria pollutant over and above 4,000 tons per year from a facility. Criteria fees will be assessed on actual annual emissions that occurred during the previous calendar year. The minimum fee for this category shall be \$120, effective July 1, 2002. Effective July 1, 2003, the minimum fee shall be \$132.

Notes 14a. – 20. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 30:2341, and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496 (November 1997), LR 23:1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:

Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—
Hazardous Waste

Chapter 51. Fee Schedules

§5111. Calculation of Application Fees

- A. ...
- B. Application Fee Schedule

Table 1 (effective July 1, 2002 - June 30, 2003)	
Item	Fee
Site analysis—per acre site size	\$3001
Process and plan analysis	\$1,200
Facility analysis—per facility ²	\$600
Management/financial analysis	\$1,200

Table 2 (effective July 1, 2003)	
Item	Fee
Site analysis—per acre site size	\$3301
Process and plan analysis	\$1,320
Facility analysis—per facility ²	\$660
Management/financial analysis	\$1,320

[Note: Fee equals total of the four items.]
¹ Up to 100 acres, no additional fee thereafter.
² Incinerator, land farm, treatment pond, etc. each counted as a facility.

C. - E. ...
 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 18:724 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:287 (March 2001), LR 29:

§5119. Calculation of Annual Maintenance Fees

- A. Fee per Site

Table 1 (effective July 1, 2002 - June 30, 2003)	
Off-Site Disposer (Commercial)	\$95,760
Reclaimer (compensated for waste removed)	\$42,000
Reclaimer (uncompensated for waste removed or pays for waste removed)	\$30,000
Off-Site Disposer (Noncommercial)	\$24,000
On-Site Disposer	\$12,000

Table 2 (effective July 1, 2003)	
Off-Site Disposer (Commercial)	\$105,336
Reclaimer (compensated for waste removed)	\$46,200
Reclaimer (uncompensated for waste removed or pays for waste removed)	\$33,000
Off-Site Disposer (Noncommercial)	\$26,400
On-Site Disposer	\$13,200

[NOTE: The higher fee for off-site disposal is due to the cost of the manifest system and emergency response to transport spills (neither cost is applicable to on-site disposers).]

- B. Fee per Hazardous Waste Facility Type

Table 1 (effective July 1, 2002 - June 30, 2003)	
Unit Type	Fee
Storage:	
Container/Tank/Waste Pile/etc.	\$3,928

Treatment:	
Incinerator/Boiler/Industrial Furnace/Filtration Unit/etc.	\$6,324
Disposal:	
Landfill/Miscellaneous Unit/etc.	\$9,924

Table 2 (effective July 1, 2003)	
Unit Type	Fee
Storage:	
Container/Tank/Waste Pile/etc.	\$4,320
Treatment:	
Incinerator/Boiler/Industrial Furnace/Filtration Unit/etc.	\$6,956
Disposal:	
Landfill/Miscellaneous Unit/etc.	\$10,916

- C. Fee Based on Volume

Table 1 (effective July 1, 2002 - June 30, 2003)	
Less than 1,000 tons	\$2,342
Less than 10,000 tons	\$5,885
Less than 100,000 tons	\$9,427
Less than 1,000,000 tons	\$12,970
More than 1,000,000 tons	\$16,512

Table 2 (effective July 1, 2003)	
Less than 1,000 tons	\$2,577
Less than 10,000 tons	\$6,473
Less than 100,000 tons	\$10,370
Less than 1,000,000 tons	\$14,267
More than 1,000,000 tons	\$18,163

- D. - E. ...
- F. Land Disposal Prohibitions Fee. Treatment, processing (including use, reuse, recycling), and/or disposal facility annual fee (not on storage facilities). This fee applies to facilities handling wastes subject to the land disposal prohibitions in LAC 33:V.Chapter 22.

Table 1 (effective July 1, 2002 - June 30, 2003)	
On-Site	\$1,200
Off-Site Noncommercial	\$2,400
Reclaimer	\$3,000
Off-Site Commercial	\$6,000

Table 2 (effective July 1, 2003)	
On-Site	\$1,320
Off-Site Noncommercial	\$2,640
Reclaimer	\$3,300
Off-Site Commercial	\$6,600

- G. - J. ...
- K. Formula to Apportion Fees

Annual maintenance fee = Fee per site + Fee per facility + Fee based on volume + Annual research and development fee + Administrative cost fee + Land disposal prohibitions fee + Groundwater protection annual fee + Incineration inspection and monitoring fee + Boiler/industrial furnace inspection and monitoring fee + Annual landfill inspection and monitoring fee + Annual land treatment unsaturated zone monitoring inspection fee

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:684 (August 1990), LR 16:1057 (December 1990), LR 18:723 (July 1992), LR 18:1375 (December 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5120. Land Disposal Prohibition Petition Fees

A. Petitions submitted in accordance with R.S. 30:2193.E.(2) and/or LAC 33:V.Chapter 22 are subject to additional fees as noted below for each petition submitted. These fees must be submitted at the time a petition is submitted.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Variance	\$12,000
Exemption	\$54,000
Extension	\$6,000
No-Alternatives Determinations:	
Original Petition	\$12,000
Renewal Petition/Request	\$12,000
Request for determination for addition of a hazardous waste(s) not covered by existing determination	\$1,200

Table 2 (effective July 1, 2003)	
Variance	\$13,200
Exemption	\$59,400
Extension	\$6,600
No-Alternatives Determinations:	
Original Petition	\$13,200
Renewal Petition/Request	\$13,200
Request for determination for addition of a hazardous waste(s) not covered by existing determination	\$1,320

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1803 (October 1999), LR 29:

§5123. Registration Fees, HW-1

A. An initial registration fee is charged for each generator, transporter, or TSD facility obtaining an EPA Identification Number from the department. There is no fee for modifying an existing registration based on any change of information submitted on Notification Form HW-1.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Initial Fee	\$11.35

Table 2 (effective July 1, 2003)	
Initial Fee	\$12.50

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:319 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 14:622 (September 1988), LR 18:725 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5125. Annual Monitoring and Maintenance Fee

A. Fee will annually be \$340, plus the prohibited waste fee, effective July 1, 2002. Effective July 1, 2003, this fee will be \$375.

B. Annual prohibited waste fee is \$120, effective July 1, 2002, for each generator who generates for land disposal as provided in LAC 33:V.Chapter 22. Effective July 1, 2003, this fee will be \$132. The generator will be subject to this fee if any waste generated is prohibited from disposal at any time during the year for which the fee is assessed.

C. All annual fees provided by this Chapter shall be paid by the due date indicated on the invoice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:321 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 17:658 (July 1991), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5135. Transporter Fee

A. All transporters of hazardous waste with a facility in Louisiana shall pay a fee of \$240 per year to the department, effective July 1, 2002. Effective July 1, 2003, this fee will be \$264. There will be only one fee regardless of the number of vehicles in the service of the transporter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 14:622 (September 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5137. Conditionally Exempt Small Quantity Generator Fee

A. Conditionally exempt small quantity generators (see LAC 33:V.108) shall pay a fee of \$60 per year to the department, effective July 1, 2002. Effective July 1, 2003, this fee will be \$66.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 14:622 (September 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:716 (May 2001), LR 29:

§5139. Groundwater Protection Permit Review Fee

A. Permit Review Fee. This fee covers the cost of reviewing permits for geology, geotechnical design, and groundwater protection aspects.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Hazardous Waste Facilities (1 time)	\$6,000 each
Permit Modifications:	
Class 1 and 2	\$240 each
Class 3	\$900 each
Solid Waste Facilities (1 time)	\$6,000 each
Permit Modifications:	
Major	\$600 each
Minor	\$240 each

Table 2 (effective July 1, 2003)	
Hazardous Waste Facilities (1 time)	\$6,600 each
Permit Modifications:	
Class 1 and 2	\$264 each
Class 3	\$990 each
Solid Waste Facilities (1 time)	\$6,600 each
Permit Modifications:	
Major	\$660 each
Minor	\$264 each

B. Oversight of Abandonment Procedures. This fee covers the cost of reviewing plans to plug and abandon all permitted groundwater monitoring systems (monitoring wells, piezometers, observations wells, and recovery wells) to ensure that they do not pose a potential threat to groundwater.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Casing pulled	\$120 each
Casing reamed out	\$240 each
Casing left in place	\$600 each

Table 2 (effective July 1, 2003)	
Casing pulled	\$132 each
Casing reamed out	\$264 each
Casing left in place	\$660 each

C. Groundwater Monitoring Systems Installation Permit. This fee covers the cost of reviewing the geology and design of proposed groundwater monitoring systems to ensure compliance with department specifications for units subject to permitting under these regulations.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Each Well	\$600

Table 2 (effective July 1, 2003)	
Each Well	\$660

D. Groundwater Monitoring Systems Inspection Fee (Annual). This fee covers the cost of inspecting monitoring systems for units subject to permitting under these regulations, to ensure that they are functioning properly and continue to maintain their integrity.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Each Well	\$300

Table 2 (effective July 1, 2003)	
Each Well	\$330

AUTHORITY NOTE: Promulgated in accordance with 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Groundwater Division, LR 14:621 (September 1988), amended LR 16:685 (August 1990), amended by the Hazardous Waste Division, LR 18:725 (July 1992), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5141. Incinerator and Boiler/Industrial Furnace Inspection and Monitoring Fee

A. Trial Burn or Test Burn Observer Fee. This is a special fee charged at a daily rate to cover the cost to the department of providing and placing on site a regulatory observer team during incinerator trial burns, boiler/industrial furnace trial burns, or other types of test burns required by regulations or the administrative authority when an observer team is required by regulations, specified by permit conditions, or considered necessary to ensure that human health and the environment are adequately protected.

1. This fee will be \$600, effective July 1, 2002, for each day of the test burn or trial burn. Effective July 1, 2003, this fee will be \$660.

2. This fee will be billed following completion of the trial burn or test burn and must be paid by the due date indicated on the invoice.

B. Annual Monitoring and Maintenance Fee for Incinerators, Boilers, Industrial Furnaces, and Commercial Recycling Furnaces. This is an annual fee applied to defray the cost of annually inspecting the required continuous monitors and recording devices for each incinerator, boiler, or industrial furnace to determine whether they are being properly maintained and calibrated. This fee will annually be a flat \$1,200, effective July 1, 2002. Effective July 1, 2003, this fee will be \$1,320.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 18:1375 (December 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2510 (November 2000), LR 29:

§5143. Annual Landfill Inspection and Monitoring Fee

A. An annual fee shall be charged for the inspection of the regulatory requirement for leak detection and leachate collection systems associated with hazardous waste landfills to determine operational status and degree of proper maintenance. For each landfill unit or cell with a separate leak detection and leachate collection system, the annual fee will be \$120, effective July 1, 2002. Effective July 1, 2003, this fee will be \$132.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 18:725 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5145. Annual Land Treatment Unsaturated Zone Monitoring Inspection Fee

A. Semiannual Zone of Incorporation (ZOI) Inspection Fee. This fee covers the cost of inspection and random sampling and laboratory analysis of the zone of incorporation.

Table 1 (effective July 1, 2002 - June 30, 2003)	
ZOI soil samples	\$1,200 each acre
Soil-pore liquid monitors (Lysimeters)	\$3,000 each monitor

Table 2 (effective July 1, 2003)	
ZOI soil samples	\$1,320 each acre
Soil-pore liquid monitors (Lysimeters)	\$3,300 each monitor

B. Annual Land Treatment Unit Report Review Fee. This fee covers the cost of reviewing the report required by final permits for land treatment. Included in the annual land treatment unit report are the results of the unsaturated zone monitoring. Included are the semiannual soil core sample analyses and the quarterly soil-pore liquid quality analyses from below the treatment zone. Also included are soil moisture tensiometer readings of the ZOI.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Hazardous Waste Facilities	\$1,200 each report
Table 2 (effective July 1, 2003)	
Hazardous Waste Facilities	\$1,320 each report

C. Permit Review Fee. This fee covers the cost of reviewing permits for geology, geotechnical design, and hydrological separation requirements of these regulations.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Initial Permit	\$6,000 each
Permit Modifications:	
Class 1	\$240 each
Class 2 or 3	\$900 each
Table 2 (effective July 1, 2003)	
Initial Permit	\$6,600 each
Permit Modifications:	
Class 1	\$264 each
Class 2 or 3	\$990 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 5. Solid Waste Management System

Subchapter D. Solid Waste Fees

§525. Standard Permit Application Review Fee

A. Applicants for Type I, I-A, II, and II-A standard permits shall pay a \$3,000 permit application review fee for each facility, effective July 1, 2002, and the fee shall accompany each permit application submitted. Effective July 1, 2003, this fee will be \$3,300.

B. Applicants for Type III standard permits or beneficial-use permits shall pay a permit application review fee of \$600 for each facility, effective July 1, 2002, and the fee shall accompany each permit application submitted. Effective July 1, 2003, this fee will be \$660.

C. Permit holders providing permit modifications for Type I, I-A, II, and II-A facilities shall pay a \$1,200 permit-modification review fee, effective July 1, 2002, and the fee shall accompany each modification submitted. Effective July 1, 2003, the permit-modification fee will be \$1,320. Permit holders providing mandatory modifications in response to these regulations shall pay a \$600 permit-modification fee, effective July 1, 2002, and the fee shall accompany each mandatory modification submitted. Effective July 1, 2003, the permit-modification fee for mandatory modifications will be \$660. Permit modifications required by LAC 33:VII.709.E.1 will not be subject to a permit modification fee.

D. Permit holders providing permit modifications for Type III facilities or beneficial use facilities shall pay a \$300 permit-modification review fee, effective July 1, 2002, and the fee shall accompany each modification submitted. Effective July 1, 2003, this fee will be \$330.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§527. Closure Plan Review Fee

A. Applicants for Type I, I-A, II, and II-A closures shall pay a \$1,200 closure-plan review fee, effective July 1, 2002, and the fee shall accompany each closure plan submitted. Effective July 1, 2003, this fee will be \$1,320.

B. Applicants for Type III or beneficial-use facilities closures shall pay a \$300 closure-plan review fee, effective July 1, 2002, and the fee shall accompany each closure plan submitted. Effective July 1, 2003, this fee will be \$330.

C. Permit holders providing closure-plan modifications for Type I, IA, II, and II-A facilities shall pay a \$600 closure-plan modification review fee, effective July 1, 2002, and the fee shall accompany each modification submitted. Effective July 1, 2003, this fee will be \$660.

D. Permit holders providing closure-plan modifications for Type III or beneficial-use facilities shall pay a \$150 closure-plan modification review fee, effective July 1, 2002, and the fee shall accompany each modification submitted. Effective July 1, 2003, this fee will be \$165.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§529. Annual Monitoring and Maintenance Fee

A. An initial fee is charged for the processing of transporter notifications.

1. The fee shall be calculated by the following formula:

Initial fee per notification + Fee based on each vehicle owned by the transporter = Notification fee

2. No fee is assessed for modifying an existing notification form. The fee shall accompany the notification form at the time of its filing.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Initial fee	\$120
Fee Per Vehicle	\$30

Table 2 (effective July 1, 2003)	
Initial fee	\$132
Fee Per Vehicle	\$33

B. All holders of permits for solid waste processing and/or disposal facilities that have not completed closure, including post-closure activities, in accordance with an approved plan, shall be charged an annual monitoring and maintenance fee for each permit. This annual monitoring and maintenance fee shall be calculated by the following formula:

Base fee per permit + Fee based on tonnage = Annual monitoring and maintenance fee

1. Base fees are as follows:

a. \$7,200, effective July 1, 2002, for Type I facilities (including facilities that handle both industrial and nonindustrial waste). Effective July 1, 2003, this fee will be \$7,920;

b. \$1,800, effective July 1, 2002, for Type II facilities. Effective July 1, 2003, this fee will be \$1,980; and

c. \$600, effective July 1, 2002, for Type IA, II-A, III, and beneficial-use facilities. Effective July 1, 2003, this fee will be \$660.

2. Tonnage fees will be based on the wet-weight tonnage, as reported in the previous year's disposer annual report, and are calculated as follows:

a. for industrial wastes (Type I facilities, except surface impoundments), \$0.72/ton, effective July 1, 2002. Effective July 1, 2003, this fee will be \$0.79/ton;

b. for nonindustrial wastes (Type II facilities, except surface impoundments), \$0.18/ton, effective July 1, 2002, for amounts exceeding 75,000 tons. Effective July 1, 2003, this fee will be \$0.20/ton;

2.c. - e. ...

3. The maximum annual monitoring and maintenance fee per facility for Type I facilities (including facilities that handle both industrial and nonindustrial solid wastes) is \$96,000, effective July 1, 2002. Effective July 1, 2003, this fee will be \$105,600. The maximum fee per facility for Type II facilities is \$24,000, effective July 1, 2002. Effective July

1, 2003, this fee will be \$26,400. Surface impoundments, as noted above, are assessed only the base fee.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

Part IX. Water Quality

Chapter 13. Louisiana Water Pollution Control Fee System Regulation

§1309. Fee System

A. - B.3.a.i. ...

ii. \$104.81 per rating point from July 1, 1998, through June 30, 1999;

iii. \$112.12 per rating point as of July 1, 1999;

iv. \$134.54 per rating point as of July 1, 2002; and

v. \$148.00 per rating point as of July 1, 2003; and

b. for all other facilities:

i. \$179.16 per rating point through June 30, 1998;

ii. \$192.60 per rating point from July 1, 1998, through June 30, 1999;

iii. \$206.03 per rating point as of July 1, 1999;

iv. \$247.24 per rating point as of July 1, 2002; and

v. \$271.96 per rating point as of July 1, 2003.

B.4. - E.1.a. ...

b. \$244.56 from July 1, 1998, through June 30, 1999;

c. \$261.63 as of July 1, 1999;

d. \$314.00 as of July 1, 2002; and

e. \$345.00 as of July 1, 2003.

E.2. - 2.a. ...

b. \$101,587.50 from July 1, 1998, through June 30, 1999;

c. \$108,675 as of July 1, 1999;

d. \$130,410 as of July 1, 2002; and

e. \$143,451 as of July 1, 2003.

F. - M. ...

N. Other Fees

Table 1 (effective July 1, 2002 - June 30, 2003)	
Permit Type	Amount
Gen-LAG11-Concrete/Asphalt	\$293
Gen-LAG33-Coastal	\$2,400
Gen-LAG47-Auto Repair/Dealers	\$240
Gen-LAG119-Concrete/Asphalt (SW)	\$352
Gen-LAG78-C&D Landfills	\$600
Gen-LAG89-Type D Truck Maintenance	\$600
Gen-LAG75-Exterior Vehicle Wash	\$240
Gen-LAG-Animal Waste	\$273
Gen-LAR-Baseline	\$90
Gen-LAG87-Bulk Terminals	\$293
Gen-LAR10-Construction	\$240
Gen-LAG67-Hydrostatic Test	\$273
Gen-LAG48-Light Commercial	\$314
Gen-LAR05-Multi-Sector	\$90
Gen-LAG38-Potable Water	\$314
Gen-LAG949-GW Remediation (SW)	\$900
Gen-LAG49-Sand and Gravel	\$600

Table 1 (effective July 1, 2002 - June 30, 2003)	
Permit Type	Amount
Gen-LAG26-Territorial Seas	\$2,400
Gen-LAG30-UST Dewatering	\$90
Gen-LAG94-GW Remediation	\$900
Gen-LAG679-Hydrostatic Test (SW)	\$720
Gen-LAG759-Mobile Vehicle/Equipment Wash	\$288
Gen-LAG83- Petroleum UST Remediation	\$900
Gen-LAG839-Petroleum UST (SW)	\$2,400
Gen-LAG14-RR Classified Yards	\$293
Gen-LAG53-Sanitary Class I	\$90
Gen-LAG54-Sanitary Class II	\$240
Gen-LAG56-Sanitary Class III	\$450
Gen-LAG57-Sanitary Class IV	\$540
Gen-LAG309-UST Dewatering (SW)	\$774
Gen-LAG98-Vermilion Basin Sanitary	\$294

Table 2 (effective July 1, 2003)	
Permit Type	Amount
Gen-LAG11-Concrete/Asphalt	\$322
Gen-LAG33-Coastal	\$2,640
Gen-LAG47-Auto Repair/Dealers	\$264
Gen-LAG119-Concrete/Asphalt (SW)	\$387
Gen-LAG78-C&D Landfills	\$660
Gen-LAG89-Type D Truck Maintenance	\$660
Gen-LAG75-Exterior Vehicle Wash	\$264
Gen-LAG-Animal Waste	\$300
Gen-LAR-Baseline	\$99
Gen-LAG87-Bulk Terminals	\$322
Gen-LAR10-Construction	\$264
Gen-LAG67-Hydrostatic Test	\$300
Gen-LAG48-Light Commercial	\$345
Gen-LAR05-Multi-Sector	\$99
Gen-LAG38-Potable Water	\$345
Gen-LAG949-GW Remediation (SW)	\$990
Gen-LAG49-Sand and Gravel	\$660
Gen-LAG26-Territorial Seas	\$2,640
Gen-LAG30-UST Dewatering	\$99
Gen-LAG94-GW Remediation	\$990
Gen-LAG679-Hydrostatic Test (SW)	\$792
Gen-LAG759-Mobile Vehicle/Equipment Wash	\$317
Gen-LAG83- Petroleum UST Remediation	\$990
Gen-LAG839-Petroleum UST (SW)	\$2,640
Gen-LAG14-RR Classified Yards	\$322
Gen-LAG53-Sanitary Class I	\$99
Gen-LAG54-Sanitary Class II	\$264
Gen-LAG56-Sanitary Class III	\$495
Gen-LAG57-Sanitary Class IV	\$594
Gen-LAG309-UST Dewatering (SW)	\$851
Gen-LAG98-Vermilion Basin Sanitary	\$323

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:626 (September 1988), LR 18:731 (July 1992), LR 21:798 (August 1995), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:326 (February 1998), amended by the Office of Management and Finance, Fiscal Services Division, LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§1507. Procedures For Issuance Of Water Quality Certification

A. - A.1.n.iv. ...

2. Processing Fee

a. A one-time processing fee will be assessed all applicants to help defray the costs of this expanded program. The fee schedule will be as follows.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Noncommercial Activities	\$30/application
Commercial Activities	\$318/application

Table 2 (effective July 1, 2003)	
Noncommercial Activities	\$33/application
Commercial Activities	\$350/application

b. Payment shall accompany the application for certification. The department shall consider the application incomplete and initiation of the application review process will not begin until payment of the processing fee is received. Payment shall be by check or money order to Department of Environmental Quality, Office of Management and Finance, Financial Services Division and shall be nonrefundable.

A.3. - H.2 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), LR 29:

Part XI. Underground Storage Tanks Chapter 3. Registration Requirements, Standards, and Fee Schedule

§307. Fee Schedule

A. - B. ...

1. Fees are assessed according to the following schedule.

Table 1 (effective July 1, 2002 - June 30, 2003)		
Fee Number	Annual Registration Fee	Amount
001	All registered UST systems	\$54
Annual Maintenance and Monitoring Fees		
002	UST systems containing any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under the department's Hazardous Waste Regulations, LAC 33:V.Subpart 1)	\$600
003	UST systems at federal facilities (all categories except USTs defined in Fee Number 002, which shall be assessed the higher fee)	\$144
004	UST systems containing petroleum products not meeting the definition of motor fuels	\$144
005	UST systems containing new or used motor oil (except USTs identified in LAC 33:XI.1101.C and D)	\$275

Fee Number	Annual Registration Fee	Amount
001	All registered UST systems	\$54
Annual Maintenance and Monitoring Fees		
002	UST systems containing any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under the department's Hazardous Waste Regulations, LAC 33:V.Subpart 1)	\$660
003	UST systems at federal facilities (all categories except USTs defined in Fee Number 002, which shall be assessed the higher fee)	\$158
004	UST systems containing petroleum products not meeting the definition of motor fuels	\$158
005	UST systems containing new or used motor oil (except USTs identified in LAC 33:XL1101.C and D)	\$275

B.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, 2014, 2195, and 2195.3 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2400 (December 1999), LR 29:

§1305. Categories of Certification and Requirements for Issuance and Renewal of Certificates

A. - C. ...

D. Fees. The following fees are hereby established for certification and renewal:

1. examination fee for individual certification, \$120, effective July 1, 2002. Effective July 1, 2003, this fee will be \$132; and

2. certification renewal fee, \$120, effective July 1, 2002. Effective July 1, 2003, this fee will be \$132.

E. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), LR 29:

Part XV. Radiation Protection

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§579. Identification Cards

A. - A.3. ...

4. Any individual who wishes to replace his/her I.D. card shall submit to the Office of Environmental Services, Permits Division a written request for a replacement I.D. card, stating the reason a replacement I.D. card is needed. A non-refundable fee of \$24, effective July 1, 2002, shall be paid to the department for each replacement of an I.D. card. Effective July 1, 2003, this fee will be \$26. The prescribed fee shall be submitted with the written request for a replacement I.D. card. The individual shall maintain a copy of the request in his/her possession while performing industrial radiographic operations until a replacement I.D. card is received from the department.

B. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 29:

**Chapter 25. Fee Schedule
Appendix A**

Appendix A Radiation Protection Program Fee Schedule			
		Application Fee	Annual Maintenance Fee
I.	Radioactive Material Licensing		
A.	Medical licenses:		
1.	Therapy:		
a.	Teletherapy	666	666
b.	Brachytherapy	666	666
2.	Nuclear medicine diagnostic only	822	822
3.	Nuclear medicine diagnostic/therapy	882	882
4.	Nuclear pacemaker implantation	330	330
5.	Eye applicators	330	330
6.	In-vitro studies or radioimmunoassays or calibration sources	330	330
7.	Processing or manufacturing and distribution of radiopharmaceuticals	1,296	1,104
8.	Mobile nuclear medicine services	1,296	1,104
9.	"Broad scope" medical licenses	1,296	1,104
10.	Manufacturing of medical devices/sources	1,512	1,260

Table 1
(effective July 1, 2002 - June 30, 2003)

Appendix A
Radiation Protection Program Fee Schedule

		Application Fee	Annual Maintenance Fee
11.	Distribution of medical devices/sources	1,134	942
12.	All other medical licenses	366	366
B. Source material licenses:			
1.	For mining, milling, or processing activities, or utilization which results in concentration or redistribution of naturally occurring radioactive material	6,552	6,552
2.	For the concentration and recovery of uranium from phosphoric acid as "yellow cake" (powdered solid)	3,276	3,276
3.	For the concentration of uranium from or in phosphoric acid	1,638	1,638
4.	All other specific "source material" licenses	330	330
C. Special nuclear material (SNM) licenses:			
1.	For use of SNM in sealed sources contained in devices used in measuring systems	504	504
2.	SNM used as calibration or reference sources	330	330
3.	All other licenses or use of SNM in quantities not sufficient to form a critical mass, except as in I.A.4, I.C.1, and 2	330	330
D. Industrial radioactive material licenses:			
1.	For processing or manufacturing for commercial distribution	6,480	4,878
2.	For industrial radiography operations performed in a shielded radiography installation(s) or permanently designated areas at the address listed in the license	1,104	870
3.	For industrial radiography operations performed at temporary jobsite(s) of the licensee	3,252	2,448
4.	For possession and use of radioactive materials in sealed sources for irradiation of materials where the source is not removed from the shield and is less than 10,000 Curies	1,638	822
5.	For possession and use of radioactive materials in sealed sources for irradiation of materials when the source is not removed from the shield and is greater than 10,000 Curies, or where the source is removed from the shield	3,252	1,626
6.	For distribution of items containing radioactive material	1,638	1,638
7. Well-logging and subsurface tracer studies:			
a.	Collar markers, nails, etc. for orientation	330	330
b.	Sealed sources less than 10 Curies and/or tracers less than or equal to 500 mCi	978	978
c.	Sealed sources of 10 Curies or greater and/or tracers greater than 500 mCi but less than 5 Curies	1,638	1,638
d.	Field flood studies and/or tracers equal to or greater than 5 Curies	2,460	2,460
8.	Operation of a nuclear laundry	6,492	3,252
9.	Industrial research and development of radioactive materials or products containing radioactive materials	822	822
10.	Academic research and/or instruction	666	666
11. Licenses of broad scope:			
a.	Academic, industrial, research and development, total activity equal to or greater than 1 Curie	1,638	1,638
b.	Academic, industrial, research and development, total activity less than 1 Curie	978	978
12.	Gas chromatographs, sulfur analyzers, lead analyzers, or similar laboratory devices	330	330
13.	Calibration sources equal to or less than 1 Curie per source	330	330
14.	Level or density gauges	504	504
15.	Pipe wall thickness gauges	666	666
16.	Soil moisture and density gauges	504	504
17. NORM decontamination/maintenance:			
a.	at permanently designated areas at the location(s) listed in the license	3,780	3,150
b.	at temporary jobsite(s) of the licensee	3,780	3,780
18.	Commercial NORM storage	3,150	3,150
19.	All other specific industrial licenses except as otherwise noted	666	666
20.	Commercial NORM treatment	15,120	12,600
E. Radioactive waste disposal licenses:			
1.	Commercial waste disposal involving burial	850,500	850,500
2.	Commercial waste disposal involving incineration of vials containing liquid scintillation fluids	6,480	3,252
3.	All other commercial waste disposal involving storage, packaging and/or transfer	3,252	3,252
F.	Civil defense licenses	396	330
G.	Teletherapy service company license	1,638	1,638
H. Consultant licenses:			
1.	No calibration sources	162	94
2.	Possession of calibration sources equal to or less than 500 mCi each	240	162

Table 1
(effective July 1, 2002 - June 30, 2003)

Appendix A
Radiation Protection Program Fee Schedule

		Application Fee	Annual Maintenance Fee
3.	Possession of calibration sources greater than 500 mCi	330	240
4.	Installation and/or servicing of medical afterloaders	438	378
II. Electronic Product Registration			
1.	Medical diagnostic X-ray (per registration)	107	107
2.	Medical therapeutic X-ray (per registration):		
a.	below 500 kVp	252	252
b.	500 kVp to 1 MeV (including accelerator and Van deGraaf)	504	504
c.	1 MeV to 10 MeV	756	756
d.	10 MeV or greater	1,008	1,008
3.	Dental X-ray (per registration)	95	88
4.	Veterinary X-ray (per registration)	95	95
5.	Educational institution X-ray (teaching unit, per registration)	156	95
6.	Industrial accelerator (includes Van de Graaf machines and neutron generators)	504	504
7.	Industrial radiography (per registration)	252	252
8.	All other X-ray (per registration) except as otherwise noted	114	114
III. General Licenses			
A.	NORM (Wellhead fee per field shall not exceed \$1,890 per operator. Operators reporting contamination by field will be invoiced for all wellheads in the field. Operators reporting contamination by wellhead will be invoiced only for contaminated units.)		
1.	1-5 contaminated wellheads	126	126
2.	6-20 contaminated wellheads	630	630
3.	>20 contaminated wellheads	1,890	1,890
4.	Stripper wells-contaminated (\$630 maximum for strippers per field):	126	126
a.	1 to 5 contaminated stripper wells	126	126
b.	> 5 contaminated stripper wells	630	630
5.	NORM locations (other than fields):		
a.	gas plants, pipeyards, chemical plant, refinery	378	378
b.	warehouses, pipeline, manufacturing plant, NORM equipment storage site, etc.	378	378
6.	Interim container storage per NORM Waste Management Plan of an approved location		1,260
7.	NORM location as otherwise defined in LAC 33:XV.1403 and not exempted by LAC 33:XV.1404, not included in III.A.1-6 of this Appendix	126	126
B.	Tritium sign	90	0
C.	All other general licenses which require registration	126	126
IV. Reciprocal Recognition			
The fee for reciprocal recognition of a license or registration from another state or the NRC is the annual fee of the applicable category. The fee covers activities in the state of Louisiana for one year from the date of receipt.			
V. Shielding Evaluation (per room)			
A.	Diagnostic	126	*
B.	Therapeutic (below 500 kVp)	190	*
C.	Therapeutic (500 kVp to 1 MeV)	312	*
D.	Therapeutic (1 MeV to 10 MeV)	438	*
E.	Therapeutic (10 MeV or greater)	948	*
F.	Industrial and industrial radiography	438	*
VI. Device, Product, or Sealed Source Evaluation			
A.	Device evaluation (each)	882	*
B.	Sealed source design evaluation (each)	570	*
C.	Update sheet	190	*
VII. Testing			
Testing to determine qualifications of employees, per test administered		162	*
VIII. Nuclear Electric Generating Station			
Located in Louisiana			357,600
Located near Louisiana (Plume Exposure Pathway Emergency Planning Zone - includes area in Louisiana)			259,200
Uranium Enrichment Facility			63,000
IX. La. Radiation Protection Program Laboratory Analysis Fees			
Sample Type		Analysis	Unit Price
A.	Air filters:		
1.	Particulate	Gross beta	70
2.	Charcoal cartridge	Gamma	198
		Gamma/I-131	198
B.	Milk	Gamma	210

Table 1 (effective July 1, 2002 - June 30, 2003)		
Appendix A Radiation Protection Program Fee Schedule		
	Application Fee	Annual Maintenance Fee
C. Water	I-131	228
	Gamma	228
	I-131	228
	H-3	84
D. Sediment	Gamma	240
E. Vegetation	Gamma	228
F. Fish	Gamma	240
G. Leak test	Gamma	198
	H-3	84
H. NORM sample:		
1. Soil	Gamma	210
2. Produced water	Gamma	228
* Fees are charged one time		

Table 2 (effective July 1, 2003)		
Appendix A Radiation Protection Program Fee Schedule		
	Application Fee	Annual Maintenance Fee
I. Radioactive Material Licensing		
A. Medical licenses:		
1. Therapy:		
a. Teletherapy	733	733
b. Brachytherapy	733	733
2. Nuclear medicine diagnostic only	904	904
3. Nuclear medicine diagnostic/therapy	970	970
4. Nuclear pacemaker implantation	363	363
5. Eye applicators	363	363
6. In-vitro studies or radioimmunoassays or calibration sources	363	363
7. Processing or manufacturing and distribution of radiopharmaceuticals	1,426	1,214
8. Mobile nuclear medicine services	1,426	1,214
9. "Broad scope" medical licenses	1,426	1,214
10. Manufacturing of medical devices/sources	1,663	1,386
11. Distribution of medical devices/sources	1,247	1,036
12. All other medical licenses	403	403
B. Source material licenses:		
1. For mining, milling, or processing activities, or utilization which results in concentration or redistribution of naturally occurring radioactive material	7,207	7,207
2. For the concentration and recovery of uranium from phosphoric acid as "yellow cake" (powdered solid)	3,604	3,604
3. For the concentration of uranium from or in phosphoric acid	1,802	1,802
4. All other specific "source material" licenses	363	363
C. Special nuclear material (SNM) licenses:		
1. For use of SNM in sealed sources contained in devices used in measuring systems	554	554
2. SNM used as calibration or reference sources	363	363
3. All other licenses or use of SNM in quantities not sufficient to form a critical mass, except as in I.A.4, I.C.1, and 2	363	363
D. Industrial radioactive material licenses:		
1. For processing or manufacturing for commercial distribution	7,128	5,366
2. For industrial radiography operations performed in a shielded radiography installation(s) or permanently designated areas at the address listed in the license	1,214	957
3. For industrial radiography operations performed at temporary jobsite(s) of the licensee	3,577	2,693
4. For possession and use of radioactive materials in sealed sources for irradiation of materials where the source is not removed from the shield and is less than 10,000 Curies	1,802	904
5. For possession and use of radioactive materials in sealed sources for irradiation of materials when the source is not removed from the shield and is greater than 10,000 Curies, or where the source is removed from the shield	3,577	1,789
6. For distribution of items containing radioactive material	1,802	1,802
7. Well-logging and subsurface tracer studies:		
a. Collar markers, nails, etc. for orientation	363	363
b. Sealed sources less than 10 Curies and/or tracers less than or equal to 500 mCi	1,076	1,076
c. Sealed sources of 10 Curies or greater and/or tracers greater than 500 mCi but less than 5 Curies	1,802	1,802

**Table 2
(effective July 1, 2003)**

**Appendix A
Radiation Protection Program Fee Schedule**

		Application Fee	Annual Maintenance Fee
d.	Field flood studies and/or tracers equal to or greater than 5 Curies	2,706	2,706
8.	Operation of a nuclear laundry	7,141	3,577
9.	Industrial research and development of radioactive materials or products containing radioactive materials	904	904
10.	Academic research and/or instruction	733	733
11.	Licenses of broad scope:		
a.	Academic, industrial, research and development, total activity equal to or greater than 1 Curie	1,802	1,802
b.	Academic, industrial, research and development, total activity less than 1 Curie	1,076	1,076
12.	Gas chromatographs, sulfur analyzers, lead analyzers, or similar laboratory devices	363	363
13.	Calibration sources equal to or less than 1 Curie per source	363	363
14.	Level or density gauges	554	554
15.	Pipe wall thickness gauges	733	733
16.	Soil moisture and density gauges	554	554
17.	NORM decontamination/maintenance:		
a.	at permanently designated areas at the location(s) listed in the license	4,158	3,465
b.	at temporary jobsite(s) of the licensee	4,158	4,158
18.	Commercial NORM storage	3,465	3,465
19.	All other specific industrial licenses except as otherwise noted	733	733
20.	Commercial NORM treatment	16,632	13,860
E.	Radioactive waste disposal licenses:		
1.	Commercial waste disposal involving burial	935,550	935,550
2.	Commercial waste disposal involving incineration of vials containing liquid scintillation fluids	7,128	3,577
3.	All other commercial waste disposal involving storage, packaging and/or transfer	3,577	3,577
F.	Civil defense licenses	436	363
G.	Teletherapy service company license	1,802	1,802
H.	Consultant licenses:		
1.	No calibration sources	178	103
2.	Possession of calibration sources equal to or less than 500 mCi each	264	178
3.	Possession of calibration sources greater than 500 mCi	363	264
4.	Installation and/or servicing of medical afterloaders	482	416
II.	Electronic Product Registration		
1.	Medical diagnostic X-ray (per registration)	117	117
2.	Medical therapeutic X-ray (per registration):		
a.	below 500 kVp	277	277
b.	500 kVp to 1 MeV (including accelerator and Van deGraaf)	554	554
c.	1 MeV to 10 MeV	832	832
d.	10 MeV or greater	1,109	1,109
3.	Dental X-ray (per registration)	104	96
4.	Veterinary X-ray (per registration)	104	104
5.	Educational institution X-ray (teaching unit, per registration)	172	104
6.	Industrial accelerator (includes Van de Graaf machines and neutron generators)	554	554
7.	Industrial radiography (per registration)	277	277
8.	All other X-ray (per registration) except as otherwise noted	125	125
III.	General Licenses		
A.	NORM (Wellhead fee per field shall not exceed \$2,079 per operator. Operators reporting contamination by field will be invoiced for all wellheads in the field. Operators reporting contamination by wellhead will be invoiced only for contaminated units.)		
1.	1-5 contaminated wellheads	139	139
2.	6-20 contaminated wellheads	693	693
3.	>20 contaminated wellheads	2,079	2,079
4.	Stripper wells-contaminated (\$693 maximum for strippers per field):	139	139
a.	1 to 5 contaminated stripper wells	139	139
b.	> 5 contaminated stripper wells	693	693
5.	NORM locations (other than fields):		
a.	gas plants, pipeyards, chemical plant, refinery	416	416
b.	warehouses, pipeline, manufacturing plant, NORM equipment storage site, etc.	416	416
6.	Interim container storage per NORM Waste Management Plan of an approved location		1,386
7.	NORM location as otherwise defined in LAC 33:XV.1403 and not exempted by LAC 33:XV.1404, not included in III.A.1-6 of this Appendix	139	139

**Table 2
(effective July 1, 2003)**

**Appendix A
Radiation Protection Program Fee Schedule**

	Application Fee	Annual Maintenance Fee
B. Tritium sign	99	0
C. All other general licenses which require registration	139	139
IV. Reciprocal Recognition		
The fee for reciprocal recognition of a license or registration from another state or the NRC is the annual fee of the applicable category. The fee covers activities in the state of Louisiana for one year from the date of receipt.		
V. Shielding Evaluation (per room)		
A. Diagnostic	139	*
B. Therapeutic (below 500 kVp)	209	*
C. Therapeutic (500 kVp to 1 MeV)	343	*
D. Therapeutic (1 MeV to 10 MeV)	482	*
E. Therapeutic (10 MeV or greater)	1,043	*
F. Industrial and industrial radiography	482	*
VI. Device, Product, or Sealed Source Evaluation		
A. Device evaluation (each)	970	*
B. Sealed source design evaluation (each)	627	*
C. Update sheet	209	*
VII. Testing		
Testing to determine qualifications of employees, per test administered	178	*
VIII. Nuclear Electric Generating Station		
Located in Louisiana		393,360
Located near Louisiana (Plume Exposure Pathway Emergency Planning Zone - includes area in Louisiana)		285,120
Uranium Enrichment Facility		69,300
IX. La. Radiation Protection Program Laboratory Analysis Fees		
Sample Type	Analysis	Unit Price
A. Air filters:		
1. Particulate	Gross beta	77
2. Charcoal cartridge	Gamma	218
	Gamma/I-131	218
B. Milk	Gamma	231
	I-131	250
C. Water	Gamma	250
	I-131	250
	H-3	92
D. Sediment	Gamma	264
E. Vegetation	Gamma	250
F. Fish	Gamma	264
G. Leak test	Gamma	218
	H-3	92
H. NORM sample:		
1. Soil	Gamma	231
2. Produced water	Gamma	250
* Fees are charged one time		

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), repromulgated LR 18:956 (September 1992), amended LR 19:624 (May 1993), LR 21:792 (August 1995), repromulgated LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2607 (November 2000), LR 29:

A public hearing will be held on January 24, 2003, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation

in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by OS041. Such comments must be received no later than January 31, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 82178, Baton Rouge, LA 70884 or to fax (225) 765-0389 or by e-mail to lynnw@deq.state.la.us. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of OS041.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State

Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fee Increases for FY03 and FY04**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state governmental units. Local governmental units that hold valid operating permits will see a 20 percent increase in fees for FY03 and an additional 10 percent for FY04.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an estimated \$7,200,000 increase in revenue collections for the Department in FY 02-03 and an estimated \$11,520,000 increase in revenue collections each fiscal year thereafter.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated costs enumerated in Section II above will be borne by the regulated community.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James H. Brent, Ph.D.
Assistant Secretary
0212#066

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Risk Evaluation/Corrective Action Program (RECAP)
(LAC 33:I.1305 and 1307) (OS044)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.1305 and 1307 and the RECAP document (Log #OS044).

The proposed Rule will adopt by reference the Risk Evaluation/Corrective Action Program (RECAP) regulations that are being revised as part of this rulemaking package. The revisions will provide clarification, reorganization, and corrections to text, tables, figures, and appendices of the RECAP regulations that were promulgated in December 1998 and revised in June 2000. Clarifications of text enhance the reader's understanding of the content of the regulations. Correction to errors in the regulations and reorganization of text will improve the RECAP regulations

and help the regulated community in understanding of the regulations. Some of these changes include: text omission due to redundancy and text rearranged or added for clarification purposes; soil intervals redefined; conveyance notification requirements clarified; additional guidance on Area of Investigation (AOI) identification and estimation of the AOI constituent concentration; additional guidance on identification of groundwater Point of Compliance (POC) and Point of Exposure (POE); change in procedures for establishing a site-specific background concentration; new section on identification of toxicity values and demonstrating compliance with Screening Standards (SS) and RECAP Standards (RS); added land owner notification requirements; added air RS under Management Option 2 (MO-2) and Management Option 3 (MO-3) for comparison to air data; revision of SS and MO-1 RS based on updated toxicity values and default exposure parameters; added Table 4 containing default RS for Groundwater-enclosed space (GWes), Soil-enclosed space (Soiles), Groundwater-air (GWair) and Air; revised figures to be consistent with text; added guidance on indoor air sampling; additional guidance on groundwater monitoring requirements; addition of Texas Natural Resource Conservation Commission (TNRCC) Method 1005 for Total Petroleum Hydrocarbon-Gasoline Range Organics (TPH-GRO), Total Petroleum Hydrocarbon-Diesel Range Organics (TPH-DRO), and Total Petroleum Hydrocarbon-Oil Range Organics (TPH-ORO); addition of TNRCC Method 1006 for TPH fractions; additional guidance on additivity for TPH; added list of target organs for TPH; added table of critical effects/target organs for the Constituent-of-Concern (COC) listed in Tables 1-3; added Management Option 1 (MO-1), Management Option 2 (MO-2), and Management Option 3 (MO-3) guidance on development and application of RS; and added guidance for development of RS for air, sediment, surface water, and biota. The RECAP revisions will help ensure that a consistent method based on sound scientific principles is used for addressing site contamination and will continue to serve as a standard tool to assess impacts to soil, ground water, surface water, and air. The basis and rationale for this rule are to clarify, reorganize, and correct the current RECAP regulations. The RECAP revisions will serve to establish uniformity for submitters in the program to minimize the time and money necessary to identify corrective action levels for constituents of concern at a contaminated site. This should encourage voluntary and expeditious remediation.

This 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 I. Office of the Secretary

**Subpart 1. Departmental Administrative Procedures
Chapter 13. Risk Evaluation/Corrective Action Program
§1305. Applicability**

A. - B. ...

C. This Chapter shall not apply to unauthorized discharges that:

1. do not require notification under LAC 33:I.Chapter 39;

2. are remediated within 30 days after the discharger becomes aware of the discharge; and

3. are remediated in a manner that will ensure protection of human health and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:2244 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 29:

§1307. Adoption by Reference

A. The document entitled, "Louisiana Department of Environmental Quality Risk Evaluation/Corrective Action Program (RECAP)," dated [Final Promulgation Date to be entered], is hereby adopted and incorporated herein in its entirety. The RECAP document is available for purchase or inspection from 8 a.m. until 4:30 p.m., Monday through Friday, from the department's Office of Environmental Assessment, Environmental Planning Division. For RECAP document availability at other locations, contact the department's Environmental Planning Division. The RECAP document may also be reviewed on the Internet at www.deq.state.la.us.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:2244 (December 1998), amended by the Office of Environmental Assistance, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2441 (November 2000), LR 29:

A public hearing will be held on January 24, 2003, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by OS044. Such comments must be received no later than February 20, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by e-mail to lynnw@deq.state.la.us. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of OS044.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Risk Evaluation/Corrective Action Program (RECAP)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Existing staff and facilities will be used in the implementation of the Risk Evaluation/Corrective Action Program (RECAP) Revision Package rule. No significant costs or savings are anticipated with the promulgation of the RECAP revisions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No net increase or decrease in revenues is expected with the promulgation of this Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of the proposed Risk Evaluation/Corrective Action Program (RECAP) revisions would result in some reduction in the costs of remediating contaminated sites to a protective level when compared to the present RECAP regulation. Clarifications, additional guidance, and corrections to text, figures, tables, and appendices to the document will benefit the environmental service providers in reducing overall review time and preparation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is expected that no significant increase in needed environmental services will correspond with the revisions in this rule. Since RECAP is an established rule, competition in the environmental service sectors is positive and energetic because all parties are pursuing remedial actions under the same set of standards. Amendments to RECAP should not impact present competition and employment.

James H. Brent, Ph.D.
Assistant Secretary
0212#065

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Nursing

Public Comment at Meetings of the Board
(LAC 46:XLVII.3308)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 intends to adopt Rules amending the Professional and Occupational Standards pertaining to public comment at meetings of the board. The proposed amendments of the Rules are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

§3308. Public Comment at Meetings of the Board

A. At every open meeting of the board or its committees, members of the public shall be afforded an opportunity to make public comment addressing any matters set by agenda for discussion at that meeting.

1. Concerns and public comments shall be limited to five minutes per individual unless the time limitation is waived by a majority of the board members present.

2. Anyone wishing to speak on a specific item must present the request prior to the convening of the meeting. Cards shall be available to place the request for public comment, along with the requestor's name and for whom the requestor is appearing.

3. The board president or committee chair may defer public comment on a specific agenda item until that item is brought up for discussion. However, the five-minute limitation for public comment shall remain in effect unless waived by a majority of the board members present.

4. In addition, the board president or committee chair may recognize individuals at a public meeting at his or her discretion.

5. Unless otherwise provided by law, public comment is not part of the evidentiary record of a hearing or case unless sworn, subject to cross-examination, offered by a party as relevant testimony, and received in accordance with under the Louisiana Administrative Procedure Act, R.S. 49:950, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:5.D and R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 29:

Family Impact Statement

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: The proposed Rule related to the board's appointing authority will have no known impact on family formation, stability, and autonomy, as set forth in R.S.49:972.

Interested persons may submit written comments on the proposed rules to Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 North Causeway Boulevard, Suite 501, Metairie, LA 70002. The deadline for receipt of all written comments is 4:30 p.m. on January 10, 2003.

Barbara L. Morvant
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Public Comment at
Meetings of the Board**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Only implementation cost is for the publication of the Rule change in the *Louisiana Register* estimated to be \$45. The public comment cards will be produced in-house at an estimate

cost of \$1 per meeting times 12 meetings for a total \$12 per year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost or economic benefit to affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Barbara L. Morvant
Executive Director
0212#019

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Crime Victims Reparations Board**

Compensation to Victims
(LAC 22:XIII.503)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and R.S. 46:1801 et seq., which is the Crime Victims Reparations Act, the Crime Victims Reparations Board hereby gives notice of its intent to promulgate rules and regulations regarding the awarding of compensation to applicants. There will be no impact on family earnings or the family budget as set forth in R.S. 49:972.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part XIII. Crime Victims Reparations Board

Chapter 5. Awards

§503. Limits on Awards

A. - L.3. ...

M. Crime Scene Evidence

1. Expenses associated with the collection and securing of crime scene evidence are limited to: reasonable replacement costs for clothing, bedding, or property seized as evidence or rendered unusable as a result of a criminal investigation or lab test.

2. A forensic medical examination for a victim of sexual assault is considered an expense associated with the collection and securing of crime scene evidence. Payment for this examination by the parish governing authority is mandated by state law. All other expenses related to these crimes are eligible for reimbursement by the board at 100 percent, subject to the provisions of the Crime Victims Reparations Act and its administrative rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 24:328 (February 1998), LR 25:26 (January 1999), LR 29:

Interested persons may submit written comments on this proposed Rule no later than February 5, 2003, at 5 p.m. to the attention of Bob Wertz, CVR Program Manager,

Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

Lamarr Davis
Chairman

All interested persons are invited to submit written comments on the proposed Rule to Diana Williamson, P.O. Box 94095, Baton Rouge, LA 70804-9095. All comments are to be received by Wednesday, January 8, 2002.

Mark C. Drennen
Commissioner of Administration

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Compensation to Victims**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that implementation of the proposed Rule will not cause an increase in state expenditures. Sufficient funds are available in the Crime Victims Reparations fund to cover any possible expenditure at the state level. However, clarification was needed to prevent a shift of expenses from the local to the state level. IT could result in an insignificant increase at the local level to pay these expenses, and any increase would have a corresponding decrease at an insignificant amount at the state level.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that implementation of the proposed Rule will not increase revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that implementation of the proposed Rule will have little or no effect on directly affected persons or non-governmental groups. The adoption of the rule seeks to clarify the situations in which reimbursement for expenses associated with crime scene evidence will be made.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposed amendment.

Michael A. Ranatza
Executive Director
0212#069

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of the Commissioner**

Educational Leave for Unclassified Employees
(LAC 4:I.901, 903, and 905)

In accordance with the Administrative Procedure Act, R.S., 49:953.B and Executive Order MJF 98-23, the Office of the Governor, Division of Administration proposes to adopt the following Rule governing the granting of educational leave to unclassified employees.

This Rule is necessary to allow the Division of Administration to effectively administer Executive Order MJF 98-23, Section 18(D), Education Leave. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

The text of this proposed Rule may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Educational Leave for
Unclassified Employees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Educational leave and/or reimbursement is granted by the appointing authority in each agency. Appointing authorities may approve reimbursement for education to employees under various conditions. The appointing authority may grant unpaid educational leave, paid educational leave, and/or an educational stipend. These conditions will vary in each department and with each situation. Due to these factors, the costs for implementation of this rule cannot be estimated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The employees who further their education through this policy may benefit in the future economically. By obtaining education, they will become more employable in the workforce.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

A positive effect on the competition and employment is expected within state agencies.

Whitman J. Kling
Deputy Undersecretary
0212#109

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Financial Institutions**

CAPCOCDefinitions (LAC 10:XV.303)

In accordance with Administrative Procedure Act, R.S. 49:950 et seq., the Office of the Governor, Office of Financial Institutions hereby proposes to amend §303, Definitions Provided by Rule of the Capital Companies Tax Credit Program.

**Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC
Part XV. Other Regulated Entities
Chapter 3. Capital Companies Tax Credit Program
§303. Definitions Provided by Rule**

*Capitalize a Business*C for purposes of LAC 10:XV.303. Investment (b).(iv)C common stock, preferred stock, or an equivalent ownership interest. This also includes subordinated debt, whose proceeds will be used to refinance

a senior lender, thereby allowing a qualified Louisiana business to expand.

* * *

InvestmentC

a. - b.iv. ...

v. to increase or preserve working capital and/or cash flows for Louisiana operations of the business. However, except as allowed in Clause iv of this Section, this does not include those investments whereby the proceeds of the investment will be utilized to refinance existing debt of the business;

vi. - ix. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-2933.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1128 (September 1997), LR 25:1216 (July 1999), amended by the Office of the Governor, Office of Financial Institutions, LR 29:

Family Impact Statement

The proposed Rule will have no adverse fiscal or economic impact, nor will it adversely impact family formation, stability, or autonomy.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than January 21, 2003, at 4:30 p.m., to Gary L. Newport, General Counsel, Office of Financial Institutions, P.O. Box 94095, Baton Rouge, LA 70804-9095, or by delivery to 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809.

John D. Travis
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: CAPCOC Definitions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no additional costs associated with the implementation of this Rule. The Rule provides clarification to the certified Louisiana capital companies as to whether investments whose proceeds are used to refinance existing debt are deemed to further economic development within Louisiana.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

We expect that there will be no effect on revenue collections of either the state or local governmental units. This Rule only clarifies certain language contained in the existing certified Louisiana capital company program Rule. However, because the change in the definition of what types of investments will be considered qualified investments, certain investments which had been eligible for treatment as a qualified investment will no longer qualify. The type of investment that is being eliminated has not been an extensive problem and has only shown up in a few investments that we have reviewed.

Therefore, because of the investment benchmarks which must be met pursuant to R.S 51:1926, the CAPCOs will have to find other companies to invest in which meet the revised definition. While we consider this an extremely remote possibility because of the financial consequences of not meeting the benchmarks, it is possible that the elimination of this type of investment could cause a CAPCO not to meet the investment benchmarks and thereby have the pool of certified capital involuntarily decertified. The consequence of the decertification would be the possible recapture or forfeiture of tax credits associated with the pool, thereby increasing revenue to the state. However, because of the aforementioned reason as well as the numerous investment deals that are reviewed by each CAPCO, we are absolutely certain that all applicable benchmarks will be attained.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no cost and/or economic benefit to directly affected persons or nongovernmental groups. Again, this only provides a clarification of what types of investments are eligible to be determined to further economic development within Louisiana in order to meet certain investment benchmarks required for continued certification as a certified Louisiana capital company.

However, as mentioned in Item II above, the elimination of this type of investment as a qualified investment will decrease the universe of potential deals, thereby theoretically raising the possibility that applicable investment benchmarks would not be met and tax credits associated with the certified capital being recaptured or forfeited. The consequence of this would be an increase in revenue to the state. Again, we consider this to be inconceivable because the consequences associated with not meeting the benchmarks are so great.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not anticipated to have any effect on competition or employment in Louisiana.

John D. Travis
Commissioner, Financial Institutions
0212#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Real Estate Commission**

Agency Disclosure
(LAC 46:LXVII.3703 and 3705)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Real Estate Commission has initiated procedures to amend LAC 46:LXVII.Chapter 37, §§3703 and 3705. The amendments provide for an agency disclosure form that may be used in lieu of the agency disclosure pamphlet at the discretion of the licensee. Language regulating the timeframe in which signatures are obtained on the dual agency disclosure form or the agency disclosure form will be amended to coincide with the governing statute, R.S. 9:3897.C.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXVII. Real Estate
Subpart 1. Real Estate

Chapter 37. Agency Disclosure

§3703. Agency Disclosure Informational Pamphlet

A. Licensees shall provide the agency disclosure informational pamphlet or the agency disclosure form to all parties to a real estate transaction involving the sale or lease of real property.

B. The agency disclosure informational pamphlet and the agency disclosure form may be obtained from the commission in a form suitable for use by licensees in reproducing them locally. Licensees are responsible for ensuring that the pamphlets and forms are the most current version prescribed by the commission and that reproductions of the pamphlet and form contain the identical language prescribed by the commission.

C. Licensees will provide the agency disclosure informational pamphlet or the agency disclosure form to prospective sellers/lessors and buyers/lessees at the time of the first face-to-face contact with the sellers/lessors or buyers/lessees when performing any real estate related activity involving the sale or lease of real property, other than a ministerial act as defined in R.S. 9:3891(12).

D. Licensees providing agency disclosure informational pamphlets or agency disclosure forms to prospective sellers/lessors and buyers/lessees shall insure that the recipient of the pamphlet or form signs and dates the pamphlet or form. The licensee providing the pamphlet or form shall sign as a witness to the signature of the recipient, and the licensee will retain the signed pamphlet or form for a period of five years.

E. In any circumstance in which a seller/lessor or a buyer/lessee refuses to sign the receipt included in the agency disclosure informational pamphlet or the agency disclosure form, the licensee shall prepare written documentation to include the nature of the proposed real estate transaction, the time and date the pamphlet or form was provided to the seller/lessor or buyer/lessee, and the reasons given by the seller/lessor or buyer/lessee for not signing the pamphlet or form. This documentation will be retained by the licensee for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000), amended LR 29:

§3705. Dual Agency Disclosure

A. The dual agency disclosure form or the second page of the agency disclosure form will be used by licensees acting as a dual agent under R.S. 9:3897.

B. The dual agency disclosure form or agency disclosure form shall be obtained from the commission in a form suitable for use by licensees in reproducing the forms locally. Licensees are responsible for ensuring that the forms are the most current version prescribed by the commission and that reproductions of the forms contain the identical language prescribed by the commission.

C. Licensees shall ensure that the dual agency disclosure form or the second page of the agency disclosure form is signed by all clients at the time the brokerage agreement is

entered into or at any time before the licensee acts as a dual agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000), amended LR 29:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the December 20, 2002 *Louisiana Register*.

The proposed Rules have no known impact on family formation, stability, or autonomy.

Interested parties are invited to submit written comments on the proposed regulations through January 10, 2003 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA, 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA, 70809.

Julius C. Willie
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Agency Disclosure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no estimated costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections 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 or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment.

Julius C. Willie
Executive Director
0212#071

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources
Office of Conservation

Disposal of Exploration and Production Waste
(LAC 43:XVII.Chapter 31 and XIX.Chapter 5)

The Louisiana Office of Conservation hereby proposes to promulgate the following new salt cavern exploration and production (E&P) waste disposal regulations at LAC 43:XVII.3101 et seq. and to amend the existing commercial facility regulations in LAC 43:XIX.501, 503.F.3, 505.B, 507.A.1, 507.A.6, 511.E.2, 519.C.4.d and 7, 523.D, 525.D, 535.E, 547.A.6, 555 and 565.G in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., and pursuant to the power delegated under the laws

of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, R.S. 4.C(1), (2), (3), (6), (8), (9), (10), (14), (16) and I. The proposed new and amended regulations included herewith will provide for the disposal of E&P waste into salt caverns and clarify certain areas of existing commercial facility regulations in LAC 43:XIX.501 et seq. The proposed Rule will have no impact on family formation, stability, and autonomy as prescribed in R.S. 49:927.

Title 43
NATURAL RESOURCES

PART XVII. Office of Conservation - Injection and Mining

Subpart 4. Statewide Order No. 29-M-2

Chapter 31. Disposal of Exploration and Production Waste in Solution-Mined Salt Caverns

§3101. Definitions

Application Cthe filing on the appropriate Office of Conservation form(s), including any additions, revisions, modifications, or required attachments to the form(s), for a permit to operate a salt cavern waste disposal facility or parts thereof.

Aquifer Ca geologic formation, groups of formations, or part of a formation that is capable of yielding a significant of water to a well or spring.

Blanket Material Csometimes referred to as a "pad". The blanket material is a fluid placed within a salt cavern that is lighter than the water in the cavern and will not dissolve the salt or any mineral impurities that may be contained within the salt. The function of the blanket is to prevent unwanted leaching of the salt cavern roof, prevent leaching of salt from around the cemented casing, and to protect the cemented casing from internal corrosion. Blanket material typically consists of crude oil, diesel, mineral oil, or some fluid possessing similar noncorrosive, nonsoluble, low density properties. The blanket material is placed between the salt cavern's outermost hanging string and innermost cemented casing.

Brine Cwater within a salt cavern that is completely or partially saturated with salt.

Cap Rock Cthe porous and permeable strata immediately overlying all or part of the salt stock of some salt structures typically composed of anhydrite, gypsum, limestone, an occasionally sulfur.

Casing Cmetallic pipe placed and cemented in the wellbore for the purpose of supporting the sides of the wellbore and to act as a barrier preventing subsurface migration of fluids out of or into the wellbore.

Catastrophic Collapse Cthe sudden or utter failure of the overlying strata caused by the removal or otherwise weakening of underlying sediments.

Cementing Cthe operation (either primary, secondary, or squeeze) whereby a cement slurry is pumped into a drilled hole and/or forced behind the casing.

Circulate to the Surface Cthe observing of actual cement returns to the surface during the primary cementing operation.

Commercial Salt Cavern Facility Ca legally permitted salt cavern waste disposal facility that disposes of exploration and production waste off the site where produced by others for a fee or other consideration.

Commissioner Cthe Commissioner of Conservation for the State of Louisiana.

Contamination Cthe introduction of substances or contaminants into a groundwater aquifer, a USDW or soil in such quantities as to render them unusable of their intended purposes.

Discharge Cthe placing, releasing, spilling, percolating, draining, pumping, leaking, mixing, migrating, seeping, emitting, disposing, by-passing, or other escaping of pollutants on or into the air, ground, or waters of the state. A discharge shall not include that which is allowed through a federal or state permit.

E&P Waste Cexploration and production waste

Effective Date Cthe date of final promulgation of these rules and regulations.

Emergency Shutdown Valve Ca valve that automatically closes to isolate a salt cavern well from surface piping in the event of a specified condition that, if uncontrolled, may cause an emergency.

Exempted Aquifer Can aquifer or its portion that meets the criteria of the definition of underground source of drinking water but which has been exempted according to the procedures set forth in §3103.E.2.

Existing Salt Cavern Ca salt cavern originally permitted by the Office of Conservation for use other than E&P waste disposal.

Existing Well Ca wellbore originally permitted by the Office of Conservation for use other than to facilitate E&P waste disposal into a salt cavern.

Exploration and Production Waste (E&P Waste) Cdrilling wastes, salt water, and other wastes associated with the exploration, development, or production of crude oil or natural gas wells and which is not regulated by the provisions of, and, therefore, exempt from the Louisiana Hazardous Waste Regulations and the Federal Resource Conservation and Recovery Act, as amended. E&P Wastes include, but are not limited to, those wastes listed in the definition for E&P Waste located in LAC 43:XIX.501 (Definitions).

Fluid Cany material or substance which flows or moves whether in a semisolid, liquid, sludge, gas or any other form or state.

Generator Ca person or corporate entity who creates or causes to be created any E&P waste.

Ground Subsidence Cthe downward settling of the Earth's surface with little or no horizontal motion in response to natural or manmade subsurface actions.

Groundwater Aquifer Cwater in the saturated zone beneath the land surface that contains less than 10,000 mg/l total dissolved solids.

Groundwater Contamination Cthe degradation of naturally occurring groundwater quality either directly or indirectly as a result of human activities.

Hanging String Ccasing whose weight is supported at the wellhead and hangs vertically in a larger cemented casing or another larger hanging string.

Injection and Mining Division Cthe Injection and Mining Division of the Louisiana Office of Conservation within the Department of Natural Resources.

Leaching Cthe process whereby an undersaturated fluid is introduced into a salt cavern thereby dissolving additional salt and increasing the volume of the salt cavern.

Migrating Cavity movement by leaching, spilling, discharging, or any other uncontained or uncontrolled manner, except as allowed by law, regulation, or permit.

New Well Cavity wellbore permitted by the Office of Conservation after the effective date of these rules and regulations to be completed into an existing salt cavern to facilitate E&P waste disposal.

Non-Commercial Salt Cavern Facility Cavity a legally permitted salt cavern waste disposal facility that disposes of only E&P waste generated by the owner of the facility during oil and gas exploration and production activities.

Office of Conservation Cavity the Louisiana Office of Conservation within the Department of Natural Resources.

Oil-Based Drilling Mud Cavity any oil-based drilling fluid composed of a water in oil emulsion, organophilic clays, drilled solids and additives for down-hole rheology and stability such as fluid loss control materials, thinners, weighting agents, etc.

Operator Cavity the person recognized by the Office of Conservation as being responsible for the physical operation of the facility or activity subject to regulatory authority under these rules and regulations.

Owner Cavity the person recognized by the Office of Conservation as owning the facility or activity subject to regulatory authority under these rules and regulations.

Person Cavity an individual, association, partnership, public or private corporation, firm, municipality, state or federal agency and any agent or employee thereof, or any other juridical person.

Produced Water Cavity liquids and suspended particulate matter that is obtained by processing fluids brought to the surface in conjunction with the recovery of from underground geologic formations, with underground storage of hydrocarbons, or with solution mining for brine.

Public Water System Cavity means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals. Such term includes:

1. any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and
2. any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

Release Cavity the accidental or intentional spilling, pumping, leaking, pouring, emitting, leaching, escaping, or dumping of pollutants into or on any air, land, groundwater, or waters of the state. A release shall not include that which is allowed through a federal or state permit.

Salt Cavern Cavity see Solution-Mined Salt Cavern

Salt Cavern Roof Cavity the uppermost part of a salt cavern being just below the neck of the wellbore. The shape of the salt cavern roof may be flat or domed.

Salt Cavern Waste Disposal Facility Cavity any public, private, or commercial property, including surface and subsurface lands and appurtenances thereto, used for receiving, storing, and/or processing E&P waste for disposal into a solution-mined salt cavern.

Salt Cavern Well Cavity a well extending into the salt stock to facilitate the disposal of waste or other fluids into a salt cavern.

Salt Dome Cavity a diapiric, typically circular structure that penetrates, uplifts, and deforms overlying sediments as a result of the upward movement of a salt stock in the subsurface. Collectively, the salt dome includes the salt stock and any overlying uplifted sediments.

Salt Stock Cavity typically cylindrical formation composed chiefly of an evaporite mineral that forms the core of a salt dome. The most common form of the evaporite mineral is halite known chemically as sodium chloride (NaCl). Cap rock shall not be considered a part of the salt stock.

Solution-Mined Salt Cavern Cavity a cavity created within the salt stock by dissolution with water.

State Cavity the State of Louisiana.

Subsidence Cavity See Ground Subsidence.

Surface Casing Cavity the first string of casing installed in a well, excluding conductor casing.

Transport Vehicle Cavity a motor vehicle, rail freight car, freight container, cargo tank, portable tank, or vessel used for the transportation of E&P wastes or other materials for use or disposal at a salt cavern waste disposal facility.

Transportation Cavity the movement of wastes or other materials from the point of generation or storage to the salt cavern waste disposal facility by means of commercial or private transport vehicle.

Unauthorized Discharge Cavity a continuous, intermittent, or one-time discharge, whether intentional or unintentional, anticipated or unanticipated, from any permitted or unpermitted source which is in contravention of any provision of the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) or of any permit or license terms and conditions, or of any applicable regulation, compliance schedule, variance, or exception of the commissioner of Conservation.

Underground Source of Drinking Water Cavity an aquifer or its portion:

1. which supplies any public water system; or
2. which contains a sufficient quantity of groundwater to supply a public water system; and
 - a. currently supplies drinking water for human consumption; or
 - b. contains fewer than 10,000 mg/1 total dissolved solids; and which is not an exempted aquifer.

Waters of the State Cavity both surface and underground waters within the State of Louisiana including all rivers, streams, lakes, groundwaters, and all other water courses and waters within the confines of the state, and all bordering waters, and the Gulf of Mexico.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3103. General Provisions

A. Applicability

1. These rules and regulations shall apply to all applicants, owners and/or operators of non-commercial salt cavern waste disposal facilities for disposal or proposed for disposal of E&P waste. However, where indicated, certain criteria found herein will also apply to commercial facility operators, in addition to the requirements of LAC 43:XIX.501 et seq.

2. These rules and regulations do not address creation of a salt cavern, rather, only the disposal of E&P waste into a salt cavern. Rules governing the permitting, drilling, constructing, operating, and maintaining of a Class III brine solution mining well and cavern are codified in applicable sections of Statewide Order No. 29-N-1 (LAC 43:XVII, Subpart 1) or successor documents.

3. An applicant, owner and/or operator of a salt cavern being solution-mined for conversion to E&P waste disposal should become familiar with these rules and regulations to assure that the well and salt cavern shall comply with these rules and regulations.

B. Prohibition of Unauthorized Disposal of Exploration and Production Waste

1. Construction, conversion and/or operation of a salt cavern for disposal of E&P waste without obtaining a permit from the Office of Conservation is a violation of these rules and regulations and applicable laws of the State of Louisiana.

2. Any salt cavern well or salt cavern existing before the effective date of these rules must comply with the requirements of these rules and regulations before converting the existing well and salt cavern to E&P waste disposal.

C. Prohibition on Movement of Fluids into Underground Sources of Drinking Water

1. No authorization by permit shall allow the movement of injected or disposed fluids into underground sources of drinking water or outside the salt stock. The owner or operator of the salt cavern waste disposal facility shall have the burden of showing that this requirement is met.

2. The Office of Conservation may take emergency action upon receiving information that injected or disposed fluid is present in or likely to enter an underground source of drinking water or may present an imminent and substantial endangerment to the environment, or the health, safety and welfare of the public.

D. Prohibition of Surface Discharges. The intentional, accidental, or otherwise unauthorized discharge of fluids, wastes, or process materials into manmade or natural drainage systems or directly into waters of the State is strictly prohibited.

E. Identification of Underground Sources of Drinking Water and Exempted Aquifers

1. The Office of Conservation may identify (by narrative description, illustrations, maps, or other means) and shall protect as an underground source of drinking water, except where exempted under §3103.E.2 all aquifers or parts of aquifers that meet the definition of an underground source of drinking water. Even if an aquifer has not been specifically identified by the Office of Conservation, it is an underground source of drinking water if it meets the definition.

2. After notice and opportunity for a public hearing, the Office of Conservation may identify (by narrative description, illustrations, maps, or other means) and describe in geographic and/or geometric terms (such as vertical and lateral limits and gradient) that are clear and definite, all aquifers or parts thereof that the Office of Conservation proposes to denote as exempted aquifers if they meet the following criteria:

a. the aquifer does not currently serve as a source of drinking water; and

b. the aquifer cannot now and shall not in the future serve as a source of drinking water because:

i. it is mineral, hydrocarbon, or geothermal energy producing or can be demonstrated to contain minerals or hydrocarbons that when considering their quantity and location are expected to be commercially producible;

ii. it is situated at a depth or location that makes recovery of water for drinking water purposes economically or technologically impractical;

iii. it is so contaminated that it would be economically or technologically impractical to render said water fit for human consumption; or

iv. it is located in an area subject to severe subsidence or catastrophic collapse; or

c. the total dissolved solids content of the groundwater is more than 3,000 mg/l and less than 10,000 mg/l and it is not reasonably expected to supply a public water system.

F. Exceptions/Variations

1. Except where noted in specific provisions of these rules and regulations, the Office of Conservation may allow, on a case-by-case basis, exceptions or variances to these rules and regulations. It shall be the obligation of the applicant, owner, or operator to show that the requested exception or variance shall not create an increased endangerment to the environment, or the health, safety and welfare of the public. The applicant, owner, or operator shall submit a written request to the Office of Conservation detailing the reason for the requested exception or variance. No deviation from the requirements of these rules or regulations shall be undertaken by the applicant, owner, or operator without prior written authorization from the Office of Conservation.

2. Granting of exceptions or variances to these rules and regulations shall only be considered upon proper showing by the applicant, owner, or operator at a public hearing that such exception or variance is reasonable, justified by the particular circumstances, and consistent with the intent of these rules and regulations regarding physical and environmental safety and the prevention of waste. The requester of the exception or variance shall be responsible for all costs associated with a public hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3105. Permit Requirements

A. Applicability. No person shall convert or operate a non-commercial salt cavern waste disposal facility without first obtaining written authorization (permit) from the Office of Conservation.

B. Application Required. Applicants for a non-commercial salt cavern waste disposal facility, permittees with expiring permits, or any person required to have a permit shall complete, sign, and submit one original application form with required attachments and documentation and two copies of the same to the Office of Conservation. The complete application shall contain all information necessary to show compliance with applicable State laws and these regulations.

C. Who Applies. It is the duty of the owner or proposed owner of a facility or activity to submit a permit application and obtain a permit. When a facility or activity is owned by one person and operated by another, it is the duty of the operator to file and obtain a permit.

D. Signature Requirements. All permit applications shall be signed as follows.

1. Corporations. By a principle executive officer of at least the level of vice-president, or duly authorized representative of that person if the representative performs similar policy making functions for the corporation. A person is a duly authorized representative only if:

a. the authorization is made in writing by a principle executive officer of at least the level of vice-president;

b. the authorization specifies either an individual or position having responsibility for the overall operation of the salt cavern waste disposal facility, such as the position of plant manager, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. the written authorization is submitted to the Office of Conservation.

2. Partnership or Sole Proprietorship. By a general partner or proprietor, respectively; or

3. Public Agency. By either a principle executive officer or a ranking elected official of a municipality, state, federal, or other public agency.

E. Signature Reauthorization. If an authorization under §3105.D is no longer accurate because a different individual or position has responsibility for the overall operation of the salt cavern waste disposal facility, a new authorization satisfying the signature requirements must be submitted to the Office of Conservation before or concurrent with any reports, information, or applications required to be signed by an authorized representative.

F. Certification. Any person signing a document under §3105.D shall make the following certification on the application:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and/or imprisonment."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3107. Application Content

A. The following minimum information required in §3107 shall be submitted in a permit application for a non-commercial salt cavern E&P waste disposal facility. The applicant shall also refer to the appropriate application form for any additional information that may be required.

B. Administrative Information:

1. all required state application form(s);
2. the nonrefundable application fee(s) and public hearing fee;

3. the name, mailing address, and physical address of the salt cavern waste disposal facility;

4. the operator's name, address and telephone number;

5. ownership status as federal, state, private, public, or other entity;

6. a brief description of the nature of the business associated with the activity;

7. list of all permits or construction approvals that the applicant has received or applied for and which specifically affect the legal or technical ability of the applicant to undertake the activity or activities to be conducted by the applicant under the permit being sought;

8. a copy of the title to the property for the salt cavern waste disposal facility. If a lease, option to lease, or other agreement is in effect on the property, a copy of this instrument shall be included with the application;

9. acknowledgment as to whether the facility is located on Indian lands or other lands under the jurisdiction or protection of the federal government, or whether the facility is located on state water bottoms or other lands owned by or under the jurisdiction or protection of the State of Louisiana;

10. documentation of financial responsibility and insurance or documentation of the method by which proof of financial responsibility and insurance will be provided as required in §3109.B. Where applicable, include copies of a draft letter of credit, bond, or any other evidence of financial responsibility acceptable to the Office of Conservation. Before making a final permit decision, final (official) documentation of financial responsibility and insurance must be submitted to and approved by the Office of Conservation;

11. names and addresses of all property owners within a one-half mile radius of the property boundary of the salt cavern waste disposal facility.

C. Maps and Related Information

1. a location plat of the salt cavern well prepared and certified by a registered civil engineer or registered land surveyor. The location plat shall be prepared according to standards of the Office of Conservation.

2. a topographic or other map extending at least one mile beyond the property boundaries of the salt cavern waste disposal facility depicting the facility and each well where fluids are injected underground; and those wells, springs, or surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area;

3. the section, township and range of the area in which the salt cavern waste disposal facility is located and any parish, city or municipality boundary lines within one mile of the facility location;

4. a map showing the salt cavern well for which the permit is sought, the property boundaries of the salt cavern waste disposal facility, and the area of review. Within the area of review, the map shall show the number, name, and location of all existing producing wells, injection wells, abandoned wells and dry holes, public water systems and water wells. The map shall also show surface bodies of water, mines (surface and subsurface), quarries, and other pertinent surface features including residences and roads, and faults if known or projected.

5. maps and cross sections indicating the vertical limits of all underground sources of drinking water within the area of review, their position relative to the disposal formation, and the direction of water movement, where known, in every underground source of drinking water which may be affected by the proposed project;

6. generalized maps and cross sections illustrating the regional geologic setting;

7. structure contour mapping of the top-of-salt on a scale no smaller than one inch to five hundred feet;

8. vertical cross sections detailing the geologic structure of the local area. The cross sections shall be structural (as opposed to stratigraphic cross sections), be referenced to sea level, show the salt cavern well and the salt cavern being permitted, all surrounding salt caverns regardless of use and current status, conventional (room and pillar) mines, and all other bore holes and wells that penetrate the salt stock. Cross sections should be oriented to indicate the closest approach to surrounding salt caverns, bore holes, wells, etc., and shall extend at least one-mile beyond the edge of the salt stock. Any faulting in the area shall be illustrated on the cross sections such that the displacement of subsurface formations is accurately depicted; and

9. any other information required by the Office of Conservation to evaluate the salt cavern well, salt cavern, and related surface facility.

D. Area of Review Information. Refer to §3115.E for area of review boundaries and exceptions. Only information of public record need be researched or submitted with the application, however, a diligent effort must be made to identify all wells and other manmade structures in response to the area of review requirements. The applicant shall provide the following information on all wells or structures within the defined area of review.

1. A discussion of the protocol used by the applicant to identify wells and manmade structures in the defined area of review.

2. A tabular listing of all known water wells in the area of review to include the name of the operator, well location, well depth, well use (domestic, irrigation, public, etc), and current well status (active, abandoned, etc.).

3. A tabular listing of all known wells (excluding water wells) in the area of review with penetrations into the cap rock or salt stock to include at a minimum:

a. operator name, well name and number, state serial number (if assigned), and well location;

b. well type and current well status (producing, disposal, storage, solution mining, shut-in, plugged and abandoned), date the well was drilled, and the date the current well status was assigned;

c. well depth, construction, completion (including completion depths), plug and abandonment data.

4. The following information shall be provided on manmade structures within the salt stock regardless of use, depth of penetration, or distance to the salt cavern well or salt cavern being the subject of the application:

a. a tabular listing of all salt caverns to include:

i. operator name, well name and number, state serial number, and well location;

ii. current or previous use of the salt cavern (waste disposal, hydrocarbon storage, solution mining),

current status of the salt cavern (active, shut-in, plugged and abandoned), date the salt cavern well was drilled, and the date the current salt cavern status was assigned;

iii. salt cavern depth, construction, completion (including completion depths), plug and abandonment data.

b. a tabular listing of all conventional (dry or room and pillar) mining activities, whether active or abandoned. The listing shall include the following minimum items:

i. owner or operator name and address;

ii. current mine status (active, abandoned);

iii. depth and boundaries of mined levels;

iv. the closest distance of the mine in any direction to the salt cavern well and salt cavern.

E. Technical Information. The applicant shall submit, as an attachment to the application form, the following minimum information in technical report format:

1. results of a current salt cavern sonar survey and mechanical integrity pressure and leak tests;

2. corrective action plan required by §3115.F for wells or other manmade structures within the area of review that penetrate the salt stock but are not properly constructed, completed or plugged and abandoned;

3. plans for performing the geological and hydrogeological studies of §3115.B, C, and D. If such studies have already been done, submit the results obtained along with an interpretation of the results;

4. properly labeled schematic of the surface construction details of the salt cavern well to include the wellhead, gauges, flowlines, and any other pertinent details;

5. properly labeled schematic of the subsurface construction and completion details of the salt cavern well and salt cavern to include borehole diameters (bit size or caliper); all cemented casings with cement specifications, casing specifications (size, depths, etc.); all hanging strings showing sizes and depths set; total depth of well; top, bottom, and diameter of cavern; and any other pertinent details;

6. surface site diagram(s) drawn to scale to include details and locations of the entire salt cavern waste disposal facility layout (surface pumps, piping and instrumentation, controlled access roads, fenced boundaries, waste offloading, storage, treatment and processing areas, field office, monitoring and safety equipment and location of such equipment, required curbed or other retaining wall heights, etc.);

7. detailed plans and procedures to operate the salt cavern well, salt cavern, and related surface facilities in accordance with the following requirements:

a. the cavern and surface facility design requirements of §3117, including, but not limited to cavern spacing requirements and cavern coalescence;

b. the well construction and completion requirements of §3119, including, but not limited to open borehole surveys, casing and cementing, casing and casing seat tests, cased borehole surveys, hanging strings, and wellhead components and related connections;

c. the operating requirements of §3121, including, but not limited to cavern roof restrictions, blanket material, remedial work, well recompletion, multiple well caverns, cavern allowable operating pressure and rates, cavern displacement fluid management, and E&P waste storage;

d. the safety requirements of §3123, including, but not limited to an emergency action plan, controlled site access, facility identification, personnel, wellhead protection and identification, valves and flowlines, alarm systems, emergency shutdown valves, vapor monitoring and leak detection, gaseous vapor control, fire detection and suppression, systems test and inspections, and surface facility retaining walls and spill containment, as well as contingency plans to cope with all shut-ins or well failures to prevent the migration of contaminating fluids into underground sources of drinking water;

e. the monitoring requirements of §3125, including, but not limited to equipment requirements such as pressure gauges, pressure sensors and flow sensors, continuous recording instruments, vapor monitoring and leak detection, subsidence monitoring, and weather conditions (wind sock), as well as a description of methods that will be undertaken to monitor salt cavern growth due to undersaturated fluid injection. The plan shall incorporate method(s) for monitoring the salinity of all wastes disposed and the carrier fluid used in aiding the disposal of wastes;

f. the pre-operating requirements of §3127, specifically the submission of a completion report, and the information required therein, prior to accepting, storing, treating, processing or otherwise initiating waste disposal activities;

g. the mechanical integrity pressure and leak test requirements of §3129, including, but not limited to frequency of tests, test methods, submission of pressure and leak test results, notification of test failures and prohibition of waste acceptance during mechanical integrity failure;

h. the cavern configuration and capacity measurement procedures of §3131, including, but not limited to sonar caliper surveys, frequency of surveys, and submission of survey results;

i. the cavern waste disposal capacity exceedance requirements of §3133;

j. the requirements for inactive caverns in §3135;

k. the reporting requirements of §3137, including, but not limited to the information required in monthly waste receipts and operation reports;

l. the record retention requirements of §3139;

m. the closure and post-closure requirements of §3141, including, but not limited to closure plan requirements, notice of intent to close, standards for closure, and post-closure requirements; and

n. any other information pertinent to operation of the salt cavern E&P waste disposal facility, including, but not limited to procedures for waste characterization and testing, waste acceptance, waste storage, waste processing, waste disposal, any waiver for surface siting, monitoring equipment and safety procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3109. Legal Permit Conditions

A. Signatories. All reports required by permit or regulation and other information requested by the Office of Conservation shall be signed as in applications by a person described in §3105.D or §3105.E.

B. Financial Responsibility

1. Closure and Post-Closure. The owner or operator of a non-commercial salt cavern E&P waste disposal facility shall maintain financial responsibility and the resources to close, plug and abandon and, where necessary, for post-closure care of the salt cavern well, salt cavern, and related facility as prescribed by the Office of Conservation. Evidence of financial responsibility shall be by submission of a surety bond, a letter of credit, certificate of deposit, or other instruments acceptable to the Office of Conservation. The amount of funds available shall be no less than the amount identified in the cost estimate of the closure plan of §3141.A and, if required, post-closure plan of §3141.B. Any financial instrument filed in satisfaction of these financial responsibility requirements shall be issued by and drawn on a bank or other financial institution authorized under state or federal law to operate in the State of Louisiana.

2. Insurance. All owners or operators of a salt cavern waste disposal facility shall provide evidence of sudden and accidental pollution liability insurance coverage for damages that may be caused to any property and party by the escape or discharge of any material or waste from the facility. Such evidence shall be provided to the Office of Conservation before the issuance of a permit for a salt cavern waste disposal facility.

a. Insurance responsibility may be evidenced by filing a certificate of sudden and accidental pollution liability insurance (indicating the required coverage is in effect and all deductible amounts applicable to the coverage), a letter of credit, bond, certificate of deposits issued by and drawn on Louisiana banks, or any other evidence of equivalent financial responsibility acceptable to the Office of Conservation.

b. The amount and extent of such sudden and accidental pollution liability insurance responsibility shall not be less than the face amounts per occurrence and/or aggregate occurrences as set by the Office of Conservation. The minimum coverage for sudden and accidental pollution liability insurance shall be \$5,000,000. The Office of Conservation retains the right to increase the minimum amount of insurance coverage as needed to prevent waste and to protect the environment, or the health, safety and welfare of the public.

c. Insurance coverage shall be issued by a company licensed to operate in the State of Louisiana. A copy of the insurance policy subsequently issued with any certificate of insurance is to be immediately filed with the Office of Conservation upon receipt by the operator.

3. Renewal of Financial Responsibility and Insurance. Any approved instrument of financial responsibility and insurance coverage shall be renewable yearly. Documentation of renewals shall be submitted to the Office of Conservation.

C. Duty to Comply. The operator must comply with all conditions of a permit. Any permit noncompliance is a violation of the permit and these rules and regulations and is grounds for enforcement action, permit termination, revocation and possible reissuance, modification, or denial of any future permit renewal applications. It shall be the duty of the operator to prove that continued operation of the salt

cavern waste disposal facility shall not endanger the environment, or the health, safety and welfare of the public.

D. Duty to Halt or Reduce Activity. It shall not be a defense for an owner or operator in an enforcement action to claim it would have been necessary to halt or reduce the permitted activity to maintain compliance with the conditions of the permit.

E. Duty to Mitigate. The owner or operator shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from a noncompliance with the permit or these rules and regulations.

F. Proper Operation and Maintenance

1. The operator shall always properly operate and maintain all facilities and systems of storage, treatment, disposal, injection, withdrawal, and control (and related appurtenances) installed or used to achieve compliance with the permit or these rules and regulations. Proper operation and maintenance include effective performance (including well/cavern mechanical integrity), adequate funding, adequate operation, staffing and training, and adequate controls. This provision requires the operation of back-up, auxiliary facilities, or similar systems when necessary to achieve compliance with the conditions of the permit or these rules and regulations.

2. The operator shall address any unauthorized escape, discharge, or release of any material or waste from the salt cavern waste disposal facility, or part thereof, with a corrective action plan. The plan shall address the cause, delineate the extent, and determine the overall effects on the environment resulting from the escape, discharge, or release. The Office of Conservation shall require the operator to formulate a plan to remediate the escaped, discharged, or released material or waste if the material or waste is thought to have entered or has the possibility of entering an underground source of drinking water.

3. The Office of Conservation may immediately prohibit further operations if it determines that continued operations at a salt cavern waste disposal facility, or part thereof, may cause unsafe operating conditions, or endanger the environment, or the health, safety and welfare of the public. The prohibition shall remain in effect until it is determined that continued operations can and shall be conducted safely. It shall be the duty of the operator to prove that continued operation of the salt cavern waste disposal facility, or part thereof, shall not endanger the environment, or the health, safety and welfare of the public.

G. Inspection and Entry. Inspection and entry at a salt cavern waste disposal facility by Office of Conservation personnel shall be allowed as prescribed in Louisiana R.S. of 1950, Title 30, Section 4.

H. Notification Requirements. The operator shall give written, and where required, verbal notice to the Office of Conservation concerning activities indicated in this subsection.

1. Any change in the principal officers, management, owner or operator of the salt cavern waste disposal facility shall be reported to the Office of Conservation in writing within 10 days of the change.

2. Planned physical alterations or additions to the salt cavern well, salt cavern, surface facility or parts thereof that may constitute a modification or amendment of the permit.

3. Whenever there has been no disposal of waste into a salt cavern for 30 consecutive days or more, the operator shall notify the Office of Conservation in writing within seven days following the thirtieth day of the salt cavern becoming inactive (out of service). The notification shall include the date on which the salt cavern was removed from service, the reason for taking the salt cavern out of service, and the expected date that the salt cavern shall be returned to waste disposal service. See §3135 for additional requirements for inactive caverns.

4. The operator of a new or converted salt cavern well or salt cavern shall not begin waste disposal operations until the Office of Conservation has been notified of the following:

a. well construction or conversion is complete, including submission of the completion report and all supporting information (e.g., as-built diagrams, records, sampling and testing results, well and cavern tests, logs, etc.) required in §3127;

b. a representative of the Commissioner has inspected the well and/or facility; and

c. the operator has received written approval from the Office of Conservation clearly stating salt cavern waste disposal operations may begin.

5. Noncompliance or anticipated noncompliance with the permit or applicable regulations including a failed mechanical integrity pressure and leak test of §3129.

6. Permit Transfer. A permit is not transferable to any person except after giving written notice to and receiving written approval from the Office of Conservation clearly stating that the permit has been transferred. This action may require modification or revocation and re-issuance of the permit to change the name of the operator and incorporate other requirements as may be necessary, including but not limited to financial responsibility.

7. Twenty-Four Hour Reporting

a. The operator shall report any noncompliance that may endanger the environment, or the health, safety and welfare of the public. Any information pertinent to the noncompliance shall be reported to the Office of Conservation by telephone within 24 hours from when the operator becomes aware of the circumstances. A written submission shall also be provided within five days from when the operator becomes aware of the circumstances. The written notification shall contain a description of the noncompliance and its cause, the periods of noncompliance including exact times and dates, and if the noncompliance has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance.

b. The following additional information must also be reported within the 24-hour period:

i. monitoring or other information (including a failed mechanical integrity test of §3129) that suggests the waste disposal operation or disposed waste may cause an endangerment to underground sources of drinking waters, oil, gas, other commercial mineral deposits (excluding the salt), neighboring salt operations of any kind, or movement outside the salt stock or salt cavern;

ii. any noncompliance with a regulatory or permit condition or malfunction of the waste injection/withdrawal system (including a failed mechanical integrity test of

§3129) that may cause fluid migration into or between underground sources of drinking waters or outside the salt stock or salt cavern.

8. The operator shall give written notification to the Office of Conservation upon permanent conclusion of waste disposal operations into a salt cavern. Notification shall be given within seven days after concluding disposal operations.

9. The operator shall give written notification before abandonment (closure) of the salt cavern, salt cavern well, or related surface facility. Abandonment (closure) shall not begin before receiving written authorization from the Office of Conservation.

10. When the operator becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the Office of Conservation, the operator shall promptly submit such facts and information.

I. Duration of Permits

1. Authorization to Operate. Authorization by permit to operate a salt cavern waste disposal facility shall be valid for the life of the facility, unless suspended, modified, revoked and reissued, or terminated for cause as described in §3111.K.

2. Authorization to Drill and Complete. Authorization by permit to drill and complete a new salt cavern well into an existing salt cavern shall be valid for one year from the effective date of the permit. If drilling and well completion is not completed in that time, the permit shall be null and void and the operator must obtain a new permit.

3. Authorization to Convert. Authorization by permit to convert an existing salt cavern well or salt cavern to waste disposal shall remain in effect for six months from the effective date of the conversion permit. If conversion has not begun within that time, the permit shall be null and void and the operator must obtain a new permit.

4. Extensions. The operator shall submit to the Office of Conservation a written request for an extension of the times of §3109.I.2 and §3109.I.3; however, the Office of Conservation shall approve the request only for extenuating circumstances. The operator shall have the burden of proving claims of extenuating circumstances.

J. Compliance Review. Cavern disposal facility permits shall be reviewed at least once every five years to determine compliance with applicable permit requirements and conditions. Commencement of the permit review process for each facility shall proceed as authorized by the Commissioner of Conservation.

K. Additional Conditions. The Office of Conservation may, on a case-by-case basis, impose any additional conditions or requirements as are necessary to protect the environment, the health, safety and welfare of the public, underground sources of drinking waters, oil, gas, or other mineral deposits (excluding the salt), and preserve the integrity of the salt dome.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3111. Permitting Process

A. Applicability. This Section contains procedures for issuing and transferring permits to operate a non-commercial

salt cavern waste disposal facility. Any person required to have a permit shall apply to the Office of Conservation as stipulated in §3105. The Office of Conservation shall not issue a permit before receiving an application form and any required supplemental information showing compliance with these rules and regulations and that is administratively and technically completed to the satisfaction of the Office of Conservation.

B. Notice of Intent to File Application

1. The applicant shall make public notice that a permit application is to be filed with the Office of Conservation. A notice of intent shall be published at least 30 days but not more than 120 days before filing the permit application with the Office of Conservation. The applicant shall publish a new notice of intent if the application is not received by the Office of Conservation within the filing period.

2. The notice shall be published once in the official state journal, the official journal of the parish of the proposed project location, and, if different from the official parish journal, in a journal of general circulation in the area of the proposed project location. The cost for publishing the notice of intent shall be the responsibility of the applicant. The notice shall be published in bold-faced type, be not less than one-fourth page in size, and shall contain the following minimum information:

a. name and address of the permit applicant and, if different, the facility to be regulated by the permit;

b. the geographic location of the proposed project;

c. name and address of the regulatory agency to process the permit action where interested persons may obtain information concerning the application or permit action;

d. a brief description of the business conducted at the facility or activity described in the permit application including the method of storage, treatment, and/or disposal; and

e. the nature and content of the proposed waste stream(s).

C. Application Submission and Review

1. The applicant shall complete, sign, and submit one original application form, with required attachments and documentation, and two copies of the same to the Office of Conservation. The complete application shall contain all information to show compliance with applicable state laws and these rules and regulations.

2. The applicant shall be notified if a representative of the Office of Conservation decides that a site visit is necessary for any reason in conjunction with the processing of the application. Notification may be either oral or written and shall state the reason for the visit.

3. If the Office of Conservation deems an application to be incomplete, deficient of information, or requires additional data, a notice of application deficiency indicating the information necessary to make the application complete shall be transmitted to the applicant.

4. The Office of Conservation shall deny an application if an applicant fails, refuses, is unable to respond adequately to the notice of application deficiency, or if the Office of Conservation determines that the proposed activity cannot be conducted safely. The Office of Conservation shall notify the applicant by certified mail of the decision denying the application.

D. Public Hearing Requirements. A public hearing is required for new applications and shall not be scheduled until administrative and technical review of an application has been completed to the satisfaction of the Office of Conservation.

1. Notice by Office of Conservation

a. Upon acceptance of a permit application as complete and meeting the administrative and technical requirements of these rules and regulations, the Office of Conservation shall fix a time, date, and location for a public hearing. The public hearing shall be held in the parish of the proposed project location. The cost of the public hearing shall be set by LAC 43:XIX.Chapter 7 (Fees, as amended) and is the responsibility of the applicant.

c. The Office of Conservation shall provide notice of a scheduled hearing by mailing a copy of the notice to the applicant, property owners immediately adjacent to the proposed project, operators of existing projects located on or within the salt stock of the proposed project; United States Environmental Protection Agency; Louisiana Department of Wildlife and Fisheries; Louisiana Department of Environmental Quality; Louisiana Office of Coastal Management; Louisiana Office of Conservation, Pipeline Division, Louisiana Department of Culture, Recreation and Tourism, Division of Archaeology; the governing authority for the parish of the proposed project; and any other interested parties.

2. Notice by Applicant

a. Public notice of a hearing shall be published by the applicant in the legal ad section of the official state journal, the official journal of the parish of the proposed project location, and, if different from the official parish journal, in a journal of general circulation in the area of the proposed project location, not less than 30 days before the scheduled hearing.

b. The applicant shall file at least one copy of the complete permit application with the local governing authority of the parish of the proposed project location at least 30 days before the scheduled public hearing to be available for public review.

c. One additional copy of the complete permit application shall be filed by the applicant in a public library in the parish and in close proximity to the proposed project location.

3. Contents. Public notices shall contain the following minimum information:

a. name and address of the permit applicant and, if different, the facility or activity regulated by the permit;

b. name and address of the regulatory agency processing the permit action;

c. name, address, and phone number of a person within the regulatory agency where interested persons may obtain information concerning the application or permit action;

d. a brief description of the business conducted at the facility or activity described in the permit application;

e. a brief description of the public comment procedures and the time and place of the public hearing;

f. a brief description of the nature and purpose of the public hearing.

E. Draft Permit. The Office of Conservation shall prepare a draft permit (Order) after accepting a permit

application as meeting the administrative and technical requirements of these rules and regulations. Draft permits shall be accompanied by a fact sheet, be publicly noticed, and made available for public comment.

F. Fact Sheet. The Office of Conservation shall prepare a fact sheet for every draft permit. It shall briefly set forth principal facts and significant factual, legal, and policy questions considered in preparing the draft permit.

1. The fact sheet may include:

a. a brief description of the type of facility or activity that is the subject of the draft permit or application;

b. the type and proposed quantity of material to be injected;

c. a brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provision;

d. a description of the procedures for reaching a final decision on the draft permit or application including the ending date of the public comment period of §3111.H, the address where comments shall be received, and any other procedures whereby the public may participate in the final decision;

e. the name and telephone number of a person within the permitting agency to contact for additional information.

2. The fact sheet shall be distributed to the permit applicant and, on request, to any interested person.

G Public Hearing. Public hearings for permitting activities shall be held in the parish of the proposed project location. The cost of the public hearing shall be the responsibility of the applicant.

1. The public hearing shall be fact finding in nature and not subject to the procedural requirements of the Louisiana Administrative Procedure Act. All public hearings shall be publicly noticed as required by these rules and regulations.

2. At the hearing, any person may make oral statements or submit written statements and data concerning the application or permit action being the basis of the hearing. Reasonable limits may be set upon the time allowed for oral statements; therefore, submission of written statements may be required. The hearing officer may extend the comment period by so stating before the close of the hearing.

3. A transcript shall be made of the hearing and such transcript shall be available for public review.

H. Public Comments, Response to Comments, and Permit Issuance

1. Any interested person may submit written comments concerning the permitting activity during the public comment period. All comments pertinent and significant to the permitting activity shall be considered in making the final permit decision.

2. The Office of Conservation shall issue a response to all pertinent and significant comments as an attachment to and at the time of final permit decision. The final permit with response to comments shall be made available to the public.

3. The Office of Conservation shall issue a final permit decision within 90 days following the close of the public comment period; however, this time may be extended

due to the nature, complexity, and volume of public comments received.

4. A final permit decision shall be effective on the date of issuance.

5. Approval or the granting of a permit to construct a salt cavern waste disposal facility or salt cavern well shall not become final until a certified copy of a lease or proof of ownership of the property of the proposed project location is submitted to the Office of Conservation.

I. Permit Application Denial

1. The Office of Conservation may refuse to issue, reissue, or reinstate a permit or authorization if an applicant or operator has delinquent, finally determined violations of the Office of Conservation or unpaid penalties or fees, or if a history of past violations demonstrates the applicant's or operator's unwillingness to comply with permit or regulatory requirements.

2. If a permit application is denied, the applicant may request a review of the Office of Conservation's decision to deny the permit application. Such request shall be made in writing and shall contain facts or reasons supporting the request for review.

3. Grounds for permit application denial review shall be limited to the following reasons.

a. The decision is contrary to the laws of the State, applicable regulations, or evidence presented in or as a supplement to the permit application;

b. The applicant has discovered since the permit application public hearing or permit denial, evidence important to the issues that the applicant could not with due diligence have obtained before or during the initial permit application review;

c. There is a showing that issues not previously considered should be examined so as to dispose of the matter; or

d. there is other good ground for further consideration of the issues and evidence in the public interest.

J. Permit Transfer

1. Applicability. A permit may be transferred to a new owner or operator only upon written approval from the Office of Conservation. Written approval must clearly read that the permit has been transferred. It is a violation of these rules and regulations to operate a salt cavern waste disposal facility without a permit or other authorization if a person attempting to acquire a permit transfer allows operation of the salt cavern waste disposal facility before receiving written approval from the Office of Conservation.

2. Procedures

a. The proposed new owner or operator must apply for and receive an operator code by submitting a completed Organization Report (Form OR-1), or subsequent form, to the Office of Conservation.

b. The current operator shall submit an application for permit transfer at least 30 days before the proposed permit transfer date. The application shall contain the following:

i. name and address of the proposed new owner or operator;

ii. date of proposed permit transfer; and

iii. a written agreement between the existing and new owner or operator containing a specific date for transfer

of permit responsibility, insurance coverage, financial responsibility, and liability between them.

c. If no agreement described in §3011.J.2.b.iii above is provided, responsibility for compliance with the terms and conditions of the permit and liability for any violation will shift from the existing operator to the new operator on the date the transfer is approved.

d. The new operator shall submit an application for a change of operator using Form MD-10-R-A, or subsequent form, to the Office of Conservation containing the signatories of §3105.D and E along with the appropriate filing fee.

e. The new operator shall submit evidence of financial responsibility under §3109.B.

f. Any additional information as may be required to be submitted by these regulations or the Office of Conservation.

K. Permit Suspension, Modification, Revocation and Reissuance, Termination. This subsection sets forth the standards and requirements for applications and actions concerning suspension, modification, revocation and reissuance, termination, and renewal of permits. A draft permit must be prepared and other applicable procedures must be followed if a permit modification satisfies the criteria of this subsection. A draft permit, public notification, or public participation is not required for minor permit modifications of §3111.K.5.

1. Permit Actions

a. The permit may be suspended, modified, revoked and reissued, or terminated for cause.

b. The operator shall furnish the Office of Conservation within a predetermined time any information that the Office of Conservation may request to determine whether cause exists for suspending, modifying, revoking and reissuing, or terminating a permit, or to determine compliance with the permit. Upon request, the operator shall furnish the Office of Conservation with copies of records required to be kept by the permit.

c. The Office of Conservation may, upon its own initiative or at the request of any interested person, review any permit to determine if cause exists to suspend, modify, revoke and reissue, or terminate the permit for the reasons specified in §§3111.K.2, 3, 4, 5, and 6. All requests shall be in writing and shall contain facts or reasons supporting the request.

d. If the Office of Conservation decides the request is not justified, the person making the request shall be sent a brief written response giving a reason for the decision. Denials of requests for suspension, modification, revocation and reissuance, or termination are not subject to public notice, public comment, or public hearings.

e. If the Office of Conservation decides to suspend, modify or revoke and reissue a permit under §§3111.K.2, 3, 4, 5, and 6, additional information may be requested and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the Office of Conservation shall require the submission of a new application.

f. The suitability of an existing salt cavern well, salt cavern, or salt cavern waste disposal facility location shall not be considered at the time of permit modification or revocation and reissuance unless new information or

standards suggest continued operation at the site endangers the environment, or the health, safety and welfare of the public which was unknown at the time of permit issuance. If the salt cavern well, salt cavern, or salt cavern waste disposal facility location is no longer suitable for its intended purpose, it shall be closed according to applicable sections of these rules and regulations.

2. Suspension of Permit. The Office of Conservation may suspend the operator's right to accept additional E&P wastes, or to treat, process, store, or dispose such waste until violations are corrected. If violations are corrected, the Office of Conservation may lift the suspension. Suspension of a permit and/or subsequent corrections of the causes for the suspension by the operator shall not preclude the Office of Conservation from terminating the permit, if necessary. The Office of Conservation shall issue a Notice of Violation (NOV) to the operator, by registered mail, return receipt requested, of violations of the permit or these regulations that list the specific violations. If the operator fails to comply with the NOV by correcting the cited violations within the date specified in the NOV, the Office of Conservation shall issue a Compliance Order requiring the violations to be corrected within a specified time and may include an assessment of civil penalties. If the operator fails to take corrective action within the time specified in the Compliance Order, the Office of Conservation shall assess a civil penalty, and shall suspend, revoke, or terminate the permit.

3. Modification or Revocation and Reissuance of Permits. The following are causes for modification and may be causes for revocation and reissuance of permits:

a. Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

b. Information. The Office of Conservation has received information pertinent to the permit. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. Cause shall include any information indicating that cumulative effects on the environment, or the health, safety and welfare of the public are unacceptable.

c. New Regulations

i. The standards or regulations on which the permit was based have been changed by promulgation of new or amended standards or regulations or by judicial decision after the permit was issued and conformance with the changed standards or regulations is necessary for the protection of the environment, or the health, safety and welfare of the public. Permits may be modified during their terms when:

(a) the permit condition requested to be modified was based on a promulgated regulation or guideline;

(b) there has been a revision, withdrawal, or modification of that portion of the regulation or guideline on which the permit condition was based; or

(c) an operator requests modification within 90 days after Louisiana Register notice of the action on which the request is based.

ii. The permit may be modified as a minor modification without providing for public comment when standards or regulations on which the permit was based have been changed by withdrawal of standards or regulations or by promulgation of amended standards or regulations which impose less stringent requirements on the permitted activity or facility and the operator requests to have permit conditions based on the withdrawn or revised standards or regulations deleted from his permit.

iii. For judicial decisions, a court of competent jurisdiction has remanded and stayed Office of Conservation regulations or guidelines and all appeals have been exhausted, if the remand and stay concern that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the operator to have permit conditions based on the remanded or stayed standards or regulations deleted from his permit.

d. Compliance Schedules. The Office of Conservation determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the operator has little or no control and for which there is no reasonable available remedy.

4. Causes for Modification or Revocation and Reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit.

a. Cause exists for termination under §3111.K.6, and the Office of Conservation determines that modification or revocation and reissuance is appropriate.

b. The Office of Conservation has received notification of a proposed transfer of the permit and the transfer is determined not to be a minor permit modification.

c. A determination that the waste being disposed into a salt cavern is not E&P waste as defined in §3101 or LAC 43:XIX.501, or subsequent revisions, either because the definition has been revised or because a previous determination has been changed.

5. Minor Modifications of Permits. The Office of Conservation may modify a permit to make corrections or allowances for changes in the permitted activity listed in this subsection without issuing a draft permit and providing for public participation. Minor modifications may only:

a. correct administrative or make informational changes;

b. correct typographical errors;

c. amend the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities;

d. change an interim compliance date in a schedule of compliance, provided the new date does not interfere with attainment of the final compliance date requirement;

e. allow for a change in ownership or operational control of a salt cavern waste disposal facility where the Office of Conservation determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Office of Conservation;

f. change quantities or types of waste or other material disposed into the salt cavern which are within the capacity of the salt cavern waste disposal facility and, in the judgement of the Office of Conservation, would not interfere with the operation of the facility or its ability to meet other conditions prescribed in the permit, and would not change the waste classification of the disposed material;

g. change construction requirements or plans approved by the Office of Conservation provided that any such alteration is in compliance with these rules and regulations. No such changes may be physically incorporated into construction of the salt cavern well, salt cavern, or surface facility before written approval from the Office of Conservation; or

h. amend a closure or post-closure plan.

6. Termination of Permits

a. The Office of Conservation may terminate a permit during its term for the following causes:

i. noncompliance by the operator with any condition of the permit;

ii. the operator's failure in the application or during the permit issuance process to fully disclose all relevant facts, or the operator's misrepresentation of any relevant facts at any time; or

iii. a determination that continued operation of the permitted activity cannot be conducted in a way that is protective of the environment, or the health, safety and welfare of the public.

b. If the Office of Conservation decides to terminate a permit, such shall only be done after a public hearing.

c. The Office of Conservation may alternatively decide to modify or revoke and reissue a permit for the causes in §3111.K.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3113. Location Criteria

A. No physical structure at a salt cavern waste disposal facility shall be located within 500 feet of a residential, commercial, or public building. Adherence to this requirement may be waived by the owner of the building. For a public building, the waiver shall be provided by the responsible administrative body. Any such waiver shall be in writing and be made part of the permit application. Examples of physical structures include, but are not limited to, the wellhead of the salt cavern well, waste storage, waste transfer and waste processing areas, onsite buildings, pumps, etc. An exception to the 500-foot restriction may be granted upon request for the placement of instruments or equipment required for safety or environmental monitoring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3115. Site Assessment

A. Applicability. This section applies to all applicants, owners and/or operators of salt cavern waste disposal facilities. The applicant, owner and/or operator shall be responsible for showing that disposal of E&P wastes into the salt cavern shall be accomplished using good engineering and geologic practices for salt cavern operations to preserve

the integrity of the salt stock and overlying sediments. This shall include, but not be limited to:

1. an assessment of the geological, geomechanical, geochemical, geophysical properties of the salt stock;

2. stability of the salt cavern design (particularly regarding its size, shape, depth, and operating parameters);

3. physical and chemical characteristics of the waste;

4. the amount of separation between the salt cavern of interest and adjacent caverns and structures within the salt stock; and

5. the amount of separation between the outermost salt cavern wall and the periphery of the salt stock.

B. Geological Studies and Evaluations. The applicant shall do a thorough geological, geophysical, geomechanical, and geochemical evaluation of the salt stock to determine its suitability for waste disposal, stability of the salt cavern under the proposed set of operating conditions, and where applicable, the structural integrity of the salt stock between an adjacent cavern and salt periphery under the proposed set of operating conditions. The applicant shall provide a listing of data or information used to characterize the structure and geometry of the salt stock.

1. Where applicable, the geologic evaluation shall include, but should not be limited to:

a. geologic mapping of the structure of the salt stock and any cap rock;

b. geologic history of salt movement;

c. an assessment of the impact of possible anomalous zones (salt spines, shear planes, etc.) on the salt cavern well or salt cavern;

d. deformation of the cap rock and strata overlying the salt stock;

e. investigation of the upper salt surface and adjacent areas involved with salt dissolution;

f. cap rock formation and any non-vertical salt movement.

2. The applicant shall perform a thorough hydrogeological study on strata overlying the salt stock to determine the occurrence of the lowermost underground source of drinking water immediately above and in the vicinity of the salt stock.

3. The applicant shall investigate regional tectonic activity and the potential impact (including ground subsidence) of the waste disposal project on surface and subsurface resources.

C. Core Sampling.

1. At least one well at the site of the salt cavern waste disposal facility (or the salt dome) shall be or shall have been cored over sufficient depth intervals to yield representative samples of the subsurface geologic environment. This shall include coring of the salt stock and may include coring of overlying formations, including any cap rock. Cores should be obtained using the whole core method. Core acquisition, core handling, and core preservation shall be done according to standard field sampling practices considered acceptable for laboratory tests of recovered cores.

2. Data from previous coring projects may be used instead of actual core sampling provided the data is specific to the salt dome of interest. If site-specific data is unavailable, data may be obtained from sources that are not specific to the area as long as the data can be shown to

closely approximate the properties of the salt dome of interest. It shall be the responsibility of the applicant to make a satisfactory demonstration that data obtained from other sources are applicable to the salt dome of interest.

D. Core Analyses and Laboratory Tests. Analyses and tests shall consider the characteristics of the injected materials and should provide data on the salt's geomechanical, geophysical, geochemical, mineralogical properties, microstructure, and where necessary, potential for adjacent salt cavern connectivity, with emphasis on salt cavern shape and the operating conditions. All laboratory tests, experimentation, and numeric modeling shall be conducted using methods that simulate the proposed operating conditions of the salt cavern. Test methods shall be selected to define the deformation and strength properties and characteristics of the salt stock under salt cavern operating conditions.

E. Area of Review. A thorough evaluation shall be undertaken of both surface and subsurface activities in the defined area of review of the individual salt cavern well or project area that may influence the integrity of the salt stock, salt cavern well, and salt cavern, or contribute to the movement of injected fluids outside the salt cavern, wellbore, or salt stock.

1. Surface Delineation. The area of review for a salt cavern well shall be a fixed radius around the wellbore of not less than one-half mile. Exception shall be noted as shown in §§3115.E.2.c and d below.

2. Subsurface Delineation. At a minimum, the following shall be identified within the area of review:

- a. all known active, inactive, and abandoned wells within the area of review with known depth of penetration into the cap rock or salt stock;
- b. all known water wells within the area of review;
- c. all salt caverns within the salt stock regardless of usage, depth of penetration, or distance to the proposed salt cavern well or salt cavern;
- d. all conventional (dry or room and pillar) mining activity either active or abandoned occurring anywhere within the salt stock regardless of distance to the proposed salt cavern well or salt cavern.

F. Corrective Action

1. For manmade structures identified in the area of review that are not properly constructed, completed, or plugged and abandoned, the applicant shall submit a corrective action plan consisting of such steps, procedures, or modifications as are necessary to prevent the movement of fluids outside the salt cavern or into underground sources of drinking water.

a. Where the plan is adequate, the provisions of the corrective action plan shall be incorporated into the permit as a condition.

b. Where the plan is inadequate, the Office of Conservation shall require the applicant to revise the plan or the application shall be denied.

2. Any permit issued for an existing salt cavern well or salt cavern for which corrective action is required shall include a schedule of compliance for complete fulfillment of the approved corrective action procedures. If the required corrective action is not completed as prescribed in the schedule of compliance, the permit shall be suspended,

modified, revoked and possibly reissued, or terminated according to these rules and regulations.

3. No permit shall be issued for a new salt cavern well until all required corrective action obligations have been fulfilled.

4. The Office of Conservation may prescribe additional requirements for corrective action beyond those submitted by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3117. Cavern and Surface Facility Design Requirements

A. This section provides general standards for design of salt caverns to assure that project development can be conducted in a reasonable, prudent, and a systematic manner and shall stress physical and environmental safety. The cavern design shall be modified where necessary to conform with good engineering and geologic practices.

B. Cavern Spacing Requirements

1. Property Boundary. The wellhead and borehole shall be located such that the salt cavern at its maximum diameter shall not extend closer than 100 feet to the property boundary of the salt cavern waste disposal facility.

2. Adjacent Structures Within the Salt. As measured in any direction, the minimum separation between walls of adjacent salt caverns or between the walls of the salt cavern and any manmade structure within the salt stock shall not be less than 200 feet.

3. Salt Periphery. Without exception or variance to these rules and regulations, the minimum separation between the walls of a salt cavern at any point and the periphery of the salt stock shall not be less than 300 feet.

C. Cavern Coalescence. The Office of Conservation may permit the use of coalesced salt caverns for waste disposal. It shall be the duty of the applicant, owner or operator to demonstrate that operation of coalesced salt caverns under the proposed cavern operating conditions can be accomplished in a physical and environmentally safe manner. The intentional subsurface coalescing of adjacent salt caverns must be requested by the applicant, owner or operator in writing and be approved by the Office of Conservation before beginning or resumption of salt cavern waste disposal operations. Approval for salt cavern coalescence shall only be considered upon a showing by the applicant, owner or operator that the stability and integrity of the salt cavern and salt stock shall not be compromised and that salt cavern waste disposal operations can be conducted in a physical and environmentally safe manner. If the design of adjacent salt caverns should include approval for the subsurface coalescing of adjacent salt caverns, the minimum spacing requirement of §3117.B.2 above shall not apply to the coalesced salt caverns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3119. Well Construction and Completion

A. General Requirements

1. All materials and equipment used in the construction of the salt cavern well and related

appurtenances shall be designed and manufactured to exceed the operating requirements of the specific project. Consideration shall be given to depth and lithology of all subsurface geologic zones, corrosiveness of formation fluids, hole size, anticipated ranges and extremes of operating conditions, physical and behavioral characteristics of the injected and disposed material under the specific range of operating conditions, subsurface temperatures and pressures, type and grade of cement, and projected life of the salt cavern well.

2. All salt cavern wells and salt caverns shall be designed, constructed, completed, and operated to prevent the escape of injected or disposed materials out of the salt stock, into an underground source of drinking water, or otherwise create or cause pollution or endanger the environment or public safety. All phases of design, construction, completion, and testing shall be prepared and supervised by qualified personnel.

B. Open Borehole Surveys

1. Open hole wireline surveys that delineate subsurface lithologies, formation tops (including top of cap rock and salt), formation fluids, formation porosity, and fluid resistivities shall be done on wells from total well depth to either ground surface or base of conductor pipe. Wireline surveys shall be presented with gamma-ray and, where applicable, spontaneous potential curves. All surveys shall be presented on a scale of one inch to one hundred feet and a scale of five inches to one hundred feet.

2. Gyroscopic multi-shot surveys of the borehole shall be taken at intervals not to exceed every 100 feet of drilled borehole.

3. Where practicable, caliper logging to determine borehole size for cement volume calculations shall be done before running casings.

C. Casing and Cementing. Except as specified below, the wellbore of the salt cavern shall be cased, completed, and cemented according to rules and regulations of the Office of Conservation and good petroleum industry engineering practices for wells of comparable depth that are applicable to the same locality of the salt cavern. Design considerations for casings and cementing materials and methods shall address the nature and characteristics of the subsurface environment, the nature of injected and disposed materials, the range of conditions under which the well, cavern, and facility shall be operated, and the expected life of the well including closure and post-closure.

1. Cementing shall be by the pump-and-plug method or another method approved by the Office of Conservation and shall be circulated to the surface. Circulation of cement may be done by staging.

a. For purposes of these rules and regulations, circulated (cemented) to the surface shall mean that actual cement returns to the surface were observed during the primary cementing operation. A copy of the cementing company's job summary or cementing ticket indicating returns to the surface shall be submitted as part of the pre-operating requirements of §3127.

b. If returns are lost during cementing, the owner or operator shall have the burden of showing that sufficient cement isolation is present to prevent the upward movement of injected or disposed material into zones of porosity or transmissive permeability in the overburden along the

wellbore and to protect underground sources of drinking water.

2. Surface casing shall be set to a depth into a confining bed below the base of the lowermost underground source of drinking water. Surface casing shall be cemented to surface where practicable.

3. All salt cavern wells shall be cased with a minimum of two casings cemented into the salt. The surface casing shall not be considered one of the two casings of this subparagraph.

4. New wells drilled into an existing salt cavern shall have an intermediate casing and a final cemented casing set into the salt. The final cemented casing shall be set a minimum distance of 300 feet into the salt and shall make use of a sufficient number of casing centralizers.

5. The following applies to wells existing in salt caverns before the effective date of these rules and regulations and are being converted to salt cavern waste disposal. If the design of the well or cavern precludes having distinct intermediate and final casing seats cemented into the salt, the wellbore shall be cased with two concentric casings run from the surface of the well to a minimum distance of 300 feet into the salt. The inner casing shall be cemented from its base to surface.

6. The intermediate and final casings shall be cemented from their respective casing seats to the surface when practicable.

D. Casing and Casing Seat Tests. When doing tests under this paragraph, the owner or operator shall monitor and record the tests by use of a surface readout pressure gauge and a chart or a digital recorder. All instruments shall be properly calibrated and in good working order. If there is a failure of the required tests, the owner or operator shall take necessary corrective action to obtain a passing test.

1. Casing. After cementing each casing, but before drilling out the respective casing shoe, all casings shall be hydrostatically pressure tested to verify casing integrity and the absence of leaks. For surface casing, the stabilized test pressure applied at the surface shall be a minimum of 500 pounds per square inch gauge (PSIG). The stabilized test pressure applied at the surface for all other casings shall be a minimum of 1,000 PSIG. All casing test pressures shall be maintained for one hour after stabilization. Allowable pressure loss is limited to five percent of the test pressure over the stabilized test duration.

2. Casing Seat. The casing seat and cement of intermediate and production casings shall each be hydrostatically pressure tested after drilling out the casing shoe. At least 10 feet of formation below the respective casing shoes shall be drilled before the test. The test pressure applied at the surface shall be the greater of 1,000 PSIG or 125 percent of the maximum predicted salt cavern operating pressure. The appropriate test pressure shall be maintained for one hour after pressure stabilization. Allowable pressure loss is limited to five percent of the test pressure over the stabilized test duration.

3. Casing or casing seat test pressures shall never exceed a pressure gradient equivalent to 0.80 PSI per foot of vertical depth at the respective casing seat or exceed the known or calculated fracture gradient of the appropriate subsurface formation. The test pressure shall never exceed

the rated burst or collapse pressures of the respective casings.

E. Cased Borehole Surveys. A cement bond with variable density log (or similar cement evaluation tool) and a temperature log shall be run on all casings. The Office of Conservation may consider requests for allowances for wireline logging in large diameter casings or justifiable special conditions.

1. It shall be the duty of the well applicant, owner or operator to prove adequate cement isolation on all cemented casings. Remedial cementing shall be done before proceeding with further well construction, completion, or conversion if adequate cement isolation between the salt cavern well and other subsurface zones cannot be demonstrated.

2. A casing inspection log (or similar log) shall be run on the final cemented casing.

F. Hanging Strings. Without exception or variance to these rules and regulations, all salt cavern wells shall be completed with at least two hanging strings. One hanging string shall be for waste injection; the second hanging string shall be for displacing fluid out of the salt cavern from below the blanket material. Hanging strings shall be designed with a collapse, burst, and tensile strength rating conforming to all expected operating conditions, including flow induced vibrations. The design shall also consider the physical and chemical characteristics of fluids placed into and/or withdrawn from the salt cavern.

G. Wellhead Components and Related Connections. All wellhead components, valves, flanges, fittings, flowlines, and related connections shall be manufactured of steel. All components shall be designed with a test pressure rating of at least 125 percent of the maximum pressure that could be exerted at the surface. Selection and design criteria for components shall consider the physical and chemical characteristics of fluids placed into and/or withdrawn from the salt cavern under the specific range of operating conditions, including flow induced vibrations. The fluid withdrawal side of the wellhead (if applicable) shall be rated for the same pressure as the waste injection side. All components and related connections shall be maintained in good working order and shall be periodically inspected by the operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3121. Operating Requirements

A. Cavern Roof

1. Without exception or variance to these rules and regulations, no salt cavern shall be used for E&P waste disposal if the salt cavern roof has grown above the top of the salt stock. The operation of an already permitted salt cavern shall cease and shall not be allowed to continue if information becomes available that shows this condition exist. The Office of Conservation may order the well and salt cavern closed according to an approved closure and post-closure plan.

2. The Office of Conservation may consider the use of a salt cavern for waste disposal if information exists that shows the salt cavern roof has grown vertically above the depth of the salt cavern well's deepest cemented casing seat. However, the salt cavern roof shall be below the top of the

salt stock, the owner/operator shall meet the provisions for proving well/cavern mechanical integrity of §3129 and cavern configuration and capacity of §3131, and the owner/operator shall submit and carry out a plan for doing cavern roof monitoring. It shall be the duty of the well applicant or owner or operator to prove that operation of the salt cavern under this condition shall not endanger the environment, or the health, safety and welfare of the public.

B. Blanket Material. Before beginning waste disposal operations, a blanket material shall be placed into the salt cavern to prevent unwanted leaching of the cavern roof. The blanket material shall consist of crude oil, diesel, mineral oil, or other fluid possessing similar noncorrosive, nonsoluble, low-density properties. The blanket material shall be placed between the outermost hanging string and innermost cemented casing of the salt cavern and shall be of sufficient volume to coat the entire cavern roof. The cavern roof and level of the blanket material shall be monitored at least once every five years by running a density interface survey or using an alternative method approved by the Office of Conservation.

C. Remedial Work. No remedial work or repair work of any kind shall be done on the salt cavern well or salt cavern without prior authorization from the Office of Conservation. The provision for prior authorization shall also extend to doing mechanical integrity pressure and leak tests and sonar caliper surveys. The owner or operator or its agent shall submit a valid work permit request form (Form UIC-17 or successor). Before beginning well or cavern remedial work, the pressure in the salt cavern shall be relieved, as practicable, to zero pounds per square inch as measured at the surface.

D. Well Recompletion/Casing Repair. The following applies to salt cavern wells where remedial work results from well upgrade, casing wear, or similar condition. For each paragraph below, a casing inspection log shall be done on the entire length of the innermost cemented casing in the well before doing any casing upgrade or repair. Authorization from the Office of Conservation shall be obtained before beginning any well recompletion, repair, upgrade, or closure. A salt cavern well that cannot be repaired or upgraded shall be properly closed according to §3141.

1. Liner. A liner may be used to recomplete or repair a well with severe casing damage. The liner shall be run from the well surface to the base of the innermost cemented casing. The liner shall be cemented over its entire length and shall be successfully pressure tested.

2. Casing Patch. Internal casing patches shall not be used to repair severely corroded or damaged casing. Casing patches shall only be used for repairing or covering isolated pitting, corrosion, or similar localized damage. The casing patch shall extend a minimum of 10 feet above and below the area being repaired. The entire casing shall be successfully pressure tested.

E. Multiple Well Caverns. No newly permitted well shall be drilled into an existing salt cavern until the cavern pressure has been relieved, as practicable, to zero pounds per square inch as measured at the surface.

F. Cavern Allowable Operating Pressure.

1. The maximum allowable salt cavern injection pressure shall be calculated at a depth referenced to the

shallower of either the salt cavern roof or the well's deepest cemented casing seat. When measured at the surface and calculated with respect to the appropriate reference depth, the maximum allowable salt cavern injection pressure shall never exceed a pressure gradient of 0.80 PSI per foot of vertical depth.

2. The salt cavern shall never be operated at pressures over the maximum allowable injection pressure defined above, exceed the maximum allowable pressure as may be established by permit, or exceed the rated burst or collapse pressure of all well tubulars (cemented or hanging strings) even for short periods, including pressure pulsation peaks, abnormal operating conditions, well or cavern tests.

3. The maximum injection pressure for a salt cavern shall be determined after considering the properties of all injected fluids, the physical properties of the salt stock, well and cavern design, neighboring activities within and above the salt stock, etc.

4. Shut-in pressure at the surface on the fluid withdrawal string or any annulus shall not be greater than 200 PSIG.

G Cavern Displaced Fluid Management. The operator shall maintain a strict accounting of the fluid volume displaced from the salt cavern. Fluid displaced from a salt cavern shall be managed in a way that is protective of the environment. Such methods may include subsurface disposal via a properly permitted Class II disposal well, onsite storage for recycling as a waste carrier fluid, or any other method approved by the appropriate regulatory authority.

H. Waste Storage. Without exception or variance to these rules and regulations, all E&P wastes shall be stored in aboveground storage tanks. Storing wastes in open pits, cells, or similar earthen or open structures is strictly prohibited. Storage tanks shall be constructed of fiberglass, metal, or other similar material. All waste storage areas shall be built on concrete slabs/pads, be enclosed by retaining walls of required construction, and possess a means for the collection of spilled fluids.

I. Time Limits for Onsite Waste Storage. E&P waste accepted for disposal shall not be held in storage at the facility for more than 14 consecutive days. The Office of Conservation may grant a waiver to this requirement for extenuating circumstances only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3123. Safety

A Emergency Action Plan. A plan outlining procedures for personnel at the facility to follow in case of an emergency shall be prepared and submitted as part of the permit application. The plan shall contain emergency contact telephone numbers, procedures and specific information for facility personnel to respond to a release, upset, incident, accident, or other site emergency. A copy of the plan shall be kept at the facility and shall be reviewed and updated as needed.

B Controlled Site Access. All operators of salt cavern waste disposal facilities shall install and maintain a chain link fence of at least six feet in height around the entire facility property. All points of entry into the facility shall be

through by a lockable gate system. All gates of entry shall be locked except during hours of operation.

C Facility Identification. An identification sign shall be placed at all gated entrances to the salt cavern waste disposal facility. All lettering on the sign shall be of at least one-inch dimensions and kept in a legible condition. The sign shall be of durable construction. Minimum information to include on the sign shall be the facility name, site address, daytime and nighttime telephone numbers, and shall be made applicable to the activity of the facility according to the following statement:

"This facility is authorized by the Office of Conservation, Injection and Mining Division to receive, store, treat, process, and/or dispose of E&P wastes into a salt cavern by means of subsurface injection. Improper operations, spills or violations at this facility should be reported to the Office of Conservation at (225) 342-5515."

D. Personnel. Trained and competent personnel shall be on duty and stationed as appropriate at the salt cavern waste disposal facility during all hours and phases of facility operation. Facility operation includes, but shall not be limited to, periods of waste acceptance, waste offloading, waste transfer, waste transport vehicle washing, waste storage, waste treatment, waste processing, and waste injection/disposal.

E. Wellhead Protection and Identification

1. A protective barrier shall be installed and maintained around wellheads, pipings, and above ground structures that may be vulnerable to physical or accidental damage by mobile equipment or trespassers.

2. An identifying sign shall be placed at the wellhead of each salt cavern well and shall include at a minimum the operator's name, well/cavern name and number, well serial number, section-township-range, and any other information required by the Office of Conservation. The sign shall be of durable construction with all lettering kept in a legible condition.

F. Valves and Flowlines

1. All valves, flowlines, flanges, fittings, and related connections shall be manufactured of steel. All components shall be designed with a test pressure rating of at least 125 percent of the maximum pressure that could be exerted at the surface. All components and related connections shall be maintained in good working order and shall be periodically inspected by the operator.

2. All valves, flowlines for waste injection, fluid withdrawal, and any other flowlines shall be designed to prevent pressures over maximum operating pressure from being exerted on the salt cavern well and salt cavern and prevent backflow or escape of injected waste material. The fluid withdrawal side of the wellhead shall have the same pressure rating as the waste injection side.

3. All flowlines for injection and withdrawal connected to the wellhead of the salt cavern well shall be equipped with remotely operated shut-off valves and shall also have manually operated positive shut-off valves at the wellhead. All remotely operated shut-off valves shall be fail-safe and tested and inspected according to §3123.L.

G Alarm Systems. Manual and automatically activated alarms shall be installed at all salt cavern waste disposal facilities. All alarms shall be audible and visible from any

normal work location within the facility. The alarms shall always be maintained in proper working order. Automatic alarms designed to activate an audible and a visible signal shall be integrated with all pressure, flow, heat, fire, cavern overflow, leak sensors and detectors, emergency shutdown systems, or any other safety system. The circuitry shall be designed such that failure of a detector or sensor shall activate a warning.

H. Emergency Shutdown Valves. Manual and automatically actuated emergency shutdown valves shall be installed on all systems of salt cavern injection and withdrawal and any other flowline going into or out from each salt cavern wellhead. All emergency shutdown valves shall be fail-safe and shall be tested and inspected according to §3123.L.

1. Manual controls for emergency shutdown valves shall be designed for operation from a local control room, at the salt cavern well, any remote monitoring and control location, and at a location that is likely to be accessible to emergency response personnel.

2. Automatic emergency shutdown valves shall be designed to actuate on detection of abnormal pressuring of the waste injection system, abnormal increases in flow rates, responses to any heat, fire, cavern overflow, leak sensors and detectors, loss of pressure or power to the salt cavern well, salt cavern, or valves, or any abnormal operating condition.

I. Vapor Monitoring and Leak Detection. The operator shall develop a vapor monitoring and leak detection plan as required in §3125.C below to detect the presence of noxious vapors, combustible gases, or any potentially ignitable substances.

J. Gaseous Vapor Control. Where necessary, the operator shall install and maintain in good working order a system for managing the uncontrolled escape of noxious vapors, combustible gases, or any potentially ignitable substances within the salt cavern waste disposal facility. Any vapor control system shall be in use continuously during facility operation.

K. Fire Detection/Suppression. All salt cavern waste disposal facilities shall have a system or method of fire detection and fire control or suppression. Emphasis for fire detection shall be at waste transfer, waste storage, waste process areas, and any area where combustible materials or vapors might exist. The fire detection system shall be integrated into the automatic alarm and emergency shutdown systems of the facility.

L. Systems Test and Inspection

1. Safety Systems Test. The operator shall function-test all critical systems of control and safety at least once every six months. This includes testing of alarms, test tripping of emergency shutdown valves ensuring their closure times are within design specifications, and ensuring the integrity of all electrical, pneumatic, and/or hydraulic circuits. Tests results shall be documented and kept onsite for inspection by an agent of the Office of Conservation.

2. Visual Facility Inspections. Visual inspections of the entire salt cavern waste disposal facility shall be conducted each day the facility is operating. At a minimum, this shall include inspections of the wellhead, flowlines, valves, waste transfer areas, waste storage areas, waste processing areas, signs, perimeter fencing, and all other

areas of the facility. Problems discovered during the inspections shall be corrected timely.

M. Retaining Walls and Spill Containment

1. Retaining walls, curbs, or other spill containment systems shall be designed, built, and maintained around appropriate areas of the facility to collect, retain, and/or otherwise prevent the escape of wastes or other materials that may be released through facility upset or accidental spillage. Retaining walls shall be constructed of reinforced concrete. All retaining walls shall be built to a level that will provide sufficient capacity for holding at least 110 percent of the volume of each tank. All storage areas shall be kept free of debris, trash, or other materials that may constitute a fire hazard.

2. At a minimum, the following areas shall be protected by retaining walls and/or spill containment:

- a. waste acceptance areas;
- b. waste unloading and waste transfer areas;
- c. waste storage areas;
- d. waste transport vehicle and transport container decontamination/washout areas;
- e. waste treatment and waste processing areas;
- f. curbed area around the wellhead of each salt cavern well; and
- g. any other areas of the facility the Office of Conservation deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3125. Monitoring Requirements

A. Pressure Gauges, Pressure Sensors, Flow Sensors

1. Pressure gauges that show pressure on the fluid injection string, fluid withdrawal string, and any annulus of the well, including the blanket material annulus, shall be installed at each wellhead. Gauges shall be designed to read in 10 PSI increments. All gauges shall be properly calibrated and shall always be maintained in good working order. The pressure valves onto which the pressure gauges are affixed shall have one-half inch female fittings.

2. Pressure sensors designed to automatically close all emergency shutdown valves in response to a preset pressure (high/low) shall be installed and properly maintained for all fluid injection and fluid withdrawal strings, and blanket material annulus.

3. Flow sensors designed to automatically close all emergency shutdown valves in response to abnormal increases in cavern injection and withdrawal flow rates shall be installed and properly maintained on each salt cavern well.

B. Continuous Recording Instruments. Continuous recording instrumentation shall be installed and properly maintained for each salt cavern well. Continuous recordings may consist of circular charts, digital recordings, or similar type. Mechanical charts shall not exceed a clock period of 24-hour duration. The chart shall be selected such that its scaling is of sufficient sensitivity to record all fluctuations of pressure or any other parameter being monitored. The chart shall be scaled such that the parameter being recorded is 30 percent to 70 percent of full scale. Instruments shall be housed in weatherproof enclosures when located in areas exposed to climatic conditions. All fluid volumes shall be

determined by metering or an alternate method approved by the Office of Conservation. Minimum data recorded shall include the following:

1. wellhead pressures on both the fluid injection and fluid withdrawal strings;
2. wellhead pressure on the blanket material annulus;
3. volume and flow rate of waste injected;
4. volume of fluid withdrawn;
5. salinity of injected material including the carrier fluid; and
6. density of injected material.

C. Vapor Monitoring and Leak Detection.

1. Without exception or variance to these rules and regulations, the operator shall develop a monitoring plan designed to detect the presence of a buildup of noxious vapors, combustible gases, or any potentially ignitable substances in the atmosphere resulting from the storage, treatment, processing, and disposal of waste at the facility. Variations in topography, atmospheric conditions typical to the area, characteristics of the wastes, nearness of the facility to homes, schools, commercial establishments, etc. shall be considered in developing the monitoring plan. The plan shall be submitted as part of the permit application and should include provisions for the strategic placement of detection devices at various areas of the facility such as:

- a. waste transfer, waste storage, and waste process areas;
- b. salt cavern wellhead(s). An exception may be allowed for salt cavern wells in close proximity to each other, thus, the monitoring plan may include installation of detection devices around the perimeter of the well field; and
- c. any other areas of the facility where may be appropriate.

2. All detection devices or systems identified in the monitoring plan shall include their integration into the facility's automatic alarm system. Activation of a detection device or system alarm shall cause a cessation of all waste acceptance, waste transfer, waste processing, and waste injection until the reason for the alarm activation has been determined and corrected.

D. Subsidence Monitoring. The owner or operator shall prepare and carry out a plan to monitor ground subsidence at and in the vicinity of the waste disposal cavern(s). Frequency of subsidence monitoring shall be scheduled to occur annually during the same period. A monitoring report shall be prepared and submitted to the Office of Conservation after completion of each monitoring event.

E. Wind Sock. At least one wind sock shall be installed at all salt cavern waste disposal facilities. The wind sock shall be visible from any normal work location within the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3127. Pre-Operating Requirements: Completion Report

A. The operator of a salt cavern waste disposal facility shall not accept, store, treat, process, or otherwise initiate waste disposal operations until all required information has been submitted to the Office of Conservation and the operator has received written authorization from the Office of Conservation clearly stating waste disposal operations may begin.

B. The operator shall submit a report to the Office of Conservation that describes, in detail, the work performed resulting from any approved permitted activity. A report shall include all information relating to the work and information that documents compliance with these rules and the approved permitted activity. The report shall be prepared and submitted for any approved work relating to the construction, installation and completion of the surface portion of the facility and information on the construction, conversion, or workover of the salt cavern well or salt cavern.

C. Where applicable to the approved permitted activity, information in a completion report shall include:

1. all required state reporting forms containing original signatures;
2. revisions to any operation or construction plans since approval of the permit application;
3. as-built schematics of the layout of the surface portion of the facility;
4. as-built piping and instrumentation diagram(s);
5. copies of applicable records associated with drilling, completing, working over, or converting the salt cavern well and/or salt cavern including a daily chronology of such activities;
6. revised certified location plat of the salt cavern well if the actual location of the well differs from the location plat submitted with the salt cavern well application;
7. as-built subsurface diagram of the salt cavern well and salt cavern labeled with appropriate construction, completion, or conversion information, i.e., depth and diameter of all tubulars, depths of top of cap rock and salt, and top and bottom of the cavern;
8. as-built diagram of the surface wellhead labeled with appropriate construction, completion, or conversion information, i.e., valves, gauges, and flowlines;
9. results of any core sampling and testing;
10. results of well or cavern tests such as casing and casing seat tests, well/cavern mechanical integrity pressure and leak tests;
11. copies of any wireline logging such as open hole and/or cased hole logs, cavern sonar survey;
12. any additional data documenting the work performed for the permitted activity, information requested by the Office of Conservation, or any additional reporting requirements imposed by the approved permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3129. Well and Salt Cavern Mechanical Integrity Pressure and Leak Tests

A. The operator of the salt cavern well and cavern shall have the burden of meeting the requirements for well and cavern mechanical integrity. The Office of Conservation shall be notified in writing at least seven days before any scheduled mechanical integrity test. The test may be witnessed by Office of Conservation personnel but must be witnessed by a qualified third party.

B. Frequency of Tests. Without exception or variance to these rules and regulations, all salt cavern wells and salt caverns shall be tested for and satisfactorily prove mechanical integrity before being placed into initial waste

disposal service. After the initial test for well and cavern mechanical integrity, all subsequent tests shall occur at least once every five years. Additionally, mechanical integrity testing shall be done for the following reasons regardless of test frequency:

1. after any alteration to any cemented casing or cemented liner;
2. after performing any remedial work to reestablish well or cavern integrity;
3. before suspending salt cavern waste disposal operations for reasons other than a lack of well/cavern mechanical integrity if it has been more than three years since the last mechanical integrity test;
4. before well/cavern closure; or
5. whenever the Office of Conservation believes a test is warranted.

C. Test Method

1. All mechanical integrity pressure and leak tests shall demonstrate no significant leak in the salt cavern, wellbore, casing seat, and wellhead. Test schedules and methods shall consider neighboring activities occurring at the salt dome to reduce any influences those neighboring activities may have on the salt cavern being tested.

2. Tests shall be conducted using the nitrogen-brine interface method with density interface and temperature logging. An alternative test method may be used if the alternative test can reliably demonstrate well/cavern mechanical integrity and with prior written approval from the Office of Conservation.

3. The salt cavern pressure shall be stabilized before beginning the test. Stabilization shall be reached when the rate of cavern pressure change is no more than 10 PSIG during 24 hours.

4. The stabilized test pressure applied at the surface shall be a minimum of 125 percent of the maximum cavern surface operating pressure or 500 PSIG whichever is greater. However, at no time shall the test pressure calculated with respect to the shallowest occurrence of either the cavern roof or deepest cemented casing seat and as measured at the surface exceed a pressure gradient of 0.80 PSI per foot of vertical depth. The salt cavern well or salt cavern shall never be subjected to pressures over the maximum allowable operating pressure or exceed the rated burst or collapse pressure of all well tubulars (cemented or hanging strings) even for short periods during testing.

5. A mechanical integrity pressure and leak test shall be run for at least 24 hours after cavern pressure stabilization and must be of sufficient time duration to ensure a sensitive test. All pressures shall be monitored and recorded continuously throughout the test. Continuous pressure recordings may be achieved through mechanical charts or may be recorded digitally. Mechanical charts shall not exceed a clock period of 24-hour duration. The chart shall be scaled such that the test pressure is 30 percent to 70 percent of full scale. All charts shall be selected such that its scaling is of sufficient sensitivity to record all fluctuations of pressure, temperature, or any other monitored parameter.

D. Submission of Pressure and Leak Test Results. One complete copy of the mechanical integrity pressure and leak test results shall be submitted to the Office of Conservation within 30 days of test completion. The report shall include the following minimum information:

1. current well and cavern completion data;
2. description of the test procedure including pretest preparation;
3. copies of all wireline logs performed during testing;
4. tabulation of measurements for pressure, volume, temperature, etc.;
5. interpreted test results showing all calculations including error analysis and calculated leak rates; and
6. any information the owner or operator of the salt cavern determines is relevant to explain the test procedure or results.

E. Mechanical Integrity Test Failure

1. Without exception or variance to these rules and regulations, a salt cavern well or salt cavern that fails a test for mechanical integrity shall be immediately taken out of waste disposal service. The failure shall be reported to the Office of Conservation according to the Notification Requirements of §3109.H. The owner or operator shall investigate the reason for the failure and shall take appropriate steps to return the salt cavern well or salt cavern to a full state of mechanical integrity. A salt cavern well or salt cavern is considered to have failed a test for mechanical integrity for the following reasons:

- a. failure to maintain a change in test pressure of no more than 10 PSIG over a 24-hour period;
- b. not maintaining nitrogen-brine interface levels according to standards applied in the salt cavern storage industry; or
- c. fluids are determined to have escaped from the salt cavern well or salt cavern during waste disposal operations.

2. Written procedures for rehabilitation of the salt cavern well or salt cavern, extended salt cavern monitoring, or abandonment (closure and post-closure) of the salt cavern well or salt cavern shall be submitted to the Office of Conservation within 30 days of mechanical integrity test failure.

3. Upon reestablishment of mechanical integrity of the salt cavern well or salt cavern and before returning either to waste disposal service, a new mechanical integrity pressure and leak test shall be performed that demonstrates mechanical integrity of the salt cavern well or salt cavern. The owner or operator shall submit the new test results to the Office of Conservation for written approval before resuming waste disposal operations.

4. If a salt cavern well or salt cavern fails to demonstrate mechanical integrity and where mechanical integrity cannot be reestablished, the Office of Conservation may require the owner or operator to begin closure of the well or cavern within six months according to an approved closure and post-closure plan.

5. If a salt cavern fails mechanical integrity and where rehabilitation cannot be accomplished within six months, the Office of Conservation may waive the six-month closure requirement if the owner or operator is engaged in a salt cavern remediation study and implements an interim salt cavern monitoring plan. The owner or operator must seek written approval from the Office of Conservation before implementing a salt cavern monitoring program. The basis for the Office of Conservation's approval shall be that any waiver granted shall not endanger the environment, or the health, safety and welfare of the public. The Office of

Conservation may establish a time schedule for salt cavern rehabilitation, cessation of interim salt cavern monitoring, and eventual salt cavern closure and post-closure activities.

F. Prohibition of Waste Acceptance During Mechanical Integrity Failure.

1. Salt cavern waste disposal facilities with a single cavern are prohibited from accepting E&P wastes at the facility until mechanical integrity of the salt cavern well or salt cavern is documented to the satisfaction of the Office of Conservation.

2. Salt cavern waste disposal facilities with multiple salt caverns may continue accepting E&P wastes if the other cavern(s) at the facility exhibit mechanical integrity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3131. Cavern Configuration and Capacity Measurements

A. Sonar caliper surveys shall be performed on all salt caverns. With prior approval of the Office of Conservation, the operator may use another similar proven technology designed to determine cavern configuration and measure cavern capacity as a substitute for a sonar survey.

B. Frequency of Surveys. A sonar caliper survey shall be performed and submitted as part of the salt cavern waste disposal permit application. All subsequent surveys shall occur at least once every five years. Additional surveys shall be done for any of the following reasons regardless of frequency:

1. before commencing salt cavern closure operations;
2. whenever leakage into or out of the salt cavern is suspected;
3. after performing any remedial work to reestablish salt cavern well or salt cavern integrity; or
4. whenever the Office of Conservation believes a survey is warranted.

C. Submission of Survey Results. One complete copy of each survey shall be submitted to the Office of Conservation within 30 days of survey completion.

1. Survey readings shall be taken a minimum of every 10 feet of vertical depth. Sonar reports shall contain the following minimum information and presentations:

- a. tabulation of incremental and total salt cavern volume for every survey reading;
- b. tabulation of the salt cavern radii at various azimuths for every survey reading;
- c. tabulation of the maximum salt cavern radii at various azimuths;
- d. graphical plot of Cavern Depth versus Volume;
- e. graphical plot of the maximum salt cavern radii;
- f. vertical cross sections of the salt cavern at various azimuths drawn to an appropriate horizontal and vertical scale;
- g. vertical cross section overlays comparing results of current survey and previous surveys;
- h. (optional)-isometric or 3-D shade profile of the salt cavern at various azimuths and rotations.

2. The information submitted resulting from use of an approved alternative survey method to determine cavern configuration and measure cavern capacity shall be determined based on the method or type of survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3133. Cavern Capacity Limits

A. The waste volume permitted for disposal into a salt cavern may not exceed 90 percent of the salt cavern volume measured from the sonar caliper survey submitted as part of the permit application. Upon reaching the permitted waste volume, the owner or operator shall remove the salt cavern from further waste disposal service and within seven days notify the Office of Conservation of such. Due to the potential for salt cavern enlargement resulting from disposal of undersaturated fluids, the operator may request a modification to the permit to allow for a continued waste disposal based on the findings of a new cavern capacity survey. If the Office of Conservation denies the request for permit modification, the operator shall begin preparations for salt cavern closure per approved updated closure and post-closure plan. The operator shall maintain a strict accounting of the waste volume disposed into the salt cavern, the fluid volume displaced from the salt cavern, and the salt cavern volume.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3135. Inactive Caverns

A. The operator shall comply with the following minimum requirements when there has been no disposal of waste into a salt cavern for 30 consecutive days or more, regardless of the reason:

1. notify the Office of Conservation as per the requirements of §3109.H.3;
2. disconnect all flowlines for injection to the salt cavern well;
3. maintain continuous monitoring of salt cavern pressure, fluid withdrawal, and other parameters required by the permit;
4. maintain and demonstrate salt cavern well and salt cavern mechanical integrity if disposal operations were suspended for reasons other than a lack of mechanical integrity;
5. maintain compliance with financial responsibility requirements of these rules and regulations;
6. any additional requirements of the Office of Conservation to document the salt cavern well and salt cavern shall not endanger the environment, or the health, safety and welfare of the public during the period of salt cavern inactivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3137. Monthly Operating Reports

A. The operator shall submit monthly waste receipts and operation reports to the Office of Conservation. Monthly reports are due no later than 15 days following the end of the reporting month.

B. The operator shall have the option of submitting monthly reports by any of the following methods:

1. the appropriate Office of Conservation supplied form;

2. an operator generated form of the same format and containing the same data fields as the Office of Conservation's form; or

3. electronically in a format meeting the Office of Conservation's requirements for electronic data submission.

C. Monthly reports shall contain the following minimum information:

1. name and location of the salt cavern waste disposal facility;
2. source and type of waste disposed;
3. wellhead pressures (PSIG) on all injection and withdrawal hanging strings;
4. wellhead pressure (PSIG) on the blanket material annulus;
5. density in pounds per gallon (PPG) of injected material;
6. volume in barrels (BBLs) and flow rate in barrels per minute (BPM) of injected material;
7. volume (BBLs) and disposition of all fluids withdrawn or displaced from the salt cavern;
8. chloride concentration in milligrams per liter (Mg/L) of injected materials including the carrier fluid;
9. changes in the blanket material fluid volume;
10. results of any monitoring program required by permit or compliance action;
11. summary of any test of the salt cavern well or salt cavern;
12. summary of any workover performed during the month including minor well maintenance;
13. description of any event which triggers an alarm or shutdown device and the response taken;
14. description of any event that exceeds operating parameters for annulus pressure or injection pressure as may be specified in the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3139. Record Retention

A. The owner or operator shall retain copies of all records, data, and information concerning the design, permitting, construction, and operation of the salt cavern well, salt cavern, and related surface facility. Records shall be retained throughout the operating life of the salt cavern waste disposal facility and for five years following conclusion of any post-closure care requirements. Records, data, and information shall include, but shall not be limited to the permit application, cementing (primary and remedial), wireline logs, drill records, casing records, casing pressure tests, well recompletion records, well/cavern mechanical integrity tests, cavern capacity and configuration surveys, surface construction, sources of wastes disposed, waste manifests, waste testing results, post-closure activities, corrective action, etc. All documents relating to any waste accepted and rejected for disposal shall be kept at the facility and shall be available for inspection by agents of the Office of Conservation at any time.

B. Should there be a change in the owner or operator of the salt cavern waste disposal facility, copies of all records identified in the previous paragraph shall be transferred to the new owner or operator. The new owner or operator shall then have the responsibility of maintaining such records.

C. The Office of Conservation may require the owner or operator to deliver the records to the Office of Conservation at the conclusion of the retention period. If so, the records shall be retained at a location designated by the Office of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3141. Closure and Post-Closure

A. Closure. The owner or operator shall close the salt cavern well, salt cavern, surface facility or parts thereof as approved by the Office of Conservation. Closure shall not begin without written authorization from the Office of Conservation.

1. Closure Plan. Plans for closure of the salt cavern well, salt cavern, and related surface facility shall be submitted as part of the permit application. The closure plan shall meet the requirements of these rules and regulations and be acceptable to the Office of Conservation. The obligation to implement the closure plan survives the termination of a permit or the cessation of salt cavern waste disposal operations or related activities. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. The Office of Conservation may modify a closure plan where necessary.

2. Closure Plan Requirements. The owner or operator shall review the closure plan annually to determine if the conditions for closure are still applicable to the actual conditions of the salt cavern well, salt cavern, or surface facility. Any revision to the plan shall be submitted to the Office of Conservation for approval. At a minimum, a closure plan shall address the following:

a. assurance of financial responsibility as required in §3109.B.1. All instruments of financial responsibility shall be reviewed each year before its renewal date according to the following process.

i. A detailed cost estimate for adequate closure of the entire salt cavern waste disposal facility (salt cavern well, salt cavern, surface appurtenances, etc.) shall be prepared by a qualified, independent third party and submitted to the Office of Conservation by the date specified in the permit.

ii. The closure plan and cost estimate shall include provisions for closure acceptable to the Office of Conservation and shall reflect the costs for the Office of Conservation to complete the approved closure of the facility.

iii. After reviewing the closure cost estimate, the Office of Conservation may increase, decrease or allow the amount to remain the same.

iv. Documentation from the operator showing that the required financial instrument has been renewed shall be received each year by the date specified in the permit. When an operator is delinquent in submitting documentation of financial instrument renewal, the Office of Conservation shall initiate procedures to take possession of funds guaranteed by the financial instrument and suspend or

revoke the operating permit. Permit suspensions shall remain in effect until renewal documentation is received and accepted by the Office of Conservation;

b. a prediction of the pressure build-up in the salt cavern following closure;

c. an analysis of potential pathways for leakage from the salt cavern, cemented casing shoe, and wellbore. Consideration shall be given to site specific elements of geology, waste characteristics, salt cavern geometry and depth, salt cavern pressure build-up over time due to salt creep and other factors inherent to the salt stock and/or salt dome;

d. procedures for determining the mechanical integrity of the salt cavern well and salt cavern before closure;

e. removal and proper disposal of any waste or other materials remaining at the facility;

f. closing, dismantling, and removing all equipment and structures located at the surface (including site restoration) if such equipment and structures will not be used for another purpose at the same disposal facility;

g. the type, number, and placement of each wellbore or salt cavern plug including the elevation of the top and bottom of each plug and the method of placement of the plugs;

h. the type, grade, and quantity of material to be used in plugging;

i. a description of the amount, size, and location (by depth) of casing and any other well construction materials to be left in the salt cavern well;

j. any proposed test or measurement to be made before or during closure.

3. Notice of Intent to Close.

a. The operator shall review the closure plan before seeking authorization to begin closure activities to determine if the conditions for closure are still relevant to the actual conditions of the salt cavern well, salt cavern, or surface facility. Revisions to the method of closure reflected in the plan shall be submitted to the Office of Conservation for approval no later than the date on which the notice of closure is required to be submitted as shown in the subparagraph below.

b. The operator shall notify the Office of Conservation in writing at least 30 days before the expected closure of a salt cavern well, salt cavern, or surface facility. Notification shall be by submission of a request for a work permit. At the discretion of the Office of Conservation, a shorter notice period may be allowed.

4. Standards for Closure. The following are minimum standards for closing the salt cavern well or salt cavern. The Office of Conservation may require additional standards prior to actual closure.

a. After permanently concluding waste disposal operations into the salt cavern but before closing the salt cavern well or salt cavern, the owner or operator shall:

i. observe and accurately record the shut-in salt cavern pressures and salt cavern fluid volume for an appropriate time or a time specified by the Office of

Conservation to provide information regarding the salt cavern's natural closure characteristics and any resulting pressure buildup;

ii. using actual pre-closure monitoring data, show and provide predictions that closing the salt cavern well or salt cavern as described in the closure plan will not result in any pressure buildup within the salt cavern that could adversely effect the integrity of the salt cavern well, salt cavern, or any seal of the system.

b. Before closure, the owner or operator shall do mechanical integrity pressure and leak tests to ensure the integrity of both the salt cavern well and salt cavern.

c. Before closure, the owner or operator shall remove and properly dispose of any free oil or blanket material remaining in the salt cavern well or salt cavern.

d. Upon permanent closure, the owner or operator shall plug the salt cavern well with cement in a way that will not allow the movement of fluids into or between underground sources of drinking water or outside the salt stock. Placement of cement plugs shall be accomplished by using standard petroleum industry practices for downhole well abandonment. Each plug shall be appropriately tagged and pressure tested for seal and stability before closure is completed.

e. Upon successful completion of the closure, the owner or operator shall identify the surface location of the abandoned well with a permanent marker inscribed with the operator's name, well name and number, serial number, section-township-range, date plugged and abandoned, and acknowledgment that the well and salt cavern were used for disposal of E&P waste.

5. Closure Report. The owner or operator shall submit a closure report to the Office of Conservation within 30 days after closure of the salt cavern well, salt cavern, surface facility, or part thereof. The report shall be certified as accurate by the owner or operator and by the person charged with overseeing the closure operation (if other than the owner or operator). The report shall contain the following information:

a. detailed procedures of the closure operation. Where actual closure differed from the plan previously approved, the report shall include a written statement specifying the differences between the previous plan and the actual closure;

b. all state regulatory reporting forms relating to the closure activity; and

c. any information pertinent to the closure activity including test or monitoring data.

B. Post-Closure. Plans for post-closure care of the salt cavern well, salt cavern, and related surface facility shall be submitted as part of the permit application. The post-closure plan shall meet the requirements of these rules and regulations and be acceptable to the Office of Conservation. The obligation to implement the post-closure plan survives the termination of a permit or the cessation of salt cavern waste disposal operations or related activities. The requirement to maintain and implement an approved post-closure plan is directly enforceable regardless of whether the

requirement is a condition of the permit. The Office of Conservation may modify a post-closure plan where necessary.

1. The owner or operator shall review the post-closure plan annually to determine if the conditions for post-closure are still applicable to actual conditions. Any revision to the plan shall be submitted to the Office of Conservation for approval. At a minimum, a post-closure plan shall address the following:

a. assurance of financial responsibility as required in §3109.B.1. All instruments of financial responsibility shall be reviewed each year before its renewal date according to the following process.

i. A detailed cost estimate for adequate post-closure care of the entire salt cavern waste disposal facility shall be prepared by a qualified, independent third party and submitted to the Office of Conservation by the date specified in the permit.

ii. The post-closure care plan and cost estimate shall include provisions acceptable to the Office of Conservation and shall reflect the costs for the Office of Conservation to complete the approved post-closure care of the facility.

iii. After reviewing the post-closure cost estimate, the Office of Conservation may increase, decrease or allow the amount to remain the same.

iv. Documentation from the operator showing that the required financial instrument has been renewed must be received each year by the date specified in the permit. When an operator is delinquent in submitting documentation of financial instrument renewal, the Office of Conservation shall initiate procedures to take possession of the funds guaranteed by the financial instrument and suspend or revoke the operating permit. Any permit suspension shall remain in effect until renewal documentation is received and accepted by the Office of Conservation;

b. any plans for monitoring, corrective action, site remediation, site restoration, etc., as may be necessary.

2. Where necessary and as an ongoing part of post-closure care, the owner or operator shall continue the following activities:

a. complete any corrective action or site remediation resulting from the operation of a salt cavern waste disposal facility;

b. conduct any groundwater monitoring or subsidence monitoring required by the permit until pressure in the salt cavern displays a trend of behavior that can be shown to pose no threat to salt cavern integrity, underground sources of drinking water, or other natural resources of the state;

c. complete any site restoration.

3. The owner or operator shall retain all records as required in §3139 for five years following conclusion of post-closure requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

Part XIX. Office of Conservation

Subpart 1. Statewide Order No. 29-B

Chapter 5. Off-site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated From Drilling and Production of Oil and Gas Wells

NOTE: Onsite disposal requirements are listed in LAC 43:XIX, Chapter 3.

§501. Definitions

Exploration and Production Waste (E&P Waste) Drilling wastes, salt water, and other wastes associated with the exploration, development, or production of crude oil or natural gas wells and which is not regulated by the provisions of, and, therefore, exempt from the Louisiana Hazardous Waste Regulations and the Federal Resource Conservation and Recovery Act, as amended. E&P Wastes include, but are not limited to the following.

Waste Type	E&P Waste Description
01	Salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations, process fluids generated by approved salvage oil operators who only receive oil (BS&W) from oil and gas leases, and nonhazardous natural gas plant processing waste fluid which is or may be commingled with produced formation water.
02	Oil-base drilling wastes (mud, fluids and cuttings)
03	Water-base drilling wastes (mud, fluids and cuttings)
04	Completion, workover and stimulation fluids
05	Production pit sludges
06	Storage tank sludge from production operations, onsite and commercial saltwater disposal facilities, DNR permitted salvage oil facilities (that only receive waste oil [B, S, & W] from oil and gas leases), and sludges generated by service company and commercial facility or transfer station wash water systems
07	Produced oily sands and solids
08	Produced formation fresh water
09	Rainwater from firewalls, ring levees and pits at drilling and production facilities
10	Washout water and residual solids generated from the cleaning of containers that transport E&P Waste and are not contaminated by hazardous waste or material; washout water and solids (E&P Waste Type 10) is or may be generated at a commercial facility or transfer station by the cleaning of a container holding a residual amount (no more than 1 barrel) of E&P Waste
11	Washout pit water and residual solids from oilfield related carriers and service companies that are not permitted to haul hazardous waste or material
12	Nonhazardous Natural gas plant processing waste solids.
13	(Reserved)
14	Pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pigging waste, i.e., waste fluids/solids generated from the cleaning of a pipeline
15	E&P Wastes that are transported from permitted commercial facilities and transfer stations to permitted commercial treatment and disposal facilities, except those E&P Wastes defined as Waste Types 01 and 06
16	Crude oil spill clean-up waste
50	Salvageable hydrocarbons bound for permitted salvage oil operators
99	Other E&P Waste not described above (shipment to a commercial facility or transfer station must be pre-approved prior to transport)

Salt Cavern Waste Disposal Facility Any public, private, or commercial property, including surface and subsurface lands and appurtenances thereto, used for receiving, storing, and/or processing oil and gas exploration and production waste for disposal into a solution-mined salt cavern.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§503. General Requirement for Generators

A. - F.2. ...

3. Prior to shipment and disposal at commercial land treatment facilities, natural gas plant processing waste solids (gas plant waste - Waste Type 12) must be analyzed for the chemical compound benzene (C₆H₆). Testing must be performed by a DEQ certified laboratory in accordance with procedures presented in the *Laboratory Manual for the Analysis of E&P Waste* (Department of Natural Resources, August 9, 1988, or latest revision).

F.4. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 29:

§505. General Requirements for Commercial Facilities and Transfer Stations

A. ...

B. Commercial land treatment facilities may not receive, store, treat or dispose of natural gas plant processing waste solids (Waste Type 12) that exceed the MPC criteria of §549.C.7.a for total benzene (3198 mg/kg) unless the company has demonstrated to the commissioner that Waste Type 12 can be pretreated to below the applicable MPC prior to land treatment. Such demonstration shall be considered a major modification of any existing permit and will require compliance with the permitting procedures of §§519, 527, and 529, including the submission of an application and public participation. The E&P waste management and operations plan required in §515 shall clearly indicate how the E&P Waste storage and treatment system will minimize the release of benzene (e.g., enclosed tanks, enclosed treatment equipment, vapor recovery systems, etc.). Such demonstration shall also include proof of solicitation from DEQ regarding applicable required air permitting for the existing and amended land treatment system.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2813 (December 2000), amended LR 29:

§507. Location Criteria

A. Commercial facilities and transfer stations may not be located in any area:

1. within one-quarter mile of a public water supply water well or within 1,000 feet of a private water supply well for facilities permitted after January 1, 2002;

2. - 5. ...

6. where such area, or any portion thereof, has been designated as wetlands by the U.S. Corps of Engineers during, or prior to, initial facility application review, unless

the applicable wetland and DNR Coastal Management Division coastal use permits are obtained;

A.7 - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2817 (December 2000), amended LR 27:1902 (November 2001), LR 29:

§511. Financial Responsibility

A. - E.1. ...

2. The insurer further certifies the following with respect to the insurance described in LAC 43:XIX.511.E.1.

E.2. - H. ...

§519. Permit Application Requirements for Commercial Facilities

A. - C.4.c. ...

d. all public supply water wells and private water supply wells within one mile of the proposed facility;

5. - 6. ...

7. documentation of compliance with the applicable location criteria of §507.A.5 and 6, with regard to flood zones and wetland areas;

8. - 21. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2813 (December 2000), amended LR 27:1905 (November 2001), LR 29:

§523. Permit Application Requirements for Land Treatment Systems

A. - C.5. ...

D. An explanation of the proposed E&P Waste management and operations plan with reference to the following topics:

D.1. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2813 (December 2000), amended LR 27:1906 (November 2001), LR 29:

§525. Permit Application Requirements for Other Treatment and Disposal Options

A. - C.5. ...

D. An explanation of the proposed E&P Waste management and operations plan with reference to the following topics:

D.1. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1907 (November 2001), amended LR 29:

§535. Notification Requirements

A. - F. ...

G The operator of a commercial salt cavern E&P waste storage well and facility shall provide a corrective action plan to address any unauthorized escape, discharge or release of any material, fluids, or E&P waste from the well or facility, or part thereof. The plan shall address the cause, delineate the extent, and determine the overall effects on the environment resulting from the escape, discharge or release. The Office of Conservation shall require the operator to formulate a plan to remediate the escaped, discharged or released material, fluids or E&P waste if the material, fluids,

or E&P waste is thought to have entered or has the possibility of entering an underground source of drinking water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1909 (November 2001), LR 29:

§547. Commercial Exploration and Production Waste Treatment and Disposal Options

A. - A.5. ...

6. Cavern Disposal. The utilization of a solution-mined salt cavern for the disposal of E&P waste fluids and solids. Applicants for permits and operators of commercial E&P waste salt cavern disposal wells must comply with the requirements of this Chapter (LAC 43:XIX.501 et seq) and the applicable requirements of Statewide Order No. 29-M-2, LAC 43:XVII, 3101 et seq. (see §555).

A.7. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1910 (November 2001), LR 29:

§555. Requirements for Cavern Disposal

A. Applicants for new commercial solution-mined salt cavern facilities to receive and dispose of E&P waste and operators of such existing facilities must comply with the administrative and technical criteria of LAC 43:XIX, Subpart 1, Chapter 5 (§501 et seq.) as well as the applicable definitions, administrative criteria and technical criteria of LAC 43:XVII, Subpart 4, Chapter 31 (§3101 et seq., Disposal of Exploration and Production Waste in Solution-Mined Salt Caverns).

B. The application for a new commercial salt cavern for the disposal of E&P waste shall include, but may not be limited to the following information:

1. The general provisions of LAC 43:XVII.3103;
2. An application shall contain the information required in LAC 43:XVII.3107, as follows:
 - a. §3107.B – Administrative Information;
 - b. §3107.C – Maps and Related Information;
 - c. §3107.D – Area of Review;
 - d. §3107.E – Technical Information.
3. The legal permit conditions required in LAC 43:XVII, 3109, as follows:
 - a. §3109.A – Signatories;
 - b. §3109.C – Duty to Comply;
 - c. §3109.D – Duty to Halt or Reduce Activity;
 - d. §3109.E – Duty to Mitigate;
 - e. §3109.F – Proper Operation and Maintenance;
 - f. §3109.G – Inspection and Entry;
 - g. §3109.H. 3, 4, 7b, 8, 9 and 10 – Notification Requirements;
 - h. §3109.I – Duration of Permits;
 - i. §3109.J – Compliance Review;
 - j. §3109.K – Additional Conditions.
4. The location criteria of Statewide Order No. 29-M-2, LAC 43:XVII.3113.
5. The site assessment requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3115.
6. The cavern and surface facility design requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3117.

7. The well construction and completion requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3119.

8. The operating requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3121.

9. The safety requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3123.

10. The monitoring requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3125.

11. The pre-operating and completion report requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3127.

12. The well and salt cavern mechanical integrity pressure and leak test requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3129.

13. The requirements for determining cavern configuration and measuring cavern capacity in Statewide Order No. 29-M-2, LAC 43:XVII.3131.

15. The limits on cavern capacity in Statewide Order No. 29-M-2, LAC 43:XVII.3133.

16. The requirements for inactive caverns in Statewide Order No. 29-M-2, LAC 43:XVII.3135.

17. The monthly reporting requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3137.

18. The record retention requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3139.

19. The applicable closure and post-closure requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3141.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§565. Resource Conservation and Recovery of Exploration and Production Waste

A. - E.4.b. ...

F. Testing Criteria for Reusable Material

* E&P Waste when chemically treated (fixated) shall, in addition to the criteria set forth be acceptable as reusable material with a pH range of 6.5 to 12 and an electrical conductivity of up to 50 mmhos/cm, provided such reusable material passes leachate testing requirements for chlorides in §565.F above and leachate tests for metals in §565.F above.

** The leachate testing method for TPH, chlorides and metals is included in the *Laboratory Manual for the Analysis of E&P Waste* (Department of Natural Resources, August 9, 1988, or latest revision).

G. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1916 (November 2001), LR 29:

In accordance with the provisions of R.S. 49:940 et seq. and R.S. 30:4, notice is hereby given that the Commissioner of Conservation will conduct a public hearing at 10 am, Monday, January 27, 2003, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

All interested parties will be afforded the opportunity to submit data, views, or arguments regarding these new and amended regulations, orally or in writing at said public hearing in accordance with R. S. 49:953. Written comments will be accepted until 4:30 pm, Monday, February 3, 2003, at Office of Conservation, Injection and Mining Division, P

James H. Welsh
Commissioner of Conservation

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Disposal of Exploration
and Production Waste**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This new rule, Statewide Order No. 29-M-2 and an amendment of Statewide Order No. 29-B, LAC 43:XIX.501 et seq., will result in initial collection of approximately \$2,914 in application fees and hearing fees (2 Applications) by the Office of Conservation in FY 02-03. For subsequent years, two facilities would pay annual regulatory fees in the amount of \$11,300 (\$5,650 per facility). Local governmental units will not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

James H. Welsh
Commissioner
0212#091

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Fees (LAC 43:XIX.703)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby proposes to amend the established application fees for public hearings.

The text of this proposed Rule may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Family Impact Statement

In accordance with R.S. 49:972, the following statements are submitted after consideration of the impact of the proposed Rule on family as defined therein.

1. The proposed Rules will have no effect on the stability of the family.

2. The proposed Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The proposed Rules will have no effect on the functioning of the family.

4. The proposed Rules will have no effect on family earnings and family budget.

5. The proposed Rules will have no effect on the behavior and personal responsibility of children.

6. Family or local government is not required to perform any function contained in the proposed Rules.

Comments and views regarding the proposed fees will be accepted until 4:30 p.m., Monday, February 3, 2003. Comments should be directed, in writing, to Engineering Division, P.O. Box 94275, Baton Rouge, LA 70804-9275.

A public hearing will be held at 9 a.m., Tuesday, January 28, 2003 in the Hearing Room, located on the First Floor, LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh
Commissioner of Conservation

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed amendment to Statewide Order No. 29-R-02/03 will result in an increase of collections by the Louisiana Office of Conservation of \$49,700 in Application Fees for Public Hearings by increasing these fees from \$700 per application to \$755 per application, for a total Application Fees fiscal impact from the present \$2,669,374 to \$2,710,074. The application fee increase of up to 8.5 percent was authorized by the passage of Act No. 97 of the 2002 First Extraordinary Session. The application Fee for Public Hearings increase was calculated in the original FEIS submitted for the Amendment to LAC 43:XIX, Subpart 2, Chapter 7, Statewide Order No. 29-R-02/03 Fee Schedule, and published in the *Louisiana Register* on August 20, 2002, but the corresponding text increasing the Application Fee for Public hearings from \$700 to \$755 was inadvertently omitted from the referenced Fee Schedule. Local governmental units will not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendment to Statewide Order No. 29-R-02/03 will result in an 8.5 percent increase of collections by the Louisiana Office of Conservation in Application Fees for Public hearings from \$700 to \$755 (from \$2,699,374 to \$2,719,074), assessed to industries under the jurisdiction of the Office of Conservation, as authorized by the passage of Act No. 97 of the 2002 First Extraordinary Session of the Legislature.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Felix J. Boudreaux
Assistant Commissioner
0212#052

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Examiners of Bar Pilots for the Port of New Orleans

Bar Pilot Regulations
(LAC 46:LXXVI.Chapters 11-16)

Editor's Note: This Notice of Intent was originally printed on pages 1740-1750 of the October 2001 edition of the *Louisiana Register*. The Rule text has not been changed.

The Louisiana Legislature formed the Board of Examiners of Bar Pilots for the Port of New Orleans for the purpose of establishing Rules, regulations and requirements for holding examinations for all applicants who have registered with them for the posts of bar pilots; to establish standards for recommendation by the Board of Examiners of bar pilots for the Port of New Orleans to the Governor of the state of Louisiana for appointment as bar pilots who, pursuant to R.S. 34:941 et seq., have the duty to pilot sea-going vessels into and out of the entrances of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waterways of the Gulf of Mexico; to establish procedures in conformity with the requirements of the Administrative Procedure Act for investigating and conducting hearings relative to incidents and/or complaints of pilot misconduct; to establish certain minimum standards of conduct, including conduct relative to neglect of duty, drunkenness, carelessness, habitual intemperance, substance abuse, incompetency, unreasonable absence from duty, and general bad conduct of bar pilots; to provide a uniform set of Rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways under the jurisdiction of the Associated Branch Pilots for the Port of New Orleans; and to insure compliance by the Board of Examiners with the Public Meetings Law. These Rules and regulations are enacted to accomplish those purposes required by the Legislature and to protect the public by ensuring available, safe and competent pilotage of vessels on the waterways under the jurisdiction of this board of examiners.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXVI. Steamship Pilots

Subpart 3. Bar Pilots of the Port of New Orleans

Chapter 11. General Provisions

§1101. Authority

A. As mandated by R.S. 34:945.C.1, these rules and regulations are issued by the Board of Examiners of bar pilots for the Port of New Orleans in accordance with the Administrative Procedure Act under R.S. 49:950, et seq. for the purpose of adopting rules, regulations and requirements for holding examinations for all applicants who have registered with them for the posts of bar pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1102. Purpose

A. The purposes of these rules and regulations are as follows:

1. to establish standards for recommendation by the Board of Examiners of Bar Pilots for the Port of New Orleans to the Governor of the State of Louisiana for appointment as bar pilots who, pursuant to R.S. 34:941 et seq., have the duty to pilot sea-going vessels into and out of the entrances of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waterways of the Gulf of Mexico.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1103. Definitions

A. The following terms as used in these rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act Cthe Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Application Cthe written application supplied by the Board of Examiners to an applicant who desires to become a bar pilot for the Port of New Orleans.

Board of Examiners or *Board* Cthe Board of Examiners of Bar Pilots for the Port of New Orleans, established in R.S. 34:942.

Bar Pilot or *Pilot* Ca bar pilot for the Port of New Orleans, as designated in R.S. 34:943.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1104. Severability

A. If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these Rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1105. Effective Date

A. These Rules and regulations shall be in full force and effective 90 days after final publication in the *Louisiana Register*. All bar pilots and bar pilot candidates shall be provided with a copy of these rules and regulations as well as any amendments, after the rules and regulations are adopted by the Board of Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, L

§1106. Qualifications of Pilots

A. No person shall be recommended to the governor for appointment as a Bar Pilot unless the applicant:

1. is a qualified elector of the State of Louisiana;
2. has served at least 12 months next preceding the date of his application in a pilot boat at the mouth of the

Mississippi River or other entrances into the Gulf of Mexico or other outside waters from the Port of New Orleans;

3. has successfully passed the examination given by the board of examiners, as required by R.S. 34:948;

4. owns or has made a binding legal agreement to acquired as owner or part owner of at least one decked pilot boat of not less than 50 tons burden, which is used and employed exclusively as a pilot boat, as required by R.S. 34:930;

5. is a high school graduate or, in lieu thereof, holds a third mate's license;

6. has served at least 1 year at sea on a sea-going vessel of not less than 1600 gross tons in the deck department;

7. has successfully passed a physical examination which in the judgment of the Board of Examiners includes those standards, such as vision, color perception and hearing tests, to perform duties as a bar pilot;

8. is of good moral character; and

9. shall have completed satisfactorily an apprenticeship program which culminates in a cubbing period of not less than 9 months duration handling vessels over the routes of the bar pilots under the supervision of not less than 25 licensed state bar pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1107. Minimum Requirements

A. The Board of Examiners shall review, and if found satisfactory, approve the apprenticeship program of the applicant, the minimum requirements of which shall be as follows: the applicant must set forth in detail the names of the vessels handled, dates handled, the direction of travel, size, draft, and type of vessel, and the name of the supervising bar pilot. During the period of apprenticeship the applicant shall handle vessels on not less than 650 occasions, two-thirds of which shall be at night.

B. The board of examiners will review the number and times of vessels handled, the size, draft, and type of vessels and the conditions under which the applicant has performed the apprenticeship in order to determine if the applicant has had sufficient exposure as to enable the board of examiners to make a determination of the applicant's competence and ability to perform the duties of a bar pilot.

C. The Board of Examiners shall prescribe the form of the application and required documentary proof of the applicant's eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1108. Bond

A. No person shall assume the position of bar pilot until he shall have first taken the oath prescribed by law and has furnished a bond in favor of the Governor in the amount of \$2,000 conditioned on the faithful performance of his duties imposed upon him as a bar pilot. This bond shall be approved by the Board of Commissioners of the Port of New Orleans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

Chapter 13. Pilots

Subchapter A. General Provisions

§1301. Authority

A. As mandated by R.S. 34:945.c.1, these Rules and regulations are issued in accordance with the Administrative Procedure Act under R.S. 49:950 et seq. for the purpose of establishing minimum standards of conduct for bar pilots and for the proper and safe pilotage of sea-going vessels into and out of the entrance of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with outside waters of the Gulf of Mexico, including the entrance of the New Orleans Tidewater Channel at the western shore of the Chandeleur Sound off Point Chicot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1302. Purpose

A. The purposes of these Rules and regulations are as follows:

1. to establish certain minimum standards of conduct, including conduct relative to neglect of duty, drunkenness, carelessness, habitual intemperance, substance abuse, incompetency, unreasonable absence from duty, and general bad conduct of bar pilots;

2. to provide a uniform set of Rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways referred to in §1101.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1303. Definitions

A. The following terms as used in these Rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act The Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Board of Examiners or *Board* The Board of Examiners of Bar Pilots for the Port of New Orleans, established in R.S. 34:942.

Bar Pilot or *Pilot* A bar pilot for the Port of New Orleans, as designated in R.S. 34:943.

Services of a Bar Pilot Any advice or assistance with respect to pilotage by the commissioned bar pilot or by his authorized representative, including but not limited to advice concerning weather, channel conditions, or other navigational conditions.

Waterways The entrance into and out of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waters of the Gulf of Mexico, including the entrance of the New Orleans Tidewater Channel at the western shore of the Chandeleur sound off Point Chicot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1304. Investigations And Enforcement

A. All complaints reported to the board shall be considered for investigation. A complaint under the provisions of §1304.A through §1304.F is defined as:

1. any written complaint involving a bar pilot commissioned for the Port of New Orleans;

2. any reported incident involving a bar pilot commissioned for the Port of New Orleans while piloting a vessel; or

3. any other event involving a bar pilot commissioned for the Port of New Orleans that, in the discretion of any member of the board, justifies further investigation.

B. The board may appoint an investigating officer to investigate the complaint and report to the board.

C. If the board, or its designated investigating officer, is of the opinion that the complaint, if true, is sufficient to justify a further investigation, it shall appoint an investigating officer, or authorize its designated investigating officer to conduct a full investigation of the complaint.

D. Once authorized under §1304.C, the investigating officer, who may be an active or retired member of the Associated Branch Pilots of the Port of New Orleans, Louisiana, and who may be a member of the Board, shall make a full and complete investigation of the complaint. He shall be assisted by an attorney, named as independent prosecutor by the board. In the event that the Investigating Officer, as contemplated by either §1304.B or §1304.C, is an active member of the board, he shall be recused from any participation in the decision of the case.

E. If the investigating officer is of the opinion that the conduct in question is not sufficient to justify further proceedings, he shall make a reasoned report to the board, which may accept or reject his recommendation.

F. If the investigating officer is of the opinion that the conduct complained of is sufficient to justify further proceedings and the board has accepted his recommendations, or if the board has rejected his recommendation to dismiss the complaint, he shall give notice to the respondent, by registered mail, of the facts or conduct on which the complaint is based, and offer the respondent an opportunity to show compliance with the laws or regulations allegedly violated. If, in the opinion of the investigating officer, the respondent is able to demonstrate such compliance, then the investigating officer shall make a report to the board, recommending to the board that the complaint be dismissed. The board may accept or reject the recommendation of the investigating officer.

G. If the respondent is unable to demonstrate such compliance, or if the board rejects the recommendation of the investigating officer to dismiss the complaint, the investigating officer shall initiate proceedings by filing a written administrative complaint with the board, which shall be signed by the investigating officer.

H. The administrative complaint shall name the accused bar pilot as respondent in the proceedings. It shall also set forth, in separately numbered paragraphs, the following:

1. a concise statement of material facts and matters alleged and to be proven by the investigating officer, including the facts giving rise to the board's jurisdiction over the respondent;

2. the facts constituting legal cause under law for administrative action against the respondent;

3. the statutory or regulatory provisions alleged to have been violated by respondent.

I. The administrative complaint shall conclude with a request for the administrative sanction sought by the investigating officer, and shall state the name, address, and telephone number of administrative complaint counsel engaged by the board to present the case at the evidentiary hearing before the board.

J. The board may either accept or reject the administrative complaint.

K. If it rejects the administrative complaint, the case may be either dismissed or referred back to the investigating officer for further investigation.

L. If the board accepts the administrative complaint, the board shall docket the administrative complaint and schedule the administrative complaint for hearing before the board not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the investigating officer or respondent pursuant to a showing of proper grounds. In the event the respondent's commission as a bar pilot for the port of New Orleans has been suspended by the board pending hearing, the evidentiary hearing on the administrative complaint shall be noticed and scheduled not more than 45 days after the filing of the administrative complaint.

M. A written notice of the administrative complaint and the time, date and place of the scheduled hearing thereon shall be served upon the respondent by registered, return receipt requested mail, as well as by regular first class mail, at the most current address for the respondent reflected in the official records of the board, or by personal delivery of the administrative complaint to the respondent. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held, and shall be accompanied by a certified copy of the administrative complaint.

N. The case shall be prosecuted by the independent prosecutor, also referred to administrative complaint counsel, who shall handle the case to its conclusion. He shall be entirely independent of the authority of the board in going forward with the matter, and may conduct such further investigation, and prepare and try the case in such manner as he may deem appropriate.

O. Within 15 days of service of the administrative complaint, or such longer time as the board, on motion of the respondent, may permit, the respondent may answer the administrative complaint, admitting or denying each of the separate allegations of fact and law set forth therein. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that the respondent does not file a response to the administrative complaint, all matters asserted therein shall be deemed denied.

P. Any respondent may be represented in an adjudication proceeding before the board by an attorney at law duly admitted to practice in the state of Louisiana. Upon receipt of service of an administrative complaint pursuant to these rules, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall, personally or through such counsel, give written notice to the board of

the name, address, and telephone number of such counsel. Following receipt of proper notice of such representation, all further notices, administrative complaints, subpoenas or other process related to the proceeding shall be served on respondent through his or her designated counsel of record.

Q. All pleadings, motions or other papers permitted or required to be filed with the board in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board and shall by the same method of delivery be concurrently served upon administrative complaint counsel designated by the administrative complaint, if filed by or on behalf of the respondent, or upon respondent, through counsel of record, if any, if filed by administrative complaint counsel.

2. All such pleadings, motions or other papers shall be submitted on plain white letter-size (8 1/2 x 11") bond, with margins of at least one inch on all sides, and double spaced except as to quotations and other matters customarily single spaced, shall bear the caption and docket number of the case as it appears on the administrative complaint, and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by Subsection A of this Section.

3. The Board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this section.

R. Motions for continuance of hearing, for dismissal of the proceeding and all other prehearing motions shall be filed not later than 30 days following service of the Administrative Complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each prehearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the board may order, the investigating officer, through administrative complaint counsel, may file a memorandum in opposition to or otherwise setting forth the investigating officer's position with respect to the motion.

S.1. A motion for continuance of hearing shall be filed within the delay prescribed by §1304.R of these rules, provided that the Board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of prehearing motions.

2. A scheduled hearing may be continued by the board only upon a showing by respondent or administrative complaint counsel that there are substantial legitimate grounds that the hearing should be continued, balancing the right of the respondent to a reasonable opportunity to prepare and present a defense to the complaint and the board's responsibility to protect the public health, welfare and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

3. If an initial motion for continuance is not opposed, it may be granted by the presiding officer.

T.1. Any prehearing motion, other than an unopposed initial motion for continuance of hearing which may be

granted by the chairman of the board, shall be referred for decision to the board member designated by the board as the presiding officer of the board designated with respect to the proceeding for ruling. The presiding officer, who shall be a member of the board designated as presiding officer by the board in each matter before the board, in his discretion, may refer any prehearing motion to the board for disposition, and any party aggrieved by the decision of a presiding officer on a prehearing motion may request that the motion be reconsidered by the entire panel.

2. Prehearing motions shall ordinarily be ruled upon by the presiding officer or the board, as the case may be, on the papers filed, without hearing. On the written request of respondent or of administrative complaint counsel, however, and on demonstration that there are good grounds therefor, the presiding officer may grant opportunity for hearing by oral argument, on any prehearing motion.

U.1. Upon request of the respondent or administrative complaint counsel and compliance with the requirements of this Section, any board member shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

2. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examination, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of time employed and the degree of learning or skill required.

V.1. In any case of adjudication noticed and docketed for hearing, counsel for respondent and administrative complaint counsel may agree, or the presiding officer may require, that a prehearing conference be held among such counsel, or together with the board's independent counsel appointed pursuant to §1304.W hereof, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

2. Following such prehearing conference the parties shall, and without such conference the parties may by agreement, agree in writing on a prehearing stipulation which should include:

a. a brief statement by administrative complaint counsel as to what such counsel expects the evidence to be presented against respondent to show;

b. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;

c. a list of the witnesses to be called by administrative complaint counsel and by respondent, together with a brief general statement of the nature of the testimony each such witness is expected to give;

d. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents or issues; and

e. an estimate of the time required for the hearing.

W.1. Unless otherwise requested by the respondent, adjudication hearings, being the hearing conducted on the merits of the administrative complaint, shall be conducted in closed session.

2. At an adjudication hearing, opportunity shall be afforded to administrative complaint counsel and respondent to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for full and true disclosure of the facts and disposition of the administrative complaint.

3. Unless stipulation is made between the parties and approved by the board, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings.

4. During evidentiary hearing, the presiding officer shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire panel in executive session. At any such hearing, the board may be assisted by legal counsel retained by the board for such purpose, who is independent of administrative complaint counsel and who has not participated in the investigation or prosecution of the case. If the board or panel is attended by such counsel, the presiding officer may delegate to such counsel ruling on evidentiary objections and other procedural issues raised during the hearing.

5. The record in a case of adjudication shall include:

a. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery, and all pleadings, motions, and intermediate rulings;

b. evidence received or considered at the hearing;

c. a statement of matters officially noticed except matter so obvious that statement of them would serve no useful purpose;

d. offers of proof, objections, and rulings thereon;

e. proposed findings and exceptions, if any;

f. the decision, opinion, report or other disposition of the case made by the board.

6. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

X.1. In an adjudication hearing, the board may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board or panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

2. All evidence, including records and documents in the possession of the board which administrative complaint counsel desires the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts,

or by incorporation by reference, the materials so incorporated shall be available for examination by the respondent before being received in evidence.

3. Notice may be taken of judicially cognizable facts and generally recognized technical or scientific facts within the board's knowledge. Parties shall be notified either before or during the hearing of the material noticed or sought by a party to be noticed, and they shall be afforded an opportunity to contest the material so noticed. The board's experience, technical competence and knowledge may be utilized in the evaluation of the evidence.

4. Any member of the board serving as presiding officer in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents, if they are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

5. Except as otherwise governed by the provision of these rules, adjudication hearings before the board shall be governed by the Louisiana Code of Evidence, insofar as the same may be applied.

Y. The board may make informal disposition, by default, consent order, agreement, settlement or otherwise of any adjudication pending before it. A consent order shall be considered by the board only upon the recommendation of the investigating officer.

Z.1. The final decision of the board in an adjudication proceeding shall, if adverse to the respondent, and otherwise may be, in writing, shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.

2. Upon issuance of a final decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of administrative complaints.

AA.1. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within ten days from service of the decision on respondent or on its own motion. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by §1304.Q and shall set forth the grounds upon which such motion is based, as provided by Subsection B of this Section.

2. The board may grant rehearing, reopening, or reconsideration if it is shown that:

a. the decision is clearly contrary to the law and the evidence;

b. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;

c. other issues not previously considered ought to be examined in order to properly dispose of the matter; or

d. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

BB. Pursuant to R.S. 34:945(C)(3), the board of Examiners shall have the authority to impose a fine of not more than \$500 on any bar pilot, to reprimand or remove from a vessel any bar pilot, or to recommend to the Governor that the commission of any bar pilot be suspended or revoked, if after a hearing conducted in accordance with these Rules and regulations and the administrative procedure act a bar pilot is found in violation of any rule or regulation adopted by the board of examiners.

CC. The authority established in these rules is in addition to and in no way limits the authority of the board to seek to remove or to remove a pilot from a vessel pursuant to the provisions of R.S. 34: 947 and R.S. 49:961(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1305. Severability

A. If any provision of these Rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these Rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1306. Effective Date

A. These Rules and regulations shall be in full force and effective 90 days after final publication in the *Louisiana Register*. All bar pilots and bar pilot candidates shall be provided with a copy of these Rules and regulations, as well as any amendments, after the Rules and regulations are adopted by the board of examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

Chapter 14. Standards of Conduct: Proper and Safe Pilotage

§1401. Adoption of Inland Navigational Rules

A. For those waters on which the Inland Rules apply within the jurisdiction of the bar pilots, the board of Examiners hereby adopts, by reference and in its entirety, the Inland Navigational Rules at 33 U.S.C. Section 2001, et seq. The Board of Examiners also adopts the navigation safety standards set forth in Title 33 CFR part 164 (p). All bar pilots and bar pilot applicants shall be subject to these Inland Navigational Rules and safety standards as adopted herein by reference.

Title 33 CFR Part 164 (P)

- (p) The person directing the movement of the vessel sets the vessel's speed with consideration for
- (1) The prevailing visibility and weather conditions;
 - (2) The proximity of the vessel to fixed shore and marine structures;
 - (3) The tendency of the vessel underway to squat and suffer impairment of maneuverability when there is small underkeel clearance;
 - (4) The comparative proportions of the vessel and the channel;
 - (5) The density of marine traffic;
 - (6) The damage that might be caused by the vessel's wake;
 - (7) The strength and direction of the current; and
 - (8) Any local vessel speed limit;

NOTE: These rules CFR 110.195 and 161.402 have not been adopted but should be reviewed by all pilots and applicants.

Title 33 CFR 110.195

- (a) The Anchorage Grounds. Unless otherwise specified, all anchorage widths are measured from the average low water plane (ALWP).
- (1) Pilottown Anchorage. An area 5.2 miles in length along the right descending bank of the river from mile 1.5 to mile 6.7 above Head of Passes, extending in width to 1600 feet from the left descending bank of the river.

Title 33 CFR 161.402

- (c) Navigation of South and Southwest Passes.
- (1) No vessel, except small craft and towboats and tugs without tows, shall enter either South Pass or southwest Pass from the Gulf until after any descending vessel which has approached within two and one-half (2 ½) miles of the outer end of the jettles and visible to the ascending vessel shall have passed to sea.
 - (2) No vessel having a speed of less than 10 mph shall enter South Pass from the Gulf when the state of the Mississippi Rive exceeds 15 feet on the Carrollton Gage at New Orleans. This paragraph does not apply when Southwest Pass is closed to navigation.
 - (3) No vessel, except small craft and towboats and tugs without tows, ascending South Pass shall pass Franks Crossing Light until after a descending vessel shall have passed Depot Point Light.
 - (4) No vessel, except small craft and towboats and tugs without tows, shall enter the channel at the head of South Pass until after an ascending vessel which has reached Franks Crossing Light shall have passed through into the river.
 - (5) When navigating South Pass during periods of darkness no tow shall consist of more than one towed vessel other than small craft, and during daylight hours no tow shall consist of more than two towed vessels other than small craft. Tows may be in any formation, When towing on a hawser, the hawser shall be as short as practicable to provide full control at all times.
 - (6) When towing in Southwest Pass during periods of darkness no tow shall consist of more than two towed vessels other than small craft, and during daylight hours no tow shall consist of more than three towed vessels other than small craft.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1402. Ships Required To Take Pilots

A. All ships and vessels inward or outward bound throughout the entrances of the Mississippi River or other inland waterway connecting the Port of New Orleans with the Gulf of Mexico, or other outside waters, except those of 100 tons or less lawfully engaged in the coasting trade of the United States, shall take a bar pilot when one is offered; and any ship or vessel refusing or failing to take a pilot shall be liable to the pilot thus offering for pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1403. Pilots' Duty of Remain on Board Ship until Crossing Bar

A. When boarding an outward bound ship or vessel at the boarding stations bar pilots shall remain on board the ship until she crosses the bar, unless permission is given by the master for the pilot to absent himself from the ship or vessel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1404. Acting as Pilot without License; Penalty

A. No person who is not commissioned a bar pilot shall board any ship or vessel required to take a bar pilot, for the purpose of piloting, or to pilot or attempt to pilot the same; and no person or pilot shall board any such ship or vessel for the purpose of piloting, except from the pilot boats on the bar pilot stations. Whoever violates the provisions of this Section shall be fined not less than \$1,500 nor more than \$5,000, or may be imprisoned for not more than six months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1405. Pilot's Duty to Exhibit License

A. Whoever offers to pilot a ship or other vessel shall, if required, exhibit to the commander thereof this identification card as a bar pilot, attested to by the chairman of the board of examiners; and if he refuses or neglects to do so, he shall not be entitled to any remuneration for any service he may render as pilot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1406. Employing Pilot without Licenses; Liability of Vessel, Master or Owner

A. When a vessel, inward or outward bound to or from the Port of New Orleans employs as a pilot a person who is not a state commissioned bar pilot, when a bar pilot offers his services, the vessel, her captain and owners, shall be liable for a civil penalty of and shall forfeit to the state of Louisiana the sum of \$15,000 with privilege on the vessel, to be recovered before any court of competent jurisdiction. An action for forfeiture under this Section may be brought by the attorney general of Louisiana or by the Associated Branch Pilots of the Port of New Orleans. If the Associated Branch Pilots of the Port of New Orleans obtains a judgement hereunder, the court shall include in its judgement a reasonable attorney's fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1407. Employing Pilot without a State Commission; Penalties

A. No master, owner, or agent of a vessel required under R.S. 34:953 to take a state commissioned bar pilot shall, when a state commissioned bar pilot offers his services, employ as a pilot a person who is not a state commissioned bar pilot.

B. Whoever violated this Section shall be subject to a fine of not less than \$1,500 nor more than \$5,000, or imprisoned for not more than 6 months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1408. Offering of Services

A. As used in this Subpart, reference to the offering of a bar pilot or the offering of services by a bar pilot shall mean any offering of any advice or assistance with respect to

pilotage by the commissioned bar pilot or by his authorized representative, including but not limited to advice concerning weather, channel conditions, and other navigational conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1409. Prohibition of Interest of Members of Board of Commissioners of Port of New Orleans, in Pilot Boat or Pilotage

A. The members of the Board of Commissioners of the Port of New Orleans shall not be interested, directly or indirectly, in any bar pilot boat or pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1410. Report by Pilot

A. In any case where a vessel being piloted by a bar pilot shall go aground, or shall collide with any object, or shall meet with any casualty, which causes injury to persons or damage to property, the pilot shall, as soon as possible report such incident to the Board.

B. The board, with or without complaint made against said pilot, shall investigate the incident.

C. The pilot shall make a complete report to the board within 10 days after the incident. This report may either be an oral or a written report as the board deems necessary.

D. These rules shall apply to any bar pilot engaged in piloting within the operating territory as defined by R.S. 34:941 et seq., whether the vessel be subject to compulsory pilotage or elective pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1411. Pilots Duty to Report

A. Pilots, when notified, shall report in person to the board at the time and place so designated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1412. Pilots Summoned to Testify

A. Any bar pilot summoned to testify before the board shall appear in accordance with such summons and shall make answer under oath to any question put to him, touching any matter connected with the pilot's service or of the pilot grounds over which he is commissioned to pilot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

Chapter 15. Drug And Alcohol Policy

§1501. Application

A. The board of examiners hereby adopts the following Rules and regulations relating to a drug and alcohol abuse policy applicable to all State licensed bar pilots pursuant to the provisions of R.S. 34:941 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1502. Statement of Findings and Purposes

A. The Board of Examiners of Bar Pilots for the Port of New Orleans, Louisiana, (hereinafter "board") has always had a strong commitment to the pilot members of the Associated Branch Pilots for the Port of New Orleans to provide a safe work place and to establish programs promoting high standards of bar pilot health. Consistent with the spirit and intent of this commitment, the board has established this policy regarding drug and alcohol abuse. Its goal will continue to be one of establishing and maintaining a work environment that is free from the effects of alcohol and drug abuse.

B. While the board has no intention of intruding into the private lives of bar pilots, the board does expect bar pilots to report for work in a condition to perform their duties. The board recognizes that off-the-job, as well as on-the-job, involvement with alcohol and drugs can have an impact on the work place and on a bar pilot's ability to accomplish our goal of an alcohol and drug-free work environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1503. Bar Pilots' Assistance Program

A. Establishment. The board has designed a Bar Pilots' Assistance Program (BPAP) to provide help for any bar pilot whose personal alcohol or drug abuse problems may seriously affect his or her ability to function on the job, at home and in society.

B. Eligibility. The BPAP is available to all bar pilots and their spouses because an alcohol or drug abuse problem of a spouse may also affect a bar pilot's work and general well-being.

C. Procedure

1. At times, people find the solution to their own problems. When this cannot be accomplished, a BPAP staff person will discuss the bar pilot's problem with him and put him in touch with appropriate professional sources.

2. The bar pilot or spouse will then be advised of available alternatives for treatment, counseling or help, and assisted in arranging an appointment. When an eligible person requests assistance, that person decides whether or not he or she wants to pursue the recommendation.

3. The BPAP will either provide assistance by telephone or will arrange for a confidential consultation in their private offices.

D. Costs. If the counseled person needs to be referred to resources outside the BPAP, then he or she is responsible for all fees.

E. Confidentiality. A bar pilot's right to confidentiality and privacy in the BPAP is recognized. All information regarding referral, evaluation, and treatment will be maintained in a confidential manner and no BPAP matters will be entered in a bar pilot's personal file except as is mandated by law. A request for evaluation, diagnosis, information, or treatment will not affect this board's actions or recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1504. Definitions

A. As used in this Chapter:

Alcoholic Beverage Any fluid, or solid capable of being converted into fluid, suitable for human consumption, which contains ethanol.

Drug All controlled dangerous substances as defined in R.S. 40:961.7. Some of the drugs which are illegal under Federal, State, or local laws include, among others, marijuana, heroin, hashish, cocaine, hallucinogens, and depressants and stimulants not prescribed for current personal treatment by an accredited physician.

Prescription Medication Any medication distributed by the authorization of a licensed physician as defined in R.S. 40:961.30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1505. Prohibitions and Requirements of the Policy

A. A bar pilot who is under the influence of alcohol or drugs, or who possesses or uses alcohol or drugs on the job, has the potential for interfering with his own safety as well as that of the ship he is piloting and other vessels in the area, property, and personnel. Consistent with existing board practices, such conditions shall be proper cause for disciplinary action up to and including loss of state license as a bar pilot.

B.1. Off-the-job drug or alcohol abuse use that could adversely affect a bar pilot's job performance or could jeopardize the safety of others shall be proper cause for administrative or disciplinary action up to and including recommendation for revocation of a bar pilot's license.

2. Bar pilots who are arrested for off-the-job drug or alcohol activity may be considered to be in violation of this policy. In deciding what action to take, the board will take into consideration the nature of the charges, the bar pilot's overall job performance as a pilot, and other factors relative to the impact of the bar pilot's arrest upon the conduct of bar pilotage and the safety threat posed to the public by the specific activity.

C.1. A pilot shall be free of use of any drug as defined in §1504.A.*Drug*, but excluding prescription medication as defined in §1504.A.*Prescription Medication*, so long as such use of prescription medication does not impair the competence of the pilot to discharge his duties.

2. Bar pilots undergoing prescribed medical treatment with a controlled substance should report this treatment to the president of the board and to the Associated Branch Pilots doctor. The use of controlled substances as part of a prescribed medical treatment program is naturally not grounds for disciplinary action, although it is important for the board to know such use is occurring.

D. A bar pilot who voluntarily requests assistance in dealing with a personal drug or alcohol abuse problem may participate in the BPAP without the board taking action to fine or recommend action against a bar pilot, provided he stops any and all involvement with alcohol or drugs. Volunteering to participate in the BPAP will not prevent disciplinary action for a violation of this policy which has already occurred.

E.1. Narcotics or any other controlled dangerous substance made illegal by the laws of the United States or the state of Louisiana shall not be brought aboard or caused to be brought aboard any vessel no matter by whom owned, or property owned or leased by the Associated Branch Pilots.

2. Persons, or property, coming aboard any such vessel or property will be subject to inspection.

3. The board will cooperate fully with appropriate law enforcement agencies by reporting information with respect to the violation of laws regarding illegal substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1506. Drug Testing

A. Drug Investigated. All bar pilots shall be subject to testing for the presence of marijuana, opiates, cocaine, amphetamines, and phencyclidine.

B. Types of Testing

1. All bar pilots shall submit to reasonable scientific testing for drugs when directed by the board. All procedures and activities conducted in connection with such testing shall comply with R.S. 49:1001 - 1015, as those provisions may be amended from time to time.

2. A bar pilot shall be required to submit a urine specimen to be tested for the presence of drugs under the following circumstances:

a. prior to recommendation for appointment, as a part of the physical exam required in §1106.A.7 of these Rules and regulations;

b. after recommendation, whenever the pilot is required by the board to undergo a physical examination;

c. upon written complaint signed by the complainant in accordance with Chapter 16 of the Board of Review of Bar Pilots for the Port of New Orleans;

d. when the pilot is reasonably suspected of using drugs in violation of this policy;

e. at random at the discretion of the board; and

f. when the pilot is determined to be directly involved in a marine casualty or accident during the course of his activities as a pilot that results in:

i. one or more deaths;

ii. injury to any person which requires professional medical treatment beyond first aid;

iii. damage to property in excess of \$100,000; or

iv. actual or constructive loss of any vessel.

C. The board may designate a testing agency to perform any scientific test(s) necessary to detect the presence of drugs or their metabolites in a pilot's system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1507. Alcohol Testing

A. The board of examiners may require a pilot to submit to a blood alcohol test under the following circumstances:

1. upon written complaint signed by the complainant in accordance with Chapter 16 of the Rules and regulations of the Board of Review of Bar Pilots of the Port of New Orleans;

2. when there exists reasonable suspicion that a pilot is performing his duties while under the influence of alcohol; or

3. when the pilot is determined to be directly involved in a marine casualty or accident of the type described in Section 806(B)(2)(d).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1508. Violations of the Policy

A. Any Pilot found to be in violation of this policy may be reprimanded, fined, evaluated, and treated for drug use and have his commission suspended or revoked as provided by R.S. 34:945 and 962.

B. Any bar pilot reasonably suspected of bringing on board any vessel, no matter by whom owned, or property owned or leased by the Association, or causing to bring on board a vessel or property owned or leased by the Association, any narcotic or any other controlled dangerous substance made illegal by the laws of the United States of the State of Louisiana will be subject to disciplinary action either by the board or, upon recommendation of the board, by the Governor of the Louisiana.

C. A pilot shall be suspended from performing the duties of a pilot pending a hearing pursuant to R.S. 34:945 and 962 if:

1. he tests positive for any drug listed in §1506.A;

2. he uses any drug in violation of §1505.C;

3. he refuses to submit to reasonable scientific testing for drugs, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results;

4. tests positive for alcohol; or

5. refuses to submit to a blood alcohol test, fails to cooperate fully with the testing procedure, or in any way tries to alter the test results.

D. Any pilot who is required to undergo evaluation or treatment for alcoholism or drug abuse shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility, must be approved by the board.

E. Any pilot who believes he would be in violation of these Rules if he were to perform his duties as a bar pilot is obligated to remove himself from duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1509. Test Results

A. All drug test results shall be reviewed by a medical review officer in accordance with R.S. 49:1007.

B. Any pilot, confirmed positive, upon his written request, shall have the right of access, within seven working days of actual notice to him of his test results, to records relating to his drug tests and any records relating to the results of any relevant certification, review, or suspension/revocation-of-certification proceedings.

C. The results of the drug testing conducted pursuant to this policy and all information, interviews, reports, statements and memoranda relating to the drug testing shall, in accordance with R.S. 49:1012, be confidential and disclosed only to the board of examiners and the pilot tested, except that:

1. the board of examiners may report the results to the governor; and

2. in the event that the board of examiners determines that a hearing is required pursuant to R.S. 34:991 or 1001, there shall be no requirement of confidentiality in connection with such hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

Chapter 16. Administrative Policy

§1601. Application

A. The purpose of this section is to ensure compliance by the Board of Examiners of Bar Pilots for the Port of New Orleans with the provisions of the Louisiana Public Meeting Law and the records maintenance requirements of the provisions of R.S. 49:950, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1602. Meetings of Examiners

A. All meetings and notices thereof of the board of examiners shall be conducted in accordance with the Open Meetings Law (R.S. 42.4 et seq.). The board shall meet at least once each quarter and meetings shall be called in accordance with R.S. 42:7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1603. Record Keeping

A. The board of examiners shall maintain records and conduct its hearings in accordance with R.S. 49:950, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

Family Impact Statement

Although the family of a pilot subject to the disciplinary process set forth in the proposed Rules and regulations for the Board of Examiners of Bar Pilots for the Port of New Orleans could potentially be impacted by the process and the possible discipline against the pilot, the proposed Rules and regulations should not have any known or foreseeable impact on the family as defined by R.S. 49:972.D in terms of the general public, or on family formation, stability and autonomy.

1. What effect will this Rule have on the stability of the family? The proposed rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget, unless a disciplined pilot is fined or has his license suspended after going through the disciplinary process, or is removed from a vessel.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the action proposed is strictly a state enforcement function.

All interested persons are invited to submit written comments on the proposed Rules and regulations for the Board of Examiners of Bar Pilots for the Port of New Orleans. Persons commenting should reference this proposed regulation by "Rules and regulations of the Board of Examiners." Such comments must be received no later than January 8, 2003, at 4:30 p.m., and should be sent to Captain Thomas L. Ittmann, Board of Examiners of Bar Pilots for the Port of New Orleans, 3813 North Causeway Boulevard, Suite 100, Metairie, LA 70002 or to fax (504) 831-4536. Copies of this proposed regulation can be purchased at the above referenced address. Contact the board office at (504) 831-6615 for pricing information. Check or money order is required in advance for each copy.

Captain Thomas L. Ittmann
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bar Pilot Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Board of Examiners of Bar Pilots for the Port of New Orleans anticipates that the additional costs associated with the implementation of the proposed rules will be \$1,500 for the fiscal year 2001-2002, and \$5,000 for the fiscal years 2002-2003 and 2003-2004. The board will formalize the procedures involved in investigating and prosecuting disciplinary complaints against Bar Pilots, thus better insuring the protection of the public, the rights of the accused Bar Pilot, and compliance with the requirements of the Louisiana Administrative Procedure Act. It is anticipated that a thorough investigation and prosecution of complaints against Bar Pilots will result in an increase in public safety.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board is funded by billing all expenses, including the expenses of disciplinary procedures, to the Associated Branch Pilots of the Port of New Orleans, for whom the board serves as the examining and supervising authority. Funding will be derived from billings to the Associated Branch Pilots. Further, costs of a disciplinary proceeding may be assessed against the Bar Pilot who is the subject of the proceeding.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rules changes provide for legal representation for the board, together with the requirement that the legal counsel prosecuting the action be independent of the board or its counsel. Thus the current cost of the disciplinary process will increase by the cost of the legal fees. The costs of the disciplinary procedures, exclusive of attorney's fees, may be assessed against the pilot in accordance with the Administrative Procedure Act and a fine imposed according to the enabling statute for the Board of Review of Bar Pilots for the Port of New Orleans. Those costs not paid by a disciplined pilot will be billed to and paid by the Associated Branch Pilots for the Port of New Orleans.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the Rules changes will have any effect on competition and employment in either the public or private sector.

Thomas L. Ittmann
Chairman
0212#043

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Driver's License (LAC 55:III.187)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority contained in R.S. 32:408, notice is hereby given that the Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles, proposes to amend the existing rules relative to the administration of knowledge and skills test by third parties to applicants for Class "D" and "E" driver's licenses. The proposed amendment would change the insurance coverage requirement for approved third parties to conduct the knowledge and skills test required of an applicant for a Louisiana drivers license.

**Title 55
PUBLIC SAFETY**

Part III. Motor Vehicles

Chapter 1. Driver-s License

**Subchapter C. Third Party Knowledge and Skills
Testing for Class AD® and AE®**

§187. Compliance

A. - M. ...

N. Third Party Testers and Third Party Examiners shall maintain a minimum limit of automobile liability insurance coverage of \$1,000,000 per occurrence in connection with the skills test. Third Party Testers and Third Party Examiners shall also maintain a minimum general liability policy of \$1,000,000 per occurrence. These policies shall provide primary coverage to the state of Louisiana, the department, and the department's employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1928 (November 2001), amended LR 29:

Family Impact Statement

1. The Effect of These Rules on the Stability of the Family. These Rules will have no adverse affect on 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 adverse impact 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 adverse impact on the functioning of the family.

4. The Effect of These Rules on Family Earnings and Family Budget. These Rules will have no adverse impact on family earnings and family budget.

5. The Effect of These Rules on the Behavior and Personal Responsibility of Children. These Rules will have no adverse impact on the behavior and personal responsibility of children.

6. The Effect of These Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These Rules will have no adverse impact on the ability of the family to perform the function as contained in the proposed Rules. Local governments are not affected by these Rules as they neither obtain nor issue driver's licenses.

Persons having comments or inquiries may contact Stephen A. Quidd, attorney for the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, Louisiana 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by January 21, 2003. A public hearing on these Rules is tentatively scheduled for Tuesday, January 28, 2003, in the Executive Conference Room at the Office of Motor Vehicles Headquarters at 7979 Independence Blvd., LA 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing. If the requisite number of comments are not received, no hearing will be held.

Chris Keaton
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Driver-s License**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no costs or savings to the state to implement the proposed Rule amendment regarding the insurance requirement for third party testing of applicants for driver's licenses. The department has verified with the Office of Risk Management (ORM) that at the present time there is no information that this Rule amendment will have an effect on the amount of premiums paid by the department to ORM.

There should be no costs or savings to local governmental units to implement the proposed Rules authorizing third party testing of applicants for driver-s licenses as only the state issues driver's licenses

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections by the state. The department will still charge the normal license fee upon the issuance of the driver's license.

There should be no effect on the revenue of local governmental units as only the state issues drivers=licenses.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The \$2,000,000 minimum policy required of the third party tester is not commercially available as a \$1,000,000 policy is standard.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There should be a positive impact on employment as approved third-party testers will need to hire testers to administer the knowledge and skills test. There should be no effect on competition.

Chris Keaton
Undersecretary
0212#089

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Corrections Services**

Telephone Use and Policy on Monitoring
of Calls CAdult and Juvenile
(LAC 22:I.314)

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, in its entirety, LAC 22:I.314, Adult Offender Telephone Use, and to adopt LAC 22:I.314, Telephone Use and Policy on Monitoring of Calls CAdult and Juvenile.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

**§314. Telephone Use & Policy on Monitoring of
Calls CAdult and Juvenile**

A. Purpose. The purpose of this regulation is to establish the secretary's policy regarding the use of telephones by inmates and the monitoring of inmate telephone calls at all adult and juvenile institutions.

B. To Whom this Regulation Applies. This regulation applies to deputy secretary, undersecretary, assistant secretaries and all wardens. It is the responsibility of each warden to implement this regulation and convey its contents to the inmate population, employees, and the public.

C. Policy. It is the secretary's policy that uniform telephone procedures Cincluding 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 safety Cbe established and adhered to at all institutions. Each institution will offer inmates (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 inmate.

D. Definition. Inmate refers to anyone committed to the custody of the department whether as an adult or juvenile in this context.

E. 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 or JIRMS number.

b. At the juvenile institutions, one unique PIN, not the inmate's JIRMS number, will be utilized for calling the PZT Hotline only.

c. 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 input by the contractor or by appropriately trained institutional staff.

i. Changes to the master list for parents of juvenile offenders and attorneys representing a juvenile offender are to be expedited. All attempts should be made to institute such changes within six working days. For parents, the six days shall begin from written notification by the offender to the appropriate institutional staff. For an attorney, the time period shall begin upon receipt of the offender's written request to the appropriate institutional staff, if the offender is 18 years or older. For offenders under the age of 18, the time period shall begin upon receipt of written notice from the parent confirming the attorney as the legal representative of their child.

d. At juvenile institutions, regardless of custody status, offenders will be provided an opportunity to make telephone calls home at state expense when the offender's case worker determines that the call promotes the goal of the offender's intervention plan.

i. Offenders will also be given meaningful access to telephones for privileged communications with their attorneys.

e. For new inmates, PIN and master list numbers will be input into the telephone system upon intake at the Reception and Diagnostic Centers.

f. 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 CMinimum 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, counselor, or shift supervisor.

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 CMaximum 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 attorney 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 attorney 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.

iv. The telephone system will normally terminate a call at the end of the authorized period, (normally 15 minutes); however, the warden or his designee may authorize calls of a longer duration as circumstances warrant.

v. The system will automatically broadcast recorded messages indicating that the telephone call is originating from a correctional facility.

b. Inmates shall not be allowed access to employee home telephone numbers and shall not be allowed to call any staff member of the department.

c. Each institution will advise their inmate population of the proper way to place a legal call.

d. Only personnel authorized by the warden 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 E.5.a.iii of this Section); 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.

e. 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.

f. Each institution's orientation manual must include the information contained in this regulation as a means to notify the inmate population 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:

6. Remote Call Forwarding

a. Remote Call Forwarding (RCF) is a mechanism by which inmates 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 three-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 three-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 E.1.f of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:829.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Correction Services, LR 29:

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.

Repealing the current LAC 22:I.314, Adult Offender Telephone Use, and adopting the proposed LAC 22:I.314, Telephone Use and Policy on Monitoring of Calls CAdult and Juvenile, 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 January 20, 2003.

Richard L. Stalder
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Telephone Use and Policy on
Monitoring of Calls CAdult and Juvenile**

- 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.

Richard L. Stalder
Secretary
0212#093

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Alternative Dispute Resolution
(LAC 61:III.301-335)

Under the authority of R.S. 47:1511 and 1522 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of the Secretary proposes to adopt LAC 61:III.301-335, the rules and regulations governing alternative dispute resolution.

The secretary of the Department Revenue is authorized by R.S. 47:1511 to adopt reasonable rules and regulations to enforce the provisions relating to the taxes collected and administered by the department. Louisiana Administrative Code Title 61, Part III, §§301-335, is proposed to establish the method and the procedures available to implement R.S. 47:1522, which allows the Department of Revenue to use alternative dispute resolution as a means of resolving issues between the taxpayer and the department. Alternative dispute resolution will provide a voluntary, confidential and cooperative means of resolving tax disputes of less than \$1 million, which will reduce the costs and risks of litigation for the taxpayer and the department. Alternative dispute resolution will also expedite the tax collection and refund processes. The rules and regulations for the department's Alternative Dispute Resolution Program are modeled on the Multistate Tax Commission's Alternative Dispute Resolution Program.

Title 61

REVENUE AND TAXATION

**Part III. Department of Revenue; Administrative
Provisions and Miscellaneous**

**Chapter 3. Alternative Dispute Resolution
Procedures**

§301. Definitions

A. For purposes of this chapter, the following terms have the meanings ascribed to them.

Alternative Dispute Resolution—procedures for settling disputes by means other than litigation.

Arbitration—a binding process in which the department and taxpayer submit disputed issues and evidence to an arbitrator and a decision is rendered by the arbitrator.

Arbitrator—a neutral third party chosen by the department and taxpayer to hear their claims and render a decision.

Enrolled Agent—an individual who has demonstrated technical competence in the field of taxation and is licensed to represent taxpayers before all administrative levels of the Internal Revenue Service.

Hearing—a proceeding in which a neutral third party receives testimony or arguments and reviews documents to determine issues of fact and legal conclusions in order to render a decision based on the evidence presented.

Party—a taxpayer or department representative involved in an alternative dispute resolution process.

Secretary—the Secretary of the Louisiana Department of Revenue.

Session—the period of time during which the arbitrator meets with the parties to discuss the issues and listens to the arguments presented in order to reach a decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§303. Type of Alternative Dispute Resolution Process

A. The disputed issue(s) may be resolved by arbitration as agreed upon by the taxpayer and the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§305. Initiation of Arbitration

A. The secretary may select cases whose total value as of the date of selection for binding arbitration is less than \$1 million. Once a case has been selected for arbitration, notice will be sent to the taxpayer regarding the selection within 30 days.

B. The taxpayer may give written notice to the department of the taxpayer's desire to participate in arbitration. The notice must be signed by the taxpayer or representative of the taxpayer and contain the taxpayer's name, tax identification number, address, telephone number, fax number, and e-mail address and the taxpayer's representative e-mail address as well as a brief description of the nature of the dispute and the issues. The notice must also state the relief requested, the reasons supporting the relief, and any other relevant and reliable information supporting the claim.

C. Neither the department nor the taxpayer has the right to mandate or force the opposing party into arbitration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§307. Persons Authorized to Participate in Arbitration

A. Individuals, partnerships, and corporations. Any individual taxpayer participating in arbitration with the department may appear and act for himself or for a partnership of which he is a partner with authority to act on behalf of the partnership's members. A corporation, limited liability company, or limited liability partnership may be represented by a bona fide officer of the corporation upon presentation of a corporate resolution or other documentation evidencing the officer's authority to act on behalf of the organization.

B. Attorneys. Attorneys at law, qualified and licensed under the laws of the state, are entitled to represent any taxpayer participating in arbitration with the department. The arbitrator may permit attorneys at law, qualified and licensed under the laws of the several states or the District of Columbia to represent any taxpayer participating in arbitration with the department, in the same manner as these attorneys are permitted to practice in the courts of Louisiana.

C. Certified Public Accountants. Certified public accountants qualified and licensed under the laws of the state are entitled to represent any taxpayer participating in arbitration with the department. The arbitrator may permit certified public accountants, qualified and licensed under the laws of the several states or the District of Columbia to represent any taxpayer participating in arbitration with the

department, in the same manner as these certified public accountants are permitted to practice in Louisiana.

D. Enrolled Agents. Enrolled agents qualified and licensed to practice before the Internal Revenue Service are entitled to represent any taxpayer participating in arbitration with the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§309. Registry of Arbitrators

A. The department will maintain a registry of arbitration companies authorized to participate in the alternative dispute resolution process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§311. Time Delay for Providing Names of Arbitrators

A. As soon as practical, but not more than 30 business days after consent of the parties to participate in arbitration, the department will send to the taxpayer or the taxpayer's representative the names of potential arbitration companies to provide case management services for the arbitration session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§313. Selection of Arbitration Company

A. The department and taxpayer will select an arbitration company from the Registry maintained by the department. The arbitration company will select the arbitrator to preside over the matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§315. Disclosure of Conflict of Interest

A. An arbitrator must have no official, financial, or personal conflict of interest with any issue or party in controversy unless the conflict of interest is fully disclosed, in writing, to all parties and all parties agree, in writing, that the person may continue to serve. If an arbitrator is disqualified by either party, another arbitrator will be selected by the arbitration company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§317. Procedures for Arbitration

A. The arbitrator will take necessary steps to avoid delay and to achieve a just, speedy, and cost-effective resolution. The department and taxpayer will cooperate in the exchange of documents, exhibits, and information within either party's control. In addition, the department and taxpayer may conduct discovery as agreed upon by all parties. However, the arbitrator may provide for or place limitations on the discovery as the arbitrator deems appropriate. At the request of the department or the taxpayer, the arbitrator may require the deposition of any person who may possess information vital to the just resolution of the matter.

B. The arbitrator will select a hearing date. Each party must notify the arbitrator in writing at least 10 business days before the initial arbitration session of the following:

1. the party's intention to present witnesses;
2. whether the party will be represented by counsel; and
3. who will be present at the arbitration.

C. The department and taxpayer must submit a brief statement of facts, law, and issues to be resolved. The statement may not exceed 15 legal-size pages without prior approval from the arbitrator.

D. The arbitrator will distribute to the department and taxpayer the information provided in Subsection B and inform the parties of the arbitration process to be followed at least five business days before the initial arbitration session. Except where specified in the regulation, the arbitrator will determine the process to be followed.

E. The rules of evidence in arbitration will be the rules of evidence followed in the state district courts of Louisiana.

F. Any party desiring a stenographic or other recording of the proceedings must make arrangements directly with a stenographer or the person responsible for recording the proceedings. The party seeking to record the proceeding must notify the arbitrator and all other parties of the arrangements at least five business days before the arbitration hearing. The requesting party or parties shall pay the recording costs and the recording or transcript shall be made available to the arbitrator and the other parties for inspection and copying at a date, time, and place determined by the arbitrator.

G. If an arbitration decision is rendered on a case pending in any state court or the Louisiana Board of Tax Appeals, the decision will be entered in the court records.

H. The decision by the arbitrator will be made promptly and, unless otherwise agreed by the parties or specified by law, no later than 30 business days from the date of the closing of the arbitration hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§319. Discovery

A. The arbitrator will set forth the conditions of discovery. Any extensions of discovery must be in writing and approved by the arbitrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§321. Arbitration Hearing

A. In order to facilitate the arbitration process, the selected arbitrator will conduct hearings. Each party will be given an opportunity to present the facts, evidence, and argument that support its position regarding the disputed tax issue at the hearing. Hearings will be private and all matters will remain confidential. The only individuals who may participate in hearings will be the taxpayer, taxpayer representatives, department representatives, and any witnesses to be called.

B. Date, Time and Place of Hearing. Hearings will be held at the LaSalle Building in Baton Rouge or at any other place designated by the arbitrator with consideration given to the location and convenience of the parties and their

witnesses. All witnesses will be sequestered prior to giving testimony.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§323. Sequence of the Arbitration Hearing

A. Unless otherwise determined by the arbitrator, the following sequence will be followed at the hearing.

1. Introduction. The arbitrator may make an introduction.

2. Opening statements. The taxpayer or his representative will make an opening statement followed by the department's representative.

3. Taxpayer's case. The taxpayer may introduce evidence, examine witnesses, and submit exhibits. The department's attorney or representative may cross-examine the witnesses.

4. Department's case. The department may introduce evidence, examine witnesses, and submit exhibits. The taxpayer or taxpayer's representative may cross-examine the witnesses.

5. Evidence procedure. Each party will have the opportunity to present relevant and credible evidence during the hearing. All statements will be made under oath administered by the arbitrator. The Rules of Evidence followed in the state district courts of Louisiana will apply to all evidence presented and objections will be permitted.

6. Rebuttal. Presentation of the evidence of the taxpayer in rebuttal and the argument of the taxpayer followed by the argument of the department, and of the taxpayer in rebuttal.

7. Summation. Each party may present a closing statement.

8. Concluding Remarks. The arbitrator may make closing remarks concerning the case.

9. Judgment. The arbitrator shall render a decision within 30 business days after the date of the close of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§325. Ex Parte Communication with the Arbitrator

A. No party or party representative may directly communicate with an arbitrator except at a hearing or during a scheduled conference concerning any issue related to the arbitration matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§327. Privacy

A. All arbitration sessions are private and confidential. To ensure the privacy of the arbitration sessions, only the parties and their representatives may attend the sessions. All parties participating in or attending a session are required to sign a confidentiality agreement. Any party that violates this confidentiality provision is subject to sanctions at the request of the other party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§329. Confidentiality

A. Except as authorized or required by law, no one participating in the session may disclose the existence, content, or results of the session without the written consent of all parties. Each participant to any process conducted, including the arbitrator, must execute a confidentiality agreement before beginning arbitration. Except as authorized, required, or consented to, no party, arbitrator, or any agent or other representative may make public, offer or introduce as evidence, or otherwise refer to in any administrative, judicial, or other proceeding, any statement made or any document or item of evidence provided during arbitration or any finding, conclusion, order, or result, or lack thereof relating to the process. This prohibition applies but is not limited to the following matters:

1. views expressed or suggestions made by a party with respect to possible settlement of the dispute;
2. admissions made by any party during arbitration;
3. statements made or views expressed by any witnesses, arbitrator, or other persons privy to the arbitration session; or
4. the fact that another party had or had not indicated a willingness to accept a proposal settlement.

B. The arbitrator is subject to the terms and conditions set forth in R.S. 47:1508 regarding the confidential character of tax records.

C. All returns, reports, and other documents presented during the arbitration session may be destroyed by order of the secretary after five years from the last day of December of the year in which the tax to which the records pertain became due, but not less than one year after receipt of the last payment of tax to which the records pertain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§331. Fees and Expenses

A. Each party will bear the fees and expenses for its own counsel, expert witnesses, travel, and preparation and presentation of its case. Except as otherwise agreed by the parties, the fees and expenses of the arbitrator will be borne equally by the taxpayer and the department in accordance with the arbitration company's fee schedule.

B. If an arbitration session has been scheduled and a party fails to appear at the session, the party failing to appear will be responsible for the payment of the reasonable costs and fees of the arbitrator and the reasonable travel expenses incurred by the other party, unless the party has provided reasonable notice in writing to the arbitrator and all other parties that they will not appear. It will be presumed, subject to a contrary showing under the circumstances, that giving five business days advanced written notice is reasonable notice.

C. If reasonable notice is not provided, the arbitrator shall determine if there was good cause for the failure to appear.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§333. Taxpayer's Duty to Protect Protests and Appeals

A. It is the duty of the taxpayer to protect his right to protest or appeal any assessment or proposed assessment or to pursue any right to refund relating to any issue that may also be subject to the arbitration process. Compliance with all conditions and time limits for perfecting and pursuing any and all administrative and judicial protests and appeals or requests for refund are the sole responsibility of the taxpayer. Any agreement between a taxpayer, taxpayer representative, and a representative of the department to alter the conditions or time limits must be authorized by the secretary of the Department of Revenue and executed in writing by both parties to be effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§335. Notice of a Waiver or Extension

A. When required by any party, notice that a written waiver or extension of any and all applicable prescriptive periods must be executed to each party's satisfaction. No party will be required to execute any waiver or extension of a statutory limitation as a condition of participating in an alternative dispute resolution process. Unless otherwise agreed to by the parties, any waiver or extension of prescription will apply to only those issues agreed upon as subject to the alternative dispute resolution process. If a written waiver or extension is required by a party, no alternative dispute resolution process will begin until an agreement has been executed.

B. The department and taxpayer will have 30 business days to resolve the issues and execute the waiver or extension. If no agreement is reached during that period of time, the arbitrator will terminate the alternative dispute resolution process. In the event that an alternative dispute resolution process has been terminated, the parties have a right to initiate a new alternative dispute resolution process. If the second attempt to initiate an alternative dispute resolution process fails, any subsequent attempts will not be allowed unless the arbitrator agrees it is in the parties best interest to continue to arrive at an agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

Family Impact Statement

The proposed adoption of LAC 61:III.301-335 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.
2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.
3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Linda Denney, Miscellaneous Taxes and Regulatory Services, Policy Services Division, 617 North Third Street, Baton Rouge, LA 70802-5428 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., January 28, 2003. A public hearing will be held on January 29, 2003, at 9:30 a.m. at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Alternative Dispute Resolution

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These proposed regulations provide for alternative dispute resolution procedures as a means of resolving disputed tax liabilities. Section 331 of the proposed Rule provides that each party will pay the fees and expenses for its own counsel, expert witnesses, travel, and the preparation and presentation of its case and the fees and expenses of the arbitrator will be paid equally by the taxpayer and the department. Alternative dispute resolution should result in reduced litigation costs and the closure of many older legal cases as well as faster resolution of current legal cases which will reduce the agency's costs and allow the department's resources to be employed more efficiently.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Alternative dispute resolution will provide more timely resolution of tax disputes and payment of taxes. However, there should be no effect of the state's revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Taxpayers with disputed tax liabilities should benefit by alternative dispute resolution as a less expensive alternative to litigation as a means of resolving disputes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed regulations should have no effect on competition or employment.

Cynthia Bridges
Secretary
0212#051

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Tax Commission**

Ad Valorem Tax Rules and Regulations
(LAC 61:V.303, 703, 907, 1503, 2503, 2705, and 2707)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2003 (2004 Orleans Parish) tax year.

The full text of these proposed Rules may be viewed in the Emergency Rule Section of this issue of the Louisiana Register.

Interested persons may submit written comments on the proposed Rules until 4 p.m., January 6, 2003, at the following address: E. W. "Ed" Leffel, Property Tax Specialist, Louisiana Tax Commission, Box 66788, Baton Rouge, LA 70896.

Malcolm B. Price, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Ad Valorem Tax Rules and Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation costs to the agency are the costs of preparation reproduction and distribution of undated regulations and complete manuals. These costs are estimated at \$7,500 for the 2002-2003 fiscal year and are being reimbursed through an existing user service fee of \$15 per update set.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

LOCAL GOVERNMENTAL UNITS

These revisions will generally decrease 2003 certain personal property assessments for property of similar age and condition in comparison with equivalent assessments in 2002. Composite multiplier tables for assessment of most personal property will decrease by 1.7 percent. Specific valuation tables for assessment of oil and gas wells will generally increase by an estimated 9.2 percent. The net effect of these revisions is estimated to decrease assessments by 0.6 percent and tax collections by \$2,619,000 on the basis of existing statewide average millage. However, these revisions will not necessarily effect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset by millage and adjustment provisions of article VII, Section 23 of the state Constitution.

STATE GOVERNMENTAL UNITS

Under authority granted by R.S. 47:1838, the Tax Commission will receive state revenue collections generated by assessment service fees estimated to be \$316,000 from public service companies, and \$107,000 from financial institutions and insurance companies, all of which are assessed by the Tax Commission.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The effects of these new Rules on assessments of individual items of equivalent personal property will generally be lower in 2003 than in 2002. Specific assessments will depend on the age and condition of the property subject to assessment.

The estimated costs that will be paid by affected persons as a result of the assessment and use service fees as itemized above total \$423,000 to be paid by public service property owners, financial institutions and insurance companies for 2002/2003.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. Inasmuch as the proposed changes in assessments and charges are relatively small, the impact is thought to be minimal.

James D. Peters
Administrator
0212#087

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of State
Office of the Secretary of State**

Non-Statutory Fee Schedule
(LAC 4:I.303)

In accordance with R.S. 49:222 and R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of State, Office of the Secretary of State proposes to amend the existing Department of State Fee Schedule, which provides for the schedule of fees to be charged for various filings and services by the Department of State. The schedule of fees is being amended to ensure that the fees collected are sufficient to cover the cost of carrying out the duties of office associated with the various filings and services for which such fees are charged.

**Title 4
ADMINISTRATION
Part I. General Provisions**

Chapter 3. Fees

303. Department of State Non-Statutory Fee Schedule

A. The Department of State has established the following schedule of fees to be charged for various filings and services by the Department of State.

Item	Cost
Miscellaneous Certificates	\$ 20
Replacement Commission Certificates	15
Certified Copies Amended	25
Copies Amended	25
Powers of Attorney	25
Business Opportunity Agents	15
Name Reservations	25
Trade Name Reservations	25
Partnerships	100
Foreign Partnerships	150
Special Handling	30
Vital Records Certified/Uncertified	10
Limited Liability Companies	75
Appointment of Registered Agent, New Officers or Directors	25

Resignation of Agent, Officer or Director	25
Change of Domicile	25
Change of Address	25
Supplemental Initial Report	25
Microfilm per 35mm reel, shipping included	25
Microfilm per 16mm reel, shipping included	20
Document Certification	15
Pension Applications per 10 pages or any part thereof	10
Military Records per 25 pages or any part thereof	10
Legislative Audio Tape, tape provided by Archives	15
Legislative Audio Tape, tape provided by patron	10
5x7 Photo Reproduction	15
8x10 Photo Reproduction	25

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222.

HISTORICAL NOTE: Promulgated by the Department of State, LR 12:689 (October 1986), amended LR 29:

Family Impact Statement

In accordance with Section 953 and 972 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of law relating to public records.

1. Will the proposed Rule effect the stability of the family? No.

2. Will the proposed Rule effect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule effect the functioning of the family? No.

4. Will the proposed Rule effect family earnings and family budget? No.

5. Will the proposed Rule effect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., January 8, 2002 to Stephen Hawkland, Department of State, Office of the Secretary of State, P.O. Box 94125, Baton Rouge, LA. 70804-9125.

W. Fox McKeithen
Secretary of State

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Non-Statutory Fee Schedule**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed amendment, which comprises the Department of State's non-statutory fee schedule, results in no anticipated implementation costs to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendment, which comprises the Department of State's non-statutory fee schedule, results in an estimated revenue increase of approximately \$655,040.50 per

year in state governmental unit revenue collections and results in no estimated revenue increase for local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendment, which comprises the Department of State's non-statutory fee schedule, results in an average cost increase of \$9.36 per filing/procurement fee for the affected services. The number of transactions affected annually by the proposed amendment is approximately 70,765, resulting in a total cost increase of approximately \$ 655,040.50 to users of the affected services as a whole.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendment, which comprises the Department of State's non-statutory fee schedule results in no estimated effect on competition and employment.

W. Fox McKeithen
Secretary of State
0212#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Temporary Assistance to Needy Families (TANF)
Initiatives
Women and Children's Residential
Prevention and Treatment Program
(LAC 67:III.5521)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to amend §5521, Women and Children's Residential Prevention and Treatment Program.

Act 12 of the 2001 Regular Session of the Louisiana Legislature authorized the Office of Family Support to implement the TANF Initiative, Women and Children's Residential Prevention and Treatment Program, through a Memorandum of Understanding with the Office of Addictive Disorders. Eligibility factors were established which limited services to needy families who were eligible for certain types of benefits.

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature and in an effort to expand the population serviced by this program, the agency will include needy families who have earned income at or below 200 percent of the federal poverty level as eligible for services. The program addresses the needs of women with dependent children through residential treatment and includes such services as comprehensive assessment and individualized treatment planning for women and children, intensive care coordination, individual, group and family therapy, parenting classes, life skills training, exposure to Alcoholics Anonymous/Narcotics Anonymous groups, child care, job readiness training, relapse prevention, family reunification and advocacy. The intended goal of these services is to enable clients to maintain self-sufficiency, employment and family stability.

This change was effected by a Declaration of Emergency signed November 8, 2002. Authorization for emergency action in the expenditure of TANF funds is contained in Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

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

Chapter 55. TANF Initiatives

§5521. Women and Children's Residential Prevention and Treatment Program

A. - B. ...

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), Free or Reduced School Lunch, or effective October 1, 2002, who has earned income at or below 200 percent of the federal poverty level.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), amended LR 29:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? Implementation of this Rule should have a positive impact on family stability as it will provide intervention and nonmedical substance abuse treatment to mothers with children.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule should have a positive impact on family functioning by providing clients who suffer from substance abuse disorders with intervention, treatment, and follow-up care in order to assist the client in maintaining self-sufficiency, employment, and family stability.

4. What effect will this have on family earnings and family budget? The Rule will have no immediate effect on family earnings and budget.

5. What effect will this have on the behavior and personal responsibility of children? Services such as counseling and tutoring will be offered to the dependent children of those women receiving services and this should have a positive impact on the child's behavior and personal responsibility.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

All interested persons may submit written comments through January 28, 2003 to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

A public hearing on the proposed rule will be held on January 28, 2003, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA, beginning at 9 a.m. All interested persons

will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Temporary Assistance to Needy
Families (TANF) Initiatives C Women and Children's
Residential Prevention and Treatment Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The cost of amending §5521 is estimated to be \$4 million for FY 02/03. The agency has entered into a Memorandum of Understanding with the Office for Addictive Disorders to provide services for the Women and Children's Residential Prevention and Treatment Services Program. Funds for these services will be allocated from Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant. The minimal cost of publishing rulemaking is approximately \$160. The total increase in expenditures can be met with funds from Louisiana's TANF Block Grant. Future expenditures are subject to legislative appropriation.

There are no costs or savings to local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Through an interagency transfer, the Office for Addictive Disorders will receive increased revenues totaling \$4 million to be expended in the provision of services for this TANF Initiative program.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This program provides assistance in the form of services, therefore, there is no immediate cost or economic benefit to any persons or non-governmental groups. However, the program has a long-term goal of improving the economic situation of the targeted families.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule will have no impact on competition and employment.

Ann S. Williamson
Assistant Secretary
0212#072

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Purchasing**

Purchasing (LAC 70:XXIII.Chapter 3)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et. seq., notice is hereby given that the Louisiana Department of Transportation and Development intends to promulgate a Rule which replaces Chapter 3 of Part XXIII of Title 70 (formerly Chapter 9 of Part I of Title 70) entitled

"Purchasing Rules and Regulations." It is promulgated in accordance with the provisions of R.S. 39:1551-1736 and R.S. 48:204-210.

Title 70

TRANSPORTATION

Part XXIII. Purchasing

Chapter 3. Purchasing Rules and Regulations

§301. Types of Commodities

A. Commodities purchased by the DOTD procurement section fall into two categories, either exempt commodities or non-exempt commodities.

1. Exempt Commodities. Exempt commodities are defined in R.S. 39:1572 as materials and supplies that will become component parts of any road, highway, bridge or appurtenance thereto. These commodities are exempt from central purchasing and regulations of the commissioner of administration, but nevertheless shall be subject to the requirements of the Louisiana Procurement Code and such regulations as may be promulgated by the secretary of the Department of Transportation and Development.

2. Non-Exempt Commodities. Non-Exempt commodities are defined as materials and supplies that will not become component parts of any road, highway, bridge or appurtenance thereto. These commodities are subject to the requirements of the Louisiana Procurement Code and such regulations as may be promulgated by the commissioner of administration and shall be governed by the rules and regulations adopted by the director of state purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

**§303. Delegation of Purchasing Authority Set by the
Director of State Purchasing**

A. R.S. 39:1566 authorizes the director of state purchasing to delegate authority to any governmental body as deemed appropriate within the limitations of state law and the state procurement regulations. The director of state purchasing has set the delegated purchasing authority covering non-exempt commodities for the Department of Transportation and Development. The director of state purchasing has the authority to change or rescind the purchasing authority of the Department of Transportation and Development at any time.

B. In accordance with R.S. 39:1566 and the latest revision to the governor's executive order covering small purchases, the director of state purchasing has also set the delegated purchasing authority covering equipment repairs and/or parts to repair equipment. The director of state purchasing has the authority to change or rescind the purchasing authority of the Department of Transportation and Development which covers equipment repairs and parts to repair equipment at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

**§305. Delegation of Purchasing Authority Set by the
DOTD Procurement Director**

A. R.S. 39:1572 authorizes the secretary of the Department of Transportation and Development to

promulgate rules and regulations regarding the purchase of materials and supplies that will become a component part of any road, highway, bridge, or appurtenance thereto. The secretary has authorized the DOTD procurement director to set the delegated purchasing authority covering exempt commodities for each district and section within the Department of Transportation and Development. The DOTD procurement director has the authority to change or rescind the purchasing authority of any district or section at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§307. Non-Competitive Procurement

A. Purchases of less than \$500.00 (or the amount set in the latest governor's executive order, whichever is higher) do not require competitive bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551 - 1736 and 48:204 - 210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§309. Requests for Quotations Covering Non-Exempt Commodities

A. Purchases of non-exempt commodities having an estimated cost which exceeds the non-competitive dollar limit but which do not exceed the delegated purchasing authority of the department are referred to as "requests for quotations."

B. All requests for quotations covering non-exempt commodities which exceed the non-competitive dollar limit but do not exceed \$2,000.00 (or the dollar limits listed in the latest governor's executive order, whichever is higher) shall be awarded on the basis of the lowest responsive price quotation solicited by telephone, facsimile or other means to at least three bona fide, qualified bidders. Whenever possible, at least one of the bona fide, qualified bidders shall be a certified economically disadvantaged business. All facsimile or written solicitations shall include the bid closing date, time, and all pertinent specifications, including quantities, units of measure, packaging, delivery requirements, terms and conditions, and basis of award.

C. All requests for quotations covering non-exempt commodities having an estimated cost which exceeds \$2,000.00 but which do not exceed \$10,000.00, (or the dollar limits listed in the latest governor's executive order, whichever is higher) shall be awarded on the basis of the lowest responsive price quotation solicited by facsimile or written solicitation to at least five bona fide, qualified bidders. Whenever possible, at least two of the bona fide, qualified bidders shall be certified economically disadvantaged businesses. Facsimile quotations shall allow for bids to be accepted for a minimum period of five calendar days. Written solicitations shall allow for bids to be accepted for a minimum period of ten calendar days. All facsimile or written solicitations shall include the bid closing date, time, and all pertinent specifications, including quantities, units of measure, packaging, delivery requirements, terms and conditions and basis of award.

D. All requests for quotations shall be publicly opened and read whenever interested parties are present at the bid opening.

E. Purchases of non-exempt commodities having an estimated cost which exceeds \$10,000.00 (or the latest delegated purchasing authority, whichever is higher) are prepared and forwarded to the Office of State Purchasing for bid solicitation.

F. Requests for quotations for non-exempt commodities may also be referred to as "invitations for bids" throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§311. Requests for Quotations Covering Exempt Commodities

A. Purchases of exempt commodities having an estimated cost which exceeds the non-competitive dollar limit but which do not exceed \$25,000.00 (or the latest revision to R.S. 48:205, whichever is higher) are also referred to as "requests for quotations."

B. All requests for quotations covering exempt commodities which exceed the non-competitive dollar limit but which do not exceed \$2,000.00 (or the dollar limits listed in the latest governor's executive order, whichever is higher) shall be awarded on the basis of the lowest responsive price quotation solicited by telephone, facsimile or other means to at least three bona fide, qualified bidders. Whenever possible, at least one of the bona fide, qualified bidders shall be a certified economically disadvantaged business. All facsimile or written solicitations shall include the bid closing date, time, and all pertinent specifications, including quantities, units of measure, packaging, delivery requirements, terms and conditions, and basis of award.

C. All requests for quotations covering exempt commodities having an estimated cost which exceeds \$2,000.00 (or the dollar limit listed in the latest governor's executive order, whichever is higher) but which do not exceed \$25,000.00 (or the latest revision to R.S. 48:205, whichever is higher) shall be awarded on the basis of the lowest responsive price quotation solicited by facsimile or written solicitation to at least five bona fide, qualified bidders. Whenever possible, at least two of the bona fide, qualified bidders shall be certified economically disadvantaged businesses. Facsimile quotations shall allow for bids to be accepted for a minimum period of five calendar days. Written solicitations shall allow for bids to be accepted for a minimum period of ten calendar days. All facsimile or written solicitations shall include the bid closing date, time, and all pertinent competitive specifications, including quantities, units of measure, packaging, delivery requirements, terms and conditions, and basis of award.

D. All requests for quotations shall be publicly opened and read whenever interested parties are present at the bid opening.

E. Purchase of exempt commodities having an estimated cost which exceeds \$25,000.00 (or the latest revision to R.S. 48:205, whichever is higher) will be processed as sealed bids and shall be advertised in accordance with R.S. 48:205.

F. Request for quotations for exempt commodities may also be referred to as "invitation for bids" throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§313. Request for Sealed Bids Covering Exempt Commodities

A. Purchases of exempt commodities having an estimated cost which exceeds \$25,000.00 (or the latest revision to R.S. 48:205, whichever is higher) are referred to as sealed bids.

B. All sealed bids shall be advertised in the Official Journal of the State. Advertisements shall be published not less than ten days prior to the date set for opening the bids. In the event the purchase pertains to a particular parish, the advertisement shall also be published in a newspaper of general circulation printed in the parish. The published advertisement shall fix the exact place and time for presenting and opening of bids.

C. For bids over \$25,000.00 (or the latest revision to R.S. 48:205, whichever is higher), a minimum of 21 days should be provided unless the DOTD procurement director or designee deems that a shorter time is necessary for a particular procurement. However, in no case shall the bidding time be less than 10 days unless the DOTD procurement director has declared the purchase to be an emergency.

D. Sealed bids shall be awarded on the basis of the lowest responsive price quotation solicited by written solicitation to at least five bona fide, qualified bidders. Whenever possible, at least two of the bona fide, qualified bidders shall be a certified economically disadvantaged business. All written solicitations shall include the bid closing date, time, and all pertinent specifications, including quantities, units of measure, packaging, delivery requirements, terms and conditions, and basis of award.

E. The practice of dividing proposed or needed purchases into separate installments for the purpose of evading the bid advertisement requirement is expressly prohibited.

D. Sealed bids shall be publicly opened on the bid opening day.

E. Bids will be publicly read whenever interested parties are present.

F. Sealed bids may also be referred to as invitation for bids throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§315. Single Purchase or One-Time Purchase

A. A single purchase or a one-time purchase refers to a purchase for a specific quantity to be delivered in one shipment.

B. A single purchase or a one-time purchase may also be referred to as invitation for bids throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§317. Term Contract

A. A Term contract (also referred to as an Indefinite Quantity Purchase) is a purchase by which a source of supply is established for a specific period of time. Term contracts are usually based on indefinite quantities to be ordered as needed, and no quantities are guaranteed. This type of contract can also be used to specify definite quantities with deliveries extended over the contract period.

B. Term contracts may contain an option for renewal or extension of the contract; however, this provision must be included in the bid solicitation. When such a contract is awarded by competitive sealed bidding, exercise of the option shall be at the discretion of the department only and shall be with the mutual agreement of the contractor.

C. A term contract or indefinite quantity purchase may also be referred to as invitation for bids throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§319. Proprietary Purchase

A. A proprietary purchase is defined as a purchase that cites brand name, model number, or some other designation that identifies a specific product to be offered exclusive of others.

B. Because use of a proprietary specification is restrictive, it may be used only when written documents verify and substantiate that only the identified brand name item or items will satisfy the needs of the department.

C. In order to declare a purchase a proprietary procurement, a "Justification For Sole Source or Proprietary Purchase" document must be submitted to the DOTD procurement director.

D. The use of a proprietary specification covering a non-exempt commodity requires approval of the DOTD procurement director and also requires the approval of the director of state purchasing if the purchase exceeds the delegated purchasing authority of the Department of Transportation and Development.

E. The use of a proprietary specification covering an exempt commodity requires approval of the DOTD procurement director.

F. The DOTD procurement section shall seek to identify sources from which the designated brand name item can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made as a sole source procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§321. Sole Source Procurement

A. A sole source procurement is the purchase of a required supply, service, or major repair without competition.

B. A sole source procurement is permissible only if the required supply, service, or major repair is available from only a single supplier.

C. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder, supplier or distributor for that item.

D. Examples of circumstances which could necessitate a sole source procurement:

1. compatibility of equipment, accessories, or replacement parts is the paramount consideration;

2. sole supplier's item is needed for trial use or testing.

E. In cases of reasonable doubt, competitive bids will be solicited.

F. Because use of a sole source procurement is restrictive, it may be used only when written documents verify and substantiate that only the identified brand name item or items will satisfy the needs of the department, and that there is only one single source.

G. In order to declare a purchase a sole source procurement, a "Justification For Sole Source or Proprietary Purchase" document must be submitted to the DOTD procurement director.

H. The request for a sole source procurement covering a non-exempt commodity requires approval of the DOTD procurement director and also requires the approval of the director of state purchasing if the purchase exceeds the delegated purchasing authority of the Department of Transportation and Development.

I. The request for a sole source procurement covering an exempt commodity requires approval of the DOTD procurement director.

J. The DOTD procurement director shall submit reports of all sole source purchases to the Office of State Purchasing upon their request. This report shall cover the preceding fiscal year and shall list the following:

1. contractor's name;

2. amount and type of contract;

3. list of the supplies, services or major repairs procured under the contract; and

4. contract number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§323. Emergency Purchase of Exempt Commodities

A. In order for the purchase of an exempt commodity to be declared an emergency purchase without solicitation of bids, the emergency must conform to the definition set forth in R.S. 48:207.

B. Purchases which conform to this definition are made in accordance with the Department's Policy and Procedure Memorandum No. 38 which states the internal procedures which must be followed before proceeding with an emergency purchase.

C. Prior to all emergency procurements of exempt commodities, the DOTD procurement director or designee shall approve the procurement if the emergency occurs during normal working hours. Facsimile requests for emergency procurement should be submitted to the DOTD procurement director if time permits, and must contain adequate justification for the emergency.

D. The procurement method used shall be selected so that required supplies, services, or major repair items are procured in time to meet the emergency. Given this constraint, such competition as is practicable should be obtained.

E. Any bid accepted shall be confirmed in writing.

F. The DOTD procurement director shall submit reports of all emergency purchases to the Office of State Purchasing upon request.

G. This report shall cover the preceding fiscal year and shall list the following:

1. contractor's name;

2. amount and type of contract;

3. the supplies services or major repairs procured under the contract;

4. the contract number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§325. Emergency Procurement of Non-Exempt Commodities

A. The provisions of this Section apply to every non-exempt procurement made under emergency conditions that will not permit other source selection methods to be used.

B. Emergency procurement shall be limited to only those supplies, services, or major repair items necessary to meet the emergency.

C. The Department of Transportation and Development is authorized to make emergency procurement of non-exempt commodities of up to \$10,000 (or the delegated purchasing authority, whichever is higher) when an emergency condition arises and the need cannot be met through normal procurement methods.

D. Prior to all such emergency procurement of non-exempt commodities above the delegated purchasing authority, both the DOTD procurement director and the director of state purchasing shall approve the procurement. Facsimile requests for emergency procurement should be submitted to the DOTD procurement director if time permits, and must contain adequate justification for the emergency.

E. The source selection method used shall be selected to insure that the required supplies, services, or major repair items are procured in time to meet the emergency. Given this constraint, such competition as is practicable should be obtained.

F. Any bid accepted shall be confirmed in writing.

G. If emergency conditions exist as a result of an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§327. Goods Manufactured or Services Performed by Sheltered Workshops

A. R.S. 39:1595.4 provides in part that a preference shall be given by all governmental bodies in purchasing products and services from state operated or state supported sheltered workshops for persons with severe disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 29:

§329. Purchase of Used or Demonstrator Equipment

A. R.S. 39:1645 authorizes the procurement of any equipment which is used or which has been previously purchased by an individual or corporation.

B. The DOTD procurement director must first determine that the procurement of said equipment is cost effective to the state.

C. After receiving the approval of the DOTD procurement director to proceed, the section or district will obtain a letter from the secretary of the Department of Transportation and Development certifying in writing to the director of state purchasing the following:

1. the price for which the used equipment may be obtained;
2. the plan for maintenance and repair of the equipment;
3. the cost of the equipment;
4. the savings that will accrue to the state because of the purchase of the used equipment;
5. the fact that following the procedures set out in the Louisiana Procurement Code will result in the loss of the opportunity to purchase the equipment.

D. If approved, the used equipment shall be purchased within the price range set by the director of state purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§331. Exclusive Statewide Contracts

A. If the Office of State Purchasing has entered into an exclusive statewide competitive contract for non-exempt commodities or services, the Department of Transportation and Development shall use such statewide competitive contracts when procuring such supplies or services unless given written exemption by the director of state purchasing.

B. A lower local price is not justification for exception.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§333. Non-Exclusive Statewide Contracts

A. If the Office of State Purchasing has entered into a non-exclusive contract for non-exempt commodities or services, the Department of Transportation and Development has the option of either using the contract or seeking competitive bids.

B. Non-Exclusive Contracts may be by-passed if the district or section can obtain the item at a better price or if the delivery time is more acceptable. Approval to by-pass a non-exclusive contract is not required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§335. Brand Name Contracts

A. Brand name contracts are non-exclusive contracts entered into by the Office of State Purchasing. Because these

contracts are not competitively bid, they are usually not considered cost effective.

B. The department also discourages the use of brand name products which come in concentrated form.

C. The only exception to the use of brand name contracts is computers and computer equipment which have been mandated by the DOTD Information Technology Director for approved usage. Purchases must be made against brand name contracts for this equipment if the item appears on the Information Technology Approved List.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§337. DOTD Contracts

A. DOTD contracts for exempt commodities are exclusive contracts entered into by the DOTD procurement section. Approval to by-pass a DOTD contract requires written approval from the DOTD procurement director and will only be approved in cases of emergency.

B. DOTD contracts may also be referred to as invitation for bids throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§339. Cost-Plus-a-Percentage-of-Cost Contracts

A. The cost-plus-a-percentage-of-cost system of contracting shall not be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§341. Vendor Commodity Lists

A. Vendor commodity lists are maintained to provide the department with the names and addresses of businesses that may be interested in competing for various types of state contracts. Unless otherwise provided, inclusion or exclusion of the name of a business does not indicate whether the business is responsible with respect to a particular procurement or otherwise capable of successfully performing the contract.

B. It shall be the responsibility of the bidder to confirm that his company is in the appropriate bid category.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§343. Qualified Products List

A. Qualified products lists have been developed by evaluating brands and models of various manufacturers of an item and listing those determined to be acceptable products. These qualified products lists have been developed by the DOTD Materials and Testing Laboratory when testing or examination of the supplies or major repair items prior to issuance of the solicitation is desirable or necessary in order to best satisfy the needs of the department.

B. When developing a qualified products list, the DOTD Materials and Testing Laboratory shall contact a representative group of potential suppliers soliciting

products for testing and examination to determine acceptability for inclusion on a qualified products list. Any potential supplier, even though not solicited, may offer products for consideration.

C. Inclusion on a qualified products list shall be based on results of tests or examinations conducted by the DOTD Materials and Testing Laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§345. Availability of Funds

A. The continuation of a term contract which extends beyond the fiscal year is contingent upon the appropriation of funds to fulfill the requirements of the contract by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of a contract, or if such appropriation is reduced by the veto of the governor or by any means provided in the Appropriations Act or Title 39 of the Louisiana Revised Statutes of 1950 to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§347. Bid Documents

A. All invitations for bids issued by the Department of Transportation and Development shall be solicited on the department's bid form and shall contain all pertinent information and shall be full and complete including, but not limited to, the following:

1. purchase description;
2. specifications;
3. special instructions and conditions;
4. instructions for submitting bids;
5. terms and conditions;
6. delivery requirements;
7. packaging;
8. bid evaluation and award criteria.

B. The bid solicitation may incorporate documents by reference, provided that the bid solicitation specifies where such documents can be obtained.

C. If any special conditions are to apply to a particular contract, they shall be included in the bid solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§349. Specifications

A. A specification is defined as any description of the physical, functional, or performance characteristics of a supply, service, or major repair item.

B. The specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service, or item for delivery.

C. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this rule.

D. The purpose of a specification is to serve as a basis for obtaining a supply, service, or major repair item adequate and suitable for the needs of the department in a cost effective manner, taking into account, to the extent practicable, the costs of ownership and operation as well as initial acquisition costs.

E. It is the policy of the Department of Transportation and Development that specifications permit maximum practicable competition consistent with this purpose. Specifications shall be drafted with the objective of clearly describing the requirements of the department.

F. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply, service, or major repair item, or procurement from a sole source, unless no other manner of description will suffice. In that event, a written determination shall be made that it is not practicable to use a less restrictive specification.

G. It is the general policy of the Department of Transportation and Development to procure standard commercial products whenever practicable. In developing specifications, accepted commercial standards shall be used and unique requirements shall be avoided to the extent practicable.

H. Bid specifications may contemplate a fixed escalation or de-escalation in accordance with a recognized escalation index.

I. Specifications and any written determination or other document generated or used in the development of a specification shall be available for public inspection.

J. This Section applies to all persons who may prepare a specification for use by the Department of Transportation and Development, including consultants, architects, engineers, designers, and other draftsmen of specifications used for public contracts.

K. To the extent feasible, a specification may provide alternate descriptions of supplies, services, or major repair items where two or more design, functional, or performance criteria will satisfactorily meet the requirements of the Department of Transportation and Development.

L. Whenever a manufacturer's name, trade name, brand name, catalog number or approved equivalent is used in a solicitation, the use is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§351. Bid Samples and/or Descriptive Literature

A. Descriptive literature means information available in the ordinary course of business which shows the characteristics, construction, packaging or operation of an item which enables the department to consider whether the item meets its specifications and needs.

B. Bid sample means a sample to be furnished by a bidder to show the characteristics of the item offered in the bid.

C. Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.

D. If the invitation for bids states that either a sample or descriptive literature must be submitted with bid, the bid will be rejected if bidder fails to comply.

E. When the invitation for bids states that bidders may be required to submit a sample prior to award, the sample must be received by the deadline set at time of request. Failure to submit samples within the time allowed will result in disqualification or non-consideration of bid.

F. Requirements for samples

1. When required, samples must be submitted free of expense to the department.

2. Samples shall be marked plainly with name and address of bidder and the purchase requisition number.

3. The bidder must state if he desires that the sample be returned after evaluation, provided that the sample has not been used or made useless through testing procedures. When requested, samples will be returned at bidder's risk and expense. Unsolicited bid samples will not be evaluated and will not be returned to the bidder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§353. New Products

A. Unless specifically called for in the invitation for bids, all products for purchase must be new, never previously used, and the current model and/or packaging. No remanufactured, demonstrator, used or irregular product will be considered for purchase unless otherwise specified in the invitation for bids.

B. The manufacturer's standard warranty will apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 29:

§355. Brand Names

A. Unless otherwise specified in the invitation for bids, any manufacturer's name, trade name, brand name, or catalog number used in the solicitation is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§357. Product Acceptability

A. The invitation for bids shall set forth the evaluation criteria to be used in determining product acceptability. The invitation for bids may require the submission of bid samples, descriptive literature, technical data, or other material. It may also provide for inspection or testing of a product prior to award for such characteristics as quality or workmanship

B. Examination of the product to determine whether the product conforms with purchase description requirements, such as unit of measure or packaging, shall be performed. If a bidder changes the unit or packaging, the bid for the changed item shall be rejected.

C. The acceptability evaluation is not conducted for the purpose of determining whether one bidder's item is superior to another but only to determine that a bidder's offering is acceptable as set forth in the invitation for bids. Any bidder's offering which does not meet the acceptability requirements shall be rejected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§359. Estimated Quantities

A. Term contracts and/or indefinite quantity contracts contain no specific quantities given or guaranteed. Only such quantities as required by the department during the contract period will be ordered.

B. Estimated quantities are based on the previous contract usage or estimates. Where usage is not available, a quantity of one indicates a lack of history on the item.

C. The contractor must supply actual quantities ordered, whether the total of such quantities are more or less than the estimated quantities shown on the bid schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§361. Guarantee and Liability

A. The Department of Transportation and Development requires that all contractors submit to the following guarantees.

1. Guarantee that the supplies delivered are free from defects in design and construction.

2. Guarantee that the supplies are the manufacturer's standard design in construction and that no changes or substitutions have been made in the items listed in the contract.

3. Guarantee that the contractor holds and saves the Department of Transportation and Development, its officers, agents and employees harmless from liability of any kind, including cost and expenses on account of any patented or non-patented invention, articles, devices or appliances manufactured or used in the performance of any DOTD contract, including use by the government.

4. Guarantee to replace free of charge all defective equipment, materials or supplies delivered under the contract. All transportation charges covering return and replacement shall be paid by the contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§363. Pre-Bid Conferences Covering Exempt Commodities

A. Pre-bid conferences may be conducted to explain the procurement requirements. They shall be announced to all prospective bidders known to have received an invitation for bids and shall be advertised in the Official Journal of the State if the estimated cost is over \$25,000 (or the latest revision to R.S.48:205, whichever is higher).

B. The conference will be held after an interval following the issuance of invitation for bids in order to allow bidders to become familiar with the invitation, but

sufficiently before bid opening to allow consideration of the conference results in preparing their bids.

C. Nothing stated at the pre-bid conference shall change the invitation for bids unless an addendum is issued.

D. If the pre-bid conference requires mandatory attendance, bidders not attending the conference will not be considered for award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§365. Modifying Written Bid Solicitations

A. Addenda modifying written bid solicitations covering purchases above the non-competitive bid level shall not be issued within three working days prior to the scheduled bid opening date for the opening of bids, excluding Saturdays, Sundays and any other legal holidays.

B. If the necessity arises to issue an addendum modifying an invitation for bids within the three working day period prior to the bid opening date, then the opening of bids shall be extended exactly one week, without the requirement of re-advertising.

C. An addendum shall be sent to all prospective bidders known to have received an invitation for bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§367. Cancellation of Invitation for Bids

A. A solicitation may be canceled in whole or in part when the DOTD procurement director determines, in writing, that such action is in the best interest of the department, for reasons including, but not limited to the following:

1. the department no longer requires the supplies, services, or major repairs;
2. proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable;
3. ambiguous or otherwise inadequate specifications were part of the solicitation;
4. the solicitation did not provide for consideration of all factors of significant cost to the state;
5. prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
6. all otherwise acceptable bids received are at unreasonable prices;
7. there is reason to believe that the bids or proposals may not have been independently calculated in open competition, may have been collusive, or may have been submitted in bad faith.

B. When a solicitation is canceled prior to the bid opening, a notice of cancellation shall be sent to all businesses solicited. The notice of cancellation shall:

1. identify the solicitation
2. briefly explain the reason for cancellation
3. where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar supplies, services, or major repairs.

C. The reasons for cancellation shall be made a part of the procurement file and shall be made available for public inspection.

D. If the solicitation is canceled prior to the bid opening, all bids will be returned to the bidders.

E. If the solicitation is canceled after the bid opening, all bids will be retained by the DOTD procurement section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§369. Modification or Withdrawal of Bids

A. Bids covering requests for quotations may be modified or withdrawn by written, telegraphic or fax notice received at the address designated in the invitation for bids prior to the time set for bid opening, as recorded by date stamp at the DOTD procurement section.

B. Bids covering sealed bids may only be modified if the modification is received in writing prior to the time set for bid opening, as recorded by date stamp at the DOTD procurement section. Telegraphic or fax modifications will not be accepted on a sealed bid.

C. A written request for the withdrawal of a bid or any part thereof will be granted if the request is received prior to the specified time of bid opening. If a bidder withdraws a bid prior to the bid opening, the bid document will be returned to the bidder.

D. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 29

§371. Postponed Bid Openings

A. In the event that bids are scheduled to be opened on a day that is a federal holiday, or if the governor, by proclamation, creates an unscheduled holiday, or for any cause that creates a non-working day, bids scheduled to be opened on that day shall be opened on the next working day at the same address and time specified in the invitation for bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§373. Receipt, Opening and Recording of Bids

A. Upon receipt, all bids and modified bids will be time-stamped, but not opened. They shall be stored in a secure place until time for bid opening.

B. Bids and modified bids shall be publicly opened and publicly read at the time and place designated in the invitation for bids if prospective bidders attend the bid opening.

C. The names of the bidders and the bid price shall be read aloud or otherwise be made available and shall be recorded.

D. Bidders may attend the bid opening but no information or opinion concerning the ultimate award will be given at the bid opening or during the evaluation process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§375. Late Bids

A. Formal bids and addenda thereto, received at the address designated in the invitation for bids after the time specified for bid opening will not be considered, whether delayed in the mail or for any other causes whatsoever. In no case will late bids be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§377. Bid Results

A. Information pertaining to results of bids may be secured by visiting the Department of Transportation and Development during normal working hours, except weekends and holidays.

B. Written tabulations may be obtained by submitting a stamped self-addressed envelope with the bid.

C. Information pertaining to completed files may be secured by visiting the department during normal working hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§379. Rejection of Bids

A. All written bids, unless otherwise provided for, must be submitted on, and in accordance with, forms provided. Bids submitted in the following manner will not be accepted.

1. Bid contains no signature indicating an intent to be bound.

2. A typed name without either a printed or written signature will not be accepted.

3. Bid completed in pencil.

4. Bids received after the bid opening time.

5. Bids not submitted on the Department of Transportation and Development's bid form indicating an intent not to be bound by the department's special instructions and conditions.

6. Bids which contain special conditions and terms which differ from the department's special instructions and conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§381. Mistakes in Bids

A. Bids may be withdrawn, if such correction or withdrawal does not prejudice other bidders, and such actions may be taken only to the extent permitted under these regulations.

B. A request to withdraw a bid after the bid opening must be made within three business days after bid opening, and must be supported in writing.

C. Requests to withdraw a bid after three business days will be considered by the DOTD procurement director and the bidder may or may not be allowed to withdraw the bid

based on the best interest of the Department of Transportation and Development.

D. Minor informalities are matters of form rather than substance which are evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders. The DOTD procurement director may waive such informalities or allow the bidder to correct them depending on which is in the best interest of the state. Examples include, but are not limited to:

1. failure to return the number of signed bids required by the invitation for bids;

2. failure to sign the bid, but only if the unsigned bid is accompanied by other signed material indicating the bidder's intent to be bound;

3. failure to sign or initial a write-over or correction in bid;

4. failure to get certification that a mandatory job-site visit was made;

5. failure to return non-mandatory pages of the bid proposal.

E. If the mistake and the intended bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended bid and may not be withdrawn.

F. Some examples of mistakes that may be clearly evident on the face of the bid document are:

1. typographical errors;

2. errors in extending unit prices;

3. failure to return an addendum provided there is evidence that the addendum was received.

G. When an error is made in extending total prices, the unit bid price will govern.

H. Under no circumstances will a unit bid price be altered or corrected unless the bid price is clearly marked stating the unit of measure used. However, if the invitation for bids states that bids submitted in a different unit of measure will not be considered for award, the bid will be rejected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§383. Increase or Decrease in Quantities

A. Bidders must quote in the quantity shown on the invitation for bids.

B. Bidders increasing or decreasing quantity due to packaging will not be considered for award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§385. Alternate Bids

A. Any bidder quoting an alternate product which does not fully comply with the specifications contained in the invitation for bids must state in what respect the product deviates.

B. Failure to note exceptions on the bid form will be considered an indication that the product meets the specifications contained in the invitation for bids.

C. Bidders quoting an equivalent brand or model should submit with the bid information such as illustrations, descriptive literature and /or technical data sufficient for the

Department of Transportation and Development to evaluate quality, suitability and compliance with the specifications.

D. Failure to submit descriptive information may cause bid to be rejected.

E. Any change made to a manufacturer's published specification submitted for a product should include verification by the manufacturer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§387. All or None Bids Covering Non-Exempt Commodities

A. Bidders may limit a bid on acceptance of the whole bid, whereupon the department shall not thereafter reject part of such bid and award on the remainder.

B. An award shall be made to the "all or none" bid only if it is the overall low bid on all items, or on those items bid.

C. The overall low bid shall be that bid whose total bid, including all items bid, is the lowest dollar amount; be it an individual bid or a computation of all low bids on individual items of those bids that are not conditioned "all or none".

D. When multiple items are contained on any solicitation and the department chooses to make a group award in order to save the department the cost of issuing another purchase order, an award may be made to a vendor already receiving a purchase order if the total bid for said item is \$1,000 or less, and the total difference between the low bidder and the bidder receiving the award is \$100 or less.

E. Bidders quoting "all or none" will not be considered for award if the invitation for bids specifically states that all or none bids will not be considered for award. The only exception to this is if the bidder is the low bidder on all items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551 - 1736 and 48:204 - 210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§389. All or None Bids Covering Exempt Commodities

A. Bidders may limit a bid on acceptance of the whole bid, whereupon the department shall not thereafter reject part of such bid and award on the remainder.

B. When multiple items are contained on any solicitation and the department chooses to make a group award in order to save the department the cost of issuing another purchase order, an award may be made to a vendor already receiving a purchase order if the total bid for said item is \$1,000 or less, and the total difference between the low bidder and the bidder receiving the award is \$100 or less.

C. The decision to award on the basis of all or none or on individual items will be determined by the DOTD procurement director taking into consideration the best interest of the Department of Transportation and Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§391. Preferences

A. Preference in awarding contracts will be given for all types of products produced, manufactured, assembled,

grown, or harvested in Louisiana in accordance with the Louisiana Procurement Code.

B. Preferences will not be considered in the award of service contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§393. Bid Prices

A. All bid prices shall remain firm for the contractual period.

B. Unit prices must not exceed four digits to the right of the decimal point. Unit prices submitted beyond four digits will be rounded off to the nearest fourth digit.

C. All bid prices quoted shall include all costs incidental to any license or patent that may be held by any company. The bidder agrees to hold the Department of Transportation and Development harmless from any claims, suits, costs or penalties for infringement or use of licensed or patented products.

D. Bid prices, unless otherwise specified, must be net including transportation and handling charges fully prepaid to destination. Bids containing C.O.D. requirements will not be considered for award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§395. Bids Binding

A. Unless otherwise specified, all invitations for bid shall be binding for a minimum of 30 calendar days. Nevertheless, if the lowest responsive and responsible bidder is willing to keep his price firm in excess of 30 days, the department may award to this bidder after this period has expired, or after the period specified in the bid has expired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§397. Taxes

A. Pursuant to Act 1029 of the 1991 Regular Session of the Louisiana Legislature, the state and any of its agencies, boards or commissions are exempt from the Louisiana State Sales and Use Taxes.

B. Vendors are responsible for including any other applicable taxes in the bid price.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§399. Rejection of Bids

A. The Department of Transportation and Development reserves the right to reject any or all bids in whole or in part, waive any informalities, and to award by items, parts of items, or by any group of items specified and/or waive any informalities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§401. Bid Evaluation and Award

A. Contracts are awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

B. No bid shall be evaluated for any requirements or criteria that are not disclosed in the invitation for bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§403. Determination of Lowest Bidder

A. Following determination of product acceptability, bids will be evaluated to determine which bidder offers the lowest cost to the Department of Transportation and Development in accordance with the evaluation criteria set forth in the invitation for bids.

B. Only objectively measurable criteria which are set forth in the invitation for bids shall be applied in determining the lowest bidder. Evaluation factors shall treat all bids equitably.

C. A contract shall not be awarded to a bidder submitting a higher quality item than that required by the invitation for bids unless the bid is also the lowest bid meeting specifications. There shall be no negotiation with any bidder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§405. Tie Bids

A. Tie bids are defined as low responsive bids from responsible bidders that are identical in price and which meet all requirements and criteria set forth in the invitation for bids.

B. Resident businesses shall receive preference over nonresident businesses where there is a tie bid and where there will be no sacrifice or loss of quality.

C. A written determination justifying the manner of award must be made a part of the file. This would include, but is not limited to consideration of such factors as:

1. resident business;
2. proximity;
3. past performance;
4. delivery;
5. completeness of bid proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§407. Discounts

A. Discounts will be considered in determining low bidder on one-time purchases or definite quantity purchases if the discount is at least one percent for a minimum of 30 days.

B. In the event the discount is for less than one percent or less than 30 days, the discount will be taken but will not be a determining factor in the bid evaluation.

C. Discounts will not be considered in determining low bidder on term contracts or indefinite quantity purchases.

D. Discounts will be taken but will not be a determining factor in the bid evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§409. Standards of Responsibility

A. A responsible bidder is a company or person who has the capability in all respects to perform fully the contract requirements, and which has the integrity and reliability which will assure good faith performance.

B. Capability, as used in this rule, means capability at the time of award of the contract, unless otherwise specified in the invitation for bids.

C. Factors to be considered in determining whether the standard of responsibility has been met include, but are not limited to, whether a prospective contractor has the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to indicate capability of meeting all contractual requirements.

D. The prospective contractor shall supply information requested concerning the responsibility of such contractor.

E. If such contractor fails to supply the requested information, the DOTD procurement director shall base the determination of responsibility upon any available information or may find the prospective contractor non-responsive.

F. Before awarding a contract, the procurement officer must be satisfied that the prospective contractor is responsible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§411. Signatory Authority

A. By signing a bid form, the bidder certifies that the bid is made without collusion or fraud.

B. In accordance with R.S.39:1594, the person signing the bid must be:

1. a current corporate officer, partnership member or other individual specifically authorized to submit a bid as reflected in the appropriate records on file with the secretary of state; or
2. an individual authorized to bind the vendor as reflected by an accompanying corporation resolution, certificate or affidavit; or
3. an individual listed on the State of Louisiana Bidder's Application as authorized to execute bids.

C. Evidence of authority to submit the bid shall be required in accordance with R.S. 39:1594(C)(4).

D. By signing the bid, the bidder certifies compliance with the provisions listed above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§413. Documentation of Award

A. Following award, all files shall contain documentation including, but not limited to, the following:

1. a list of all solicited bidders;
2. a list of all bids received;
3. the bid tabulation; and

4. the basis of award.

B. In the event that the low bidder was by-passed and the award was made to a higher bidder, the file shall contain documentation that states the reason for the rejection of the lower bid.

C. If no bid was solicited from a certified economically disadvantaged business, the file shall contain an explanation of why such a bid was not solicited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§415. Insurance Requirements

A. Any contractor performing any service on any premises of the Department of Transportation and Development must furnish proof of:

1. public liability insurance;
2. property damage insurance;
3. workmen's compensation insurance; and
4. automobile public liability insurance, if applicable before work can commence.

B. The certificates of insurance, issued by a company licensed to do business in the state of Louisiana, must be furnished within ten days after notification of award.

C. The contractor shall not suspend, void, cancel or reduce the coverage or limits of any of the required insurance while the contract is in effect. In the event of any such occurrence, the DOTD procurement director must be immediately notified and acceptable alternate coverage must be furnished.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§417. Workman's Compensation Insurance

A. If applicable, contractors and subcontractors shall secure and maintain workman's compensation insurance for all of their employees employed at the site of a project.

B. In case any class of employees is engaged in hazardous work as defined by the Workman's Compensation Statute, the contractor and subcontractor shall provide employer's liability insurance for the protection of their employees not otherwise protected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551 - 1736 and 48:204 - 210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§419. Public Liability and Property Damage Insurance

A. If applicable, contractors and subcontractors shall secure and maintain comprehensive public general liability insurance, including but not limited to:

1. bodily injury;
2. property damage;
3. contractual liability;
4. products liability; and
5. owner's protective liability, with combined single

limits of \$500,000 per occurrence with a minimum aggregate of \$1,000,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§421. Automobile Public Liability Insurance

A. If applicable, contractors and subcontractors shall take and maintain automobile public liability insurance in an amount not less than combined single limits of \$500,000 per occurrence for bodily injury and/or property damage.

B. If any non-licensed motor vehicles are engaged in operations at a Department of Transportation and Development jobsite, such insurance shall cover the use of all such motor vehicles engaged in operating within the terms of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§423. Performance Bond

A. When specified in the invitation for bids, a performance bond made payable to the Department of Transportation and Development must be submitted prior to award.

B. Failure to submit a performance bond within the time allowed will result in disqualification or non-consideration of the bid.

C. Performance bonds shall be written by a surety or insurance company currently on the U.S. Department of the Treasury Financial Management Service list of approved bonding companies which is published annually in the Federal Register, or by a Louisiana domiciled insurance company with at least an "A-" rating in the latest printing of the A.M. Best's Key Rating Guide to write individual bonds up to 10 percent of policyholders' surplus as shown in the A.M. Best's Key Rating Guide.

D. No surety or insurance company shall write a performance bond which is in excess of the amount indicated as approved by the U.S. Department of the Treasury Financial Management Service list or by a Louisiana domiciled insurance company with an "A-" rating by A.M. Best up to a limit of 10 percent of policyholders' surplus as shown by A.M. Best; companies authorized by this paragraph who are not on the Treasury List shall not write a performance bond when the penalty exceeds 15 percent of its capital and surplus, such capital and surplus being the amount by which the company's assets exceed its liabilities as reflected by the most recent financial statements filed by the company with the Louisiana Department of Insurance.

E. The requirement of a performance bond cannot be waived. The conditions of the performance bond shall provide that failure to meet delivery requirements and specifications shall constitute a forfeiture of said bond to the extent of loss suffered by the department or shall constitute a forfeiture of said bond to the extent required to enable the Department of Transportation and Development to meet the requirements of the contract hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§425. Deliveries

A. Any extension of time on delivery or project completion time must be requested in writing by the vendor and accepted or rejected in writing by the DOTD procurement director.

B. Such extension is applicable only to the particular item or shipment affected.

C. No delivery charges shall be added to invoices except when express delivery is requested by the DOTD procurement director and is substituted on an order for less expensive methods specified in the contract. In such cases, when requested by the DOTD procurement director, the difference between freight or mail and express charges may be added to the invoice.

D. The Department of Transportation and Development reserves the right to weigh shipments if deemed appropriate.

E. Deliveries shall be subject to reweighing on official scales designated by the department.

F. Payments shall be made on the basis of net weight of materials delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§427. Invoices

A. Upon each delivery and its acceptance by the department, the contractor shall bill the department by means of an invoice and such invoice shall make reference to the purchase order number on which delivery was made.

B. At the time of delivery, the contractor is to make a delivery ticket on his own form showing:

1. complete description;
2. the exact quantity delivered;
3. price;
4. extension; and
5. purchase order number.

C. Invoices shall be submitted by the contractor in triplicate directly to the address shown on the purchase order.

D. Invoice price must agree with contract price.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§429. Payment

A. After receipt and acceptance of order and receipt of valid invoice, payment will be made by the Department of Transportation and Development within the discount period or within thirty calendar days from receipt of correct invoice.

B. If contractor proposes a discount, the discount period will start from receipt of correct invoice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§431. Default of Contractor

A. Failure to deliver within the time specified in the invitation for bids will constitute a default and may cause cancellation of the contract.

B. If the contractor is considered to be in default, the Department of Transportation and Development reserves the right to purchase any or all products or services covered by the contract on the open market and to charge the contractor with costs in excess of the contract price.

C. Until such assessed charges have been paid, no subsequent bid from the defaulting contractor will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§433. Assignments

A. No contract or purchase order or proceeds thereof may be assigned, sublet or transferred without a written request from the contractor.

B. Contractors are required to submit an "assignment of proceeds of contract" document and an "assignment of contract" document to the DOTD procurement director.

C. If the contract covers an exempt commodity, the assignment must be approved by the DOTD procurement director.

D. If the contract covers a non-exempt commodity, the assignment must be approved by the director of state purchasing and the commissioner of administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§435. Reduction in Contract Price

A. The Department of Transportation and Development cannot accept a reduction in price on any non-exempt commodity contract unless the price reduction is offered to all state agencies using the contract.

B. The Department of Transportation and Development reserves the right to accept a reduction in price on any exempt commodity contract if it is considered in the best interest of the department.

C. Inspection of Facilities Contracts entered into by the Department of Transportation and Development may provide that the state may inspect supplies and services at the contractor's or subcontractor's facility and perform tests to determine whether they conform to solicitation requirements, or after award, to contract requirements, and are therefore acceptable.

D. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract and shall be performed so as not to unduly delay the work of the contractor or subcontractor.

E. No inspector may change any provision of the specifications or the contract without written authorization of the DOTD procurement director. The presence or absence of an inspector shall not relieve the contractor or subcontractor from any requirements of the contract.

F. When an inspection is made in the plant or place of business of a contractor or subcontractor, such contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§437. Audit of Records

A. The state may enter a contractor's or subcontractor's plant or place of business to:

1. audit cost or pricing data; or
2. audit the books and records of any contractor or subcontractor;
3. investigate in connection with an action to debar; or
4. suspend a person from consideration for award of contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§439. Contract Renewal

A. When a contract contains an option for renewal clause, notice of such provision shall be included in the solicitation.

B. When such a contract is awarded by competitive sealed bidding, exercise of the option shall be at the department's discretion only, and shall be with the mutual agreement of the Department of Transportation and Development and the contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§441. Exercise of Renewal Option

A. Before exercising any option for renewal, the DOTD procurement director or designee shall attempt to ascertain whether a re-solicitation is practical.

B. Factors to be considered include but are not limited to:

1. current market conditions;
2. trends;
3. cost factors;
4. price comparisons with similar service in other states; and
5. various other factors as determined by the DOTD procurement director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§443. Termination of Contract

A. The Department of Transportation and Development reserves the right to terminate any contract prior to the end of the contract period upon providing a ten day written notice to the contractor for:

1. failure to deliver within the time specified in the contract;
2. failure of the product or service to meet specifications;
3. failure to conform to sample quality;
4. failure to be delivered in good condition;
5. unsatisfactory performance;
6. unsatisfactory delivery;
7. unsatisfactory service;
8. misrepresentation by the contractor;

9. fraud;
10. collusion;
11. conspiracy or other unlawful means of obtaining contract;
12. conflict of contract provisions with constitutional or statutory provisions of state or federal law;
13. breach of contract; or
14. if termination is in the best interest of the department.

B. Should the contractor find that due to increase in price or lack of product availability an order cannot be filled, the contractor must submit a request for cancellation to the DOTD procurement director.

C. The DOTD procurement director will make a determination as to whether the contract will be cancelled based upon the reasons cited in the request.

D. All orders delivered prior to the effective date of such termination shall be paid for by the department in accordance with the terms of the contract, whereupon all obligations of both parties to the contract shall cease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§445. Debarment

A. This Section applies to a debarment or suspension for cause from consideration for award of contracts where there is probable cause for such action.

B. After reasonable notice to the party involved, the appropriate chief procurement officer shall have authority to suspend or debar a party for cause.

C. The DOTD procurement director serves as the hearing officer for exempt commodities, and the director of state purchasing serves as the hearing officer for non-exempt commodities.

D. Should the party involved desire a formal hearing, he shall, within five days of receipt of the notice referred to Subsection B, inform the chief procurement officer in writing of said desire.

E. Formal hearings will be conducted pursuant to the provisions of Title 49, Chapter 13 of the Louisiana Revised Statutes.

F. Within fourteen days after the date of mailing of the notice referred to in Subsection B, the chief procurement officer will issue a written decision stating the reasons for the action taken and informing the party, aggrieved person or interested person of the right to administrative review and thereafter judicial review, where applicable.

G. A copy of the decision or order shall be mailed or otherwise furnished to all interested parties.

H. Appeals from a suspension or debarment decision must be filed with the commissioner of administration within fourteen days of the receipt of the decision.

I. The commissioner shall decide within fourteen days whether, or the extent to which, the debarment or suspension was in accordance with the Constitution, Statutes, Regulations, and the best interest of the state, and was fair.

J. The decision of the commissioner of administration on the appeal shall be final and conclusive unless:

1. the decision is fraudulent; or
2. the debarred or suspended party has timely appealed to the court in accordance with R.S. 39:1691(B).

K. The filing of the petition in the Nineteenth Judicial District Court shall not stay the decision of the commissioner of administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§447. Protest of Bid Solicitation or Award

A. In accordance with R.S. 39:1671, any person who is aggrieved in connection with the solicitation, award, or issuance of written notice of intent to award may protest to the chief procurement officer.

B. The chief procurement officer for exempt commodities is the DOTD procurement director and the chief procurement officer for non-exempt commodities is the director of state purchasing.

C. Protests with respect to a solicitation shall be submitted in writing at least two days prior to the opening of bids.

D. In the event of protest, the chief procurement officer will suspend the bid opening until a decision on the protest has been determined.

E. Protests with respect to the award of a contract or the issuance of written notice of intent to award a contract shall be submitted in writing within fourteen days after contract award.

F. In the event of protest, the chief procurement officer will issue a stay until a decision on the protest has been determined.

G. Within fourteen days of receipt of protest, the chief procurement officer shall issue a written decision stating the reasons for the action taken and informing the party, aggrieved person, or interested person of the right to administrative review and thereafter judicial review where applicable.

H. An aggrieved person or an interested person must appeal to the commissioner of administration within seven days of receipt of the decision of the chief procurement officer.

I. The commissioner of administration shall decide within fourteen days whether the solicitation or award or intent to award was in accordance with the constitution, statutes, regulations and the terms and conditions of the solicitation.

J. The decision of the commissioner of administration on the appeal shall be final and conclusive unless:

1. the decision is fraudulent; or
2. the person adversely affected by the decision of the commissioner of administration has timely appealed to the court in accordance with R.S. 39:1691.

K. The Nineteenth Judicial District Court shall have exclusive venue over an action between the state and a bidder or contractor, prospective or actual, to determine whether a solicitation or award of a contract is in accordance with the constitution, statutes, regulations, and the terms and conditions of the solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

Family Impact Statement

The proposed adoption of this rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this Notice of Intent to Dana Watlington, Procurement Section, Department of Transportation and Development, P. O. Box 94245, Baton Rouge, Louisiana, 70804-9245, Telephone (225)379-1444.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Purchasing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of the proposed Rule has no effect in comparison to current practice. There also should be no effect on cost in comparison to the existing Rule. The proposed Rule simply reflects changes in departmental procurement policy which were prompted by changed in Louisiana law since the rules were originally promulgated in 1982. (The changes began in 1986.) Prior rules were written when the department was totally exempt from the rules and regulations of the Office of State Purchasing and commissioner of administration. Currently, the department can only procure component parts of roads and bridges "in house." For all other procurements over the delegated purchasing authority (now \$10,000.00), the division of administration much perform the procurement. However, when the department performed all procurements, it followed the guidelines of the division of administration.

The threshold amount for requiring sealed bids for departmental procurement was statutorily increased in 1991 and 1997 and those changes are reflected in the revised rule. These changes represent a potential increase in procurement costs, however such increase is not anticipated to be significant.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

John Basilica
Undersecretary
0212#070

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Alligator Regulations (LAC 76:V.701)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend the regulations governing the Alligator Regulations (LAC 76:V.701).

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

A.13.d. ...

14. Alligator Egg Collection

a. - i. ...

j. The alligator egg collection permittee and the landowner are responsible for the return of the percentage of live alligators to the wild described on the alligator egg collection permit. This requirement is nontransferable. Minimum return rates will be based upon the state average hatching success which is 78 percent. In no case shall the return rate be less than 14 percent at 48 inches total length. Each alligator shall be returned to the original egg collection area within a maximum time of two years from date of hatching. Each alligator shall be a minimum of 36 inches and a maximum of 54 inches (no alligators will be accepted and no credit will be given for alligators over 54 inches) in total length and the returned sex ratio should contain at least 50 percent females. The alligator egg collection permittee/landowner are responsible for and must compensate in kind for alligator mortality which occurs for department-authorized return to the wild alligators while being processed, stored, or transported. The department shall be responsible for supervising the required return of these alligators. A department transfer authorization permit is not required for return to the wild alligators which are delivered to the farm of origin no more than 48 hours prior to being processed for wild release. Releases back to the wild will only occur between March 15 and August 15 of each calendar year provided that environmental conditions as determined by the department are favorable for survival of the released alligators. Any farmer who owes 1000 or more alligators at 48 inches must release at least 1/4 of the total owed for that year by April 30; at least another quarter by June 10, at least another quarter by July 15; and the

remainder by August 15th. A farmer may do more than the required one-fourth of his releases earlier if available unscheduled days allow. Should an alligator egg collection permittee be unable to release the required number of alligators to the wild from his own stock, he shall be required to purchase additional alligators from another farmer to meet compliance with the alligator egg collection permit and these regulations, as supervised by the department. Department-sanctioned participants in ongoing studies involving survivability and return rates are exempt from these requirements during the period of the study. Violation of this Subparagraph is a class four violation as described in Title 56.

k. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263 and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002), 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 the final Rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice on intent and final Rule and the preparation of reports and correspondence to other agencies of government.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its family impact statement in connection with the preceding notice of intent: This notice of intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit comments relative to the proposed Rule to Mr. L. Brandt Savoie, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to February 6, 2003.

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Alligator Regulations**

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 associated with this proposed Rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule change is anticipated to have a minor negative impact on revenues deposited into the Alligator Resource Fund. As a result of this proposed rule change alligator farmers will be required to release more alligators in order to meet their release requirements. This will result in fewer alligators entering commercial trade, therefore reducing the alligator hide tag fees and severance tax collected by the department. We anticipate the revenue decrease to be approximately \$11,250 per year, starting in fiscal year 2004-2005.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule change will require alligator farmers to release more alligators to meet their release requirements. The change will result in some farmers having fewer alligators to sell, however their grow out cost will be reduced because the alligators will be released at smaller sizes. Overall the department anticipates the rule change to have a minimal negative impact on most alligator farmers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change will have no effect on competition, as the proposed Rule change will apply uniformly to all individuals currently in the alligator farming business. Employment may be affected slightly, since gross revenues from alligator sales are anticipated to decrease.

Thomas M. Gattle, Jr
Chairman
0212#059

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Amendments to Office of the Secretary, Air,
Hazardous Waste, Solid Waste, Water Quality,
Underground Storage Tank, and Radiation
Protection Regulations for Fees (OS041)
Risk/Cost/Benefit Statement

Introduction

The Louisiana Department of Environmental Quality (LDEQ) is proposing amendments to the Office of the Secretary, Air, Hazardous Waste, Solid Waste, Water Quality, Underground Storage Tank, and Radiation Protection Regulations that would increase the fees collected in these programs by 20 percent in Fiscal Year 2003 and by an additional 10 percent in Fiscal Year 2004. The 10 percent increase is above those in effect for Fiscal Year 2003. The Department collects these fees, designated for the Environmental Trust Fund, from members of the regulated community covered by these programs. Act 134 of the 2002 First Extraordinary Session of the Louisiana Legislature authorized the increase in fees.

The fee increase will provide funding to be expended by the Department to fund some portion or all of the 150 positions that are currently authorized in the current year's budget, but which are below the line in the Fiscal Year 2003 Executive Budget. Some of these funds would also be expended on equipment.

This statement is prepared to satisfy the requirements of R.S. 30:2019.D and R.S. 49:953.G (Acts 600 and 642 of the 1995 Louisiana Legislature, respectively). However, this document is not a quantitative analysis of cost, risk, or economic benefit, although costs of implementation were identified to the extent practical. The statutes allow a qualitative analysis of economic and environmental benefit where a more quantitative analysis is not practical. The Department asserts that the benefits of a rule designed to retain personnel in departmental programs justify the costs associated with the legislatively passed fee increases.

Therefore, the qualitative approach is taken with this risk/cost benefit statement. As discussed further in this document, these amendments to the Office of the Secretary, Air, Hazardous Waste, Solid Waste, Water Quality, Underground Storage Tank, and Radiation Protection Regulations provide environmental and economic benefits. Assessing dollar benefits of avoided environmental risk or economic benefits of this rule is not practicable. In addition, the Department asserts that the indirect and direct environmental and economic benefits to be derived from this rule will, in the judgment of reasonable persons, outweigh

the costs associated with the implementation of the rule and that the rule is the most cost-effective alternative to achieve these benefits.

Risks Addressed by the Rule

The rule addresses the risks associated with the potential pollution or toxic releases caused or exacerbated by inadequate or lack of department-sponsored inspections. The rule does this by providing the funds necessary to hire the appropriate number of inspectors to conduct the mandated number of inspections of regulated facilities. The fees will also allow the Department to train the newly hired inspectors and provide them with the necessary equipment required to carry out their job functions.

Numerous risks are associated with inadequate, unskilled or no inspections of facilities and/or sites with the potential to discharge wastes into the environment. Unauthorized discharges to the environment have the potential to contaminate air, land, water and, particularly, groundwater. Contamination of drinking water wells and aquifers used for potable water poses a significant threat to human health. Inspections also uncover unauthorized waste sites that, at a minimum, may be remediated by the landowner or, at a maximum, become Superfund sites. Undiscovered waste tires hold water that provides a fertile breeding ground for mosquitoes, which provide an excellent vector for diseases. Tire sites also provide shelter for vermin, such as rats, that are another vector for disease, in addition to being a destructive pest.

Environmental and Health Benefits of the Rule

The additional money collected through this rule will provide the inspectors necessary to carry out the inspection mandates of the Department. This will result in multimedia inspections of waste-producing facilities around the state as required by local, state and federal mandates. The fees will allow the monitoring of facilities that is necessary for curbing releases into the environment. The fee increases will also contribute to the discovery and remediation of unauthorized waste sites around the state, including unauthorized dumps and waste tire sites. These sites, in addition to being eyesores on the landscape, have the potential for adverse impacts on human health.

Social and Economic Costs

This rule is an amendment to raise fees that are already assessed, and as such, there are no significant costs to implement the rule. Representatives of the regulated community are in favor of the proposed increase to fund the Department at a level necessary to carry out its mandates.

Persons currently regulated by the Office of the Secretary, Air, Hazardous Waste, Solid Waste, Water Quality, Underground Storage Tank, and/or Radiation Protection Regulations would pay an additional 20 percent in fees in FY 2003. These new fees would generate an estimated \$7.2 million in statutory dedicated fees. There would be an additional 10 percent increase in fees in FY 2004 that would

generate an additional \$4.32 million over and above the \$7.2 million increase in FY 2003. The total effect of the rule would be an \$11.52 million fee increase beginning in FY 2004 and every year thereafter.

Persons directly affected will pay additional fees; however, these fees will provide benefits in excess of the fees. The adequate monitoring of regulated facilities would reduce or prevent unauthorized releases into the environment. In addition, health hazards will be removed in the form of unauthorized waste sites, and waste tire piles would be removed from the environment. These two functions will not only protect human health and the environment, but will aesthetically enhance the state for the benefit of its citizens.

Conclusion

The Department believes that the benefits of enhanced environmental and public health protection, as well as other benefits, outweighs the costs of implementation of the rule. Therefore, the rule is obviously the most cost-effective alternative to achieve these benefits.

James H. Brent, Ph.D.
Assistant Secretary

0212#064

POTPOURRI

Office of the Governor Division of Administration Office of Group Benefits

Notice of Postponement and Re-Scheduling of Public Hearing

In the November 2002 *Louisiana Register* (LR 28:2415-2428) the Office of Group Benefits promulgated 10 Notices of Intent regarding proposed modifications to its EPO and PPO plans of benefits. Each of the Notices advised that interested persons could appear and present their views at a public hearing to be held on Monday, December 30, 2002, at the Louisiana Department of Transportation and Development (DOTD) Auditorium. However, in order to avoid potential conflicts with the holiday schedules of covered employees, retirees, and other affected parties, and to provide ample opportunity for those who wish to comment on the proposed Rules to do so, the Office of Group Benefits hereby gives notice that the public hearing has been postponed and re-scheduled to Wednesday, January 8, 2003, from 6 p.m. until 7:30 p.m., at the Louisiana State Police Training Academy Auditorium, 7901 Independence Boulevard, Baton Rouge, Louisiana 70806. Interested persons may appear and present their views at that time.

In addition, interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Wednesday, January 8, 2003.

A. Kip Wall
Chief Executive Officer

0212#057

POTPOURRI

Office of the Governor Office of Financial Institutions

Judicial Interest Rate Determination

R.S. 13:4202(B), as amended by Acts 2001, No. 841, requires the Louisiana Commissioner of Financial Institutions to determine the rate of judicial interest. The Commissioner has determined that the rate of judicial interest for the entire year of 2003 will be 4.5 percent per annum. The determination was made in accordance with R.S. 13:4202(B)(1).

The commissioner ascertained that on October 1, 2002, the approved discount rate of the Federal Reserve Board of Governors which was in effect on October 1, 2002, was 1.25 percent.

R.S. 13:4202(B)(1) mandates that "on and after January 1, 2002, the rate shall be equal to the rate as published annually ... by the commissioner of financial institutions. The commissioner of financial institutions shall ascertain, on the first business day of October of each year, the Federal Reserve Board of Governors' approved discount rate published daily in the Wall Street Journal. The effective judicial interest rate for the calendar year following the calculation date shall be three and one-quarter percentage points above the discount rate as ascertained by the commissioner."

The effective judicial interest rate for the entire year of 2003 shall be 4.5 percent per annum.

This determination and its publication in the *Louisiana Register* shall not be considered rule-making, within the intendment of R.S. 49:950 et seq., the Administrative Procedure Act, particularly R.S. 49:953; therefore, neither a fiscal impact statement nor a notice of intent is required.

John D. Travis
Commissioner

0212#054

POTPOURRI

**Department of Health and Hospitals
Board of Veterinary Medicine**

Board Meeting Dates

The Members of the Louisiana Board of Veterinary Medicine will meet on the following dates in 2003.

- Thursday, February 6, 2003
- Thursday, April 3, 2003
- Thursday, June 5, 2003 (Annual Meeting)
- Thursday, August 7, 2003
- Thursday, October 2, 2003
- Thursday, December 4, 2003

These dates are subject to change, so please contact the board office via telephone at (225) 342-2176 or email at lbvm@eatel.net to verify actual meeting dates.

Wendy D. Parrish
Administrative Director

0212#032

POTPOURRI

**Department of Health and Hospitals
Board of Veterinary Medicine**

Spring/Summer Examination Dates

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The Board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows.

Test Window Date	Deadline To Apply
April 7 through April 19, 2003	Tuesday, February 4, 2003

The Board will also accept applications for and administer the Veterinary Technician National Examination (VTNE) for state registration of veterinary technicians as follows.

Test Date	Deadline To Apply
Friday, June 20, 2003	Friday, May 9, 2003

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 and by request via telephone at (225) 342-2176 or by e-mail at lbvm@eatel.net; application forms and information are also available on the website at www.lsbvm.org.

Wendy D. Parrish
Administrative Director

0212#029

POTPOURRI

**Department of Health and Hospitals
Emergency Medical Services
Certification Commission**

**Notice of Public Hearing Schedule CEMS Certification
Commission Rules of Procedure**

The Department of Health and Hospitals, Emergency Medical Services, Certification Commission will hold a public hearing on January 6, 2003 at 1 p.m. at 6867 Bluebonnet Boulevard, Room 118, Baton Rouge, Louisiana.. As published in the November 20, 2002, edition of the *Louisiana Register*, the Emergency Medical Services, Certification Commission proposes 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 professions. Interested persons are invited to attend and submit oral/written comments regarding the EMS Certification Commission proposed rules of procedure. If additional information is needed, contact Nancy Bourgeois, Director, Bureau of EMS and Injury Research and Prevention, by telephone at (225) 342-4881.

David W. Hood
Secretary

0212#080

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
Charles W. Tschirn	Golden Meadow	L	PN & P ET AL	9	023326
Charles W. Tschirn	Golden Meadow	L	Rebstock	1	023945
Semo, Inc.	Bully Camp	L	VUA; Atchafalaya Basin Lev Dist	1	(30)211186
Blocker Exploration Company	Wildcat	L	Citrus Lds Of La Inc	1	(29)166531
Lwood Energy, Inc.	Caddo Pine Island	S	Missouri Pacific	1	212880
Lwood Energy, Inc.	Caddo Pine Island	S	Missouri Pacific	2	212891
Lwood Energy, Inc.	Caddo Pine Island	S	Missouri Pacific	3	213449
Lwood Energy, Inc.	Caddo Pine Island	S	Missouri Pacific	4	215375
Lwood Energy, Inc.	Caddo Pine Island	S	Missouri Pacific SWD	1	972421
The Tec Company	Golden Meadow	L	Blanche Rebstock	3	022440
W. W. Wainwright Heirs	Monroe	M	W. W. Wainwright	1	086363
Fortune Gas & Oil, Inc.	Oaks	S	SMK RA SUC; Teague	1	204882
Fortune Gas & Oil, Inc.	Oaks	S	SMK RA SUE; Perry	1	205310
Fortune Gas & Oil, Inc.	Oaks	S	SMK RA SUB; Rainwater	1	205448
C. A. Hilburn et al	Spider	S	Woffard Unit	1	050815

0212#068
James H. Welsh
Commissioner of Conservation

POTPOURRI
Department of Natural Resources
Office of Conservation
Injection and Mining Division

Notice of Hearing C Docket No. IMD 2003-02

Pursuant to the provisions of the laws of the state of Louisiana and particularly Title 30 of the Revised Statutes of 1950 as amended, and the provisions of the Statewide Order No. 29-B, notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6 p.m., Wednesday, January 22, 2003, in the West Concourse Room at the Morgan City Municipal Auditorium, 728 Myrtle, Morgan City, Louisiana.

At such hearing, the Commissioner, or his designated representative, will hear testimony relative to the application of Environmental Treatment Team, LLC, Post Office Box 84127, Baton Rouge, Louisiana 70884. The applicant requests approval from the Office of Conservation to modify the operations at their Morgan City facility to transfer

untreated exploration and production (E&P) waste received at this location, to its processing facility located in Theodore, Alabama. The facility is located in Section 7, Township 16S, Range 13E in Saint Mary Parish, 101 McClellan Drive, Morgan City, Louisiana.

The application is available for inspection by contacting Ms. Armanda Watson, Office of Conservation, Injection & Mining Division, Room 817 O of the LaSalle Building, 617 North 3rd Street, Baton Rouge, Louisiana, or by visiting the Saint Mary Parish Council Office in Franklin, Louisiana, or the Morgan City Public Library in Morgan City, Louisiana. Verbal information may be received by calling Ms. Armanda Watson at 225/342-5515.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Wednesday, January 29, 2003, at the Baton Rouge Office. Comments should be directed to Office of Conservation, Injection and Mining Division, P.O. Box 94275, Baton Rouge, LA 70804, Re: Docket No. IMD 2003-02, Commercial Facility, Saint Mary Parish.

0212#090
James H. Welsh
Commissioner of Conservation

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