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Executive Orders

EXECUTIVE ORDER MJF 02-25

Uniform Payroll Insurance Commission

WHEREAS, Executive Order No. MJF 2001-40, issued on September 17, 2001, established the Uniform Payroll Insurance Commission (hereafter "Commission") within the executive branch, Office of the Governor;

WHEREAS, Executive Order No. MJF 2002-1, issued on January 30, 2002, amended Executive Order No. MJF 2001-40, in order to extend the deadline for submission of its written report to the governor;

WHEREAS, Executive Order No. MJF 2002-23, issued on September 5, 2002, modified and continued the duties and functions of Executive Order No. MJF 2001-40, as amended by Executive Order No. MJF 2002-1;

WHEREAS, it is necessary to amend Executive Order No. MJF 2001-40, as amended by Executive Order Nos. MJF 2002-1 and MJF 2002-23, in order to add an additional member to the Commission;

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 4 of Executive Order No. MJF 2001-40, as amended by Executive Order Nos. MJF 2002-1 and MJF 2002-23, is amended to provide as follows:

The Commission shall be composed of thirteen (13) members who shall be appointed by, and serve at the pleasure of, the governor. The membership of the Commission shall be selected as follows:

- A. the governor, or the governor's designee;
- B. the commissioner of administration, or the commissioner's designee;
- C. the chair of the Senate Insurance Committee, or the chair's designee;
- D. the chair of the House Insurance Committee, or the chair's designee;
- E. the chief executive officer of the Office of Group Benefits, or the chief executive officer's designee;
- F. the commissioner of insurance, or the commissioner's designee;
- G. the secretary of the Department of Health and Hospitals, or the secretary's designee;
- H. the secretary of the Department of Revenue, or the secretary's designee;
- I. the secretary of the Department of Social Services, or the secretary's designee;
- J. the secretary of the Department of Corrections, or the secretary's designee;
- K. the director of the Department of Civil Service, or the director's designee; and
- L. two (2) members who represent the interests of private insurance companies.

SECTION 3: All other sections, subsections, and/or paragraphs of Executive Order No. MJF 2001-40, as amended by Executive Order Nos. MJF 2002-1 and MJF 2002-23, shall remain in full force and effect.

SECTION 4: 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 13th day of September, 2002

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#002

EXECUTIVE ORDER MJF 02-26

Office of Group Benefit Study Commission

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

WHEREAS, it is necessary to amend Executive Order No. MJF 2002-24, in order to add an additional member to the Commission;

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 2002-24 is amended to provide as follows:

With the exception of the members of the Louisiana Legislature, all members of the Commission shall be appointed by the governor. With the exception of the legislative and executive members, all members shall serve at the governor's pleasure. The Commission shall be composed of nineteen (19) members selected as follows:

- A. The commissioner of administration, or the commissioner's designee;
- B. Three (3) members of the Senate, appointed by the president of the Senate, including the chair of the Senate Committee on Finance;
- C. Three (3) members of the House of Representatives, appointed by the speaker of the House of Representatives, including the chair of the House Committee on Appropriations.

D. The secretary of the Department of Health and Hospitals, or the secretary's designee;

E. The superintendent of the Department of Education, or the superintendent's designee;

F. The director of the Department of Civil Service, or the director's designee;

G. The CEO of Louisiana State University Health Science Center, or the CEO's designee;

H. The chair of the Office of Group Benefits Planning and Policy Board, or the chair's designee;

I. One (1) member who is employed by the Department of Insurance with expertise in health insurance matters;

J. One (1) member of the Louisiana Hospital Association;

K. One (1) member who represents active state employees;

L. One (1) member who represents retired state employees;

M. One (1) member who is employed by an institution of higher education with expertise in the field of health care services;

N. One (1) member who represents the business insurance industry; and

O. One (1) member with expertise in the delivery of medical care services.

SECTION 2: All other sections and subsections of Executive Order No. MJF 2002-24 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 13th day of September 11, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#003

EXECUTIVE ORDER MJF 02-27

Comprehensive Energy Policy Advisory Commission

WHEREAS, Executive Order No. MJF 2001-49, issued on October 25, 2001, established the Comprehensive Energy Policy Advisory Commission (hereafter "Commission"); and

WHEREAS, it is necessary to amend Executive Order No. MJF 2001-49 in order to make ancillary changes to provisions of the executive order;

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 2001-49 is amended to provide as follows:

By August 1, 2002, the Commission shall submit to the governor a report on the issues set forth in Section 2 of this Order.

SECTION 2: Section 4 of Executive Order No. MJF 2001-49 is amended to provide as follows:

With the exception of the speaker of the House of Representatives and the president of the Senate, and/or their designees, all members of the Commission shall be appointed by the governor. All non-ex-officio appointees on the Commission shall serve at the pleasure of the governor. The Commission shall be composed of twenty-four (24) members selected as follows:

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

B. The speaker of the House of Representative, or the speaker's designee;

C. The president of the Senate, or the president's designee;

D. The secretary of the Department of Natural Resources, or the secretary's designee;

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

F. The chair of the State Mineral Board, or the chair's designee;

G. One (1) member of the Louisiana Public Service Commission, appointed by the governor;

H. Six (6) members with significant experience in private industry in fields relating to the extraction, production, or distribution of energy, appointed by the governor; and

I. Eleven (11) at-large members, appointed by the governor.

SECTION 3: Section 5 of Executive Order No. MJF 2002-49 is amended to provide as follows:

The governor shall appoint the chair and vice-chair of the Commission. All other officers, if any, shall be elected by the membership of the Commission.

SECTION 4: All other sections, subsections, and/or paragraphs of Executive Order No. MJF 2001-49 shall remain in full force and effect.

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 7th day of December, 2001.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#007

EXECUTIVE ORDER MJF 02-28

Bond Allocation Louisiana Housing Finance Agency

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 Housing Finance Agency has requested an allocation from the 2002 Ceiling to provide mortgage financing for a multifamily housing project comprised of

- (i) Melrose East I Apartments - 36 units,
- (ii) Melrose East II Apartments - 76 units, and
- (iii) Melrose East III Apartments - 60 units, located in Melrose East neighborhood, city of Baton Rouge, parish of East Baton Rouge, 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 the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2002 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$4,500,000	Louisiana Housing Finance Agency	Melrose East II, LLC

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 October 15, 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 Louisiana, at the Capitol, in the city of Baton Rouge, on this 24th day of September, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#008

EXECUTIVE ORDER MJF 02-29

Executive Branch Expenditure Freeze

WHEREAS, pursuant to the provisions of Article IV, Section 5 of the Louisiana Constitution of 1974, as amended, and Act No. 13 of the 2002 Regular Session of the Louisiana Legislature, the governor may issue executive orders which reduce the expenditure of funds by the various agencies in the executive branch of state government (hereafter "expenditure freeze"); and

WHEREAS, to ensure that the state of Louisiana will not suffer a budget deficit due to fiscal year 2002-2003 appropriations exceeding actual revenues, prudent money management practices dictate that the best interests of the citizens of the state of Louisiana will be served by implementing an expenditure freeze throughout the executive branch of state government to achieve a state general fund savings of at least seventy-five million dollars (\$75,000,000) for the remainder of the 2002-2003 fiscal year;

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 following departments, agencies, and/or budget units of the executive branch of the state of Louisiana, as described in and/or funded by appropriations through Act No. 13 of the 2002 Regular Session of the Louisiana Legislature (hereafter "Act No. 13"), (hereafter "Unit" and/or "Units") shall reduce expenditure of funds appropriated to the Unit from the state general fund by Act No. 13, in the amounts shown below:

Executive Department	State General Fund
Schedule 01	\$ 4,623,778
Secretary of State	
Budget Unit 04-139	\$ 207,705
Office of the Attorney General	
Budget Unit 04-141	\$ 653,908
Commissioner of Elections	
Budget Unit 04-144	\$ 274,557
Lieutenant Governor	
Budget Unit 04-146	\$ 62,351

State Treasurer Budget Unit 04-147	\$ 72,103
Agriculture and Forestry Budget Unit 04-160	\$ 1,643,044
Department of Culture, Recreation and Tourism Schedule 06	\$ 2,228,966
Department of Transportation and Development Schedule 07	\$ 82,795
Department of Public Safety and Corrections Corrections Services All Corrections Services Budget Units in Schedule 08	\$ 4,455,344
Department of Health and Hospitals Schedule 09	\$ 48,378,456
Department of Social Services Schedule 10	\$ 2,201,148
Department of Natural Resources Schedule 11	\$ 472,858
Department of Revenue Schedule 12	\$ 166,532
Department of Labor Schedule 14	\$ 187,126
Department of Civil Service Schedule 17	\$ 94,867
Department of Education All Department of Education Budget Units in Schedule 19 (except 19-695 & 19-699)	\$ 8,290,595
Louisiana State University Health Science Center Health Care Services Division Budget Unit 19-610	\$ 28,242
Other Requirements Schedule 20	\$ 875,626

SECTION 2:

A. No later than October 15, 2002, the head of each Unit listed in Section 1 of this Order shall submit to the commissioner of administration (hereafter "commissioner") a 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 expenditure freeze ordered in Section 1 of this Order (hereafter "mid-year budget adjustment plan"), and a description of the methodology used to formulate the mid-year budget adjustment plan.

B. In the event that positions of employment will be affected by the mid-year budget adjustment plan, the description of the methodology used to formulate the 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 to remain vacant, 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 to remain vacant.

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

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

SECTION 3: If full or partial implementation of the expenditure freeze mandated in Section 1 of this Order will prevent a statewide elected official from being able to perform and/or fulfill his or her constitutional functions and/or duties, the commissioner is authorized to grant the statewide elected official an exemption from Section 1 to the extent necessary.

SECTION 4: The commissioner of administration is authorized to develop additional guidelines as necessary to facilitate the administration of this Order.

SECTION 5: 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 6: This Order is effective upon signature and shall remain in effect through June 30, 2003, unless amended, modified, terminated, or rescinded prior to that date.

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 24th day of September, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#009

EXECUTIVE ORDER MJF 02-31

Suspension and Rescheduling of Absentee Voting in Person in the Parishes of Assumption, Iberville and Tangipahoa

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

WHEREAS, on September 25, 2002, pursuant to the provisions of R.S. 18:401.1(B), the secretary of state, in conjunction with the commissioner of elections and registration, certified to the governor that as a result of Tropical Storm Isidore a state of emergency exists in the parishes of Assumption, Iberville and Tangipahoa, and they recommend absentee voting in person in these parishes be suspended and rescheduled;

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

SECTION 1: Under the authority of R.S. 18:401.1(B) and based on the September 25, 2002, certification of the secretary of state, in conjunction with the commissioner of elections and registration, that a state of emergency exists in the parishes of Assumption, Iberville and Tangipahoa, and the recommendation that absentee voting in person in these parishes be suspended and rescheduled, absentee voting in person in the parishes of Assumption, Iberville and Tangipahoa is hereby suspended for Thursday, September 26, 2002.

SECTION 2: In accordance with the procedures set forth in R.S. 18:401.1, absentee voting in person in the parishes of Assumption, Iberville and Tangipahoa shall resume on Friday, September 27, 2002, from 8:30 a.m. to 4:30 p.m., and continue on Saturday, September 28, 2002, and Monday, September 30, 2002, from 8:30 a.m. until 4:30 p.m., concluding on Monday, September 30, 2002, at 4:30 p.m.

SECTION 3: This Order is effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 25th day of September, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#011

EXECUTIVE ORDER MJF 02-32

Suspension and Rescheduling of Absentee Voting
in Person in the Parish of Ascension

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

WHEREAS, on September 26, 2002, pursuant to the provisions of R.S. 18:401.1(B), the secretary of state, in conjunction with the commissioner of elections and registration, certified to the governor that as a result of

Tropical Storm Isidore a state of emergency exists in the parish of Ascension, and they recommend absentee voting in person in the parish be suspended and rescheduled;

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

SECTION 1: Under the authority of R.S. 18:401.1(B) and based on the September 26, 2002, certification of the secretary of state, in conjunction with the commissioner of elections and registration, that a state of emergency exists in the parish of Ascension, and the recommendation that absentee voting in person in the parish be suspended and rescheduled, absentee voting in person in the parish of Ascension is hereby suspended for Thursday, September 26, 2002.

SECTION 2: In accordance with the procedures set forth in R.S. 18:401.1, absentee voting in person in the parish of Ascension shall resume on Friday, September 27, 2002, from 8:30 a.m. to 4:30 p.m., and continue on Saturday, September 28, 2002, and Monday, September 30, 2002, from 8:30 a.m. until 4:30 p.m., concluding on Monday, September 30, 2002, at 4:30 p.m.

SECTION 3: This Order is effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 26th day of September, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#015

EXECUTIVE ORDER MJF 02-33

Bond Allocation
East Baton Rouge
Mortgage Finance 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 East Baton Rouge Mortgage Finance Authority has requested an allocation from the 2002 Ceiling to be used in connection with a program of financing mortgage loans for low and moderate income persons for single family, owner-occupied residences throughout the parish of East Baton Rouge, 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
\$20,000,000	East Baton Rouge Mortgage Finance Authority	Single Family Mortgage Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the 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 4th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#016

EXECUTIVE ORDER MJF 02-34

Delay of the October 5, 2002, Primary Election in Ten Parishes

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

and rescheduling of qualifying, absentee voting in person, and elections"; and

WHEREAS, on October 4, 2002, pursuant to the provisions of R.S. 18:401.1(B), the secretary of state, in conjunction with the commissioner of elections and registration, certified to the governor that as a result of Hurricane Lili a state of emergency exists in the parishes of Acadia, Evangeline, Iberia, Jefferson Davis, Lafayette, St. Landry, St. Martin, St. Mary, Terrebonne, and Vermilion, and they recommend that the primary election in these parishes scheduled to be held on Saturday, October 5, 2002, be delayed until such time as may be rescheduled;

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

SECTION 1: Under the authority of R.S. 18:401.1(B) and based on the October 4, 2002, certification of the secretary of state, in conjunction with the commissioner of elections and registration, that a state of emergency exists in the parishes of Acadia, Evangeline, Iberia, Jefferson Davis, Lafayette, St. Landry, St. Martin, St. Mary, Terrebonne, and Vermilion, and the recommendation that the primary election in these parishes be delayed, the primary election in the parishes of Acadia, Evangeline, Iberia, Jefferson Davis, Lafayette, St. Landry, St. Martin, St. Mary, Terrebonne, and Vermilion scheduled to be held on Saturday, October 5, 2002, is hereby delayed until such time as may be rescheduled.

SECTION 2: This Order is effective upon signature.

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

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#017

EXECUTIVE ORDER MJF 02-35

Hurricane Lili Clean-Up CSt. Martin Parish

WHEREAS, Hurricane Lili has caused extensive damage in the parish of St. Martin;

WHEREAS, the residents of St. Martin Parish need all available assistance in order to clean-up the debris left by Hurricane Lili;

WHEREAS, the parish governing authority of St. Martin Parish may have regular employees who may be available to assist in the clean-up of the debris left by Hurricane Lili; and

WHEREAS, the parish president of St. Martin Parish has requested that this executive order be issued;

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, and in particular, the Louisiana Emergency Assistance and Disaster Act, do hereby order and direct as follows:

SECTION 1: Regular employees of the parish of St. Martin who may be available to assist in removing debris left by Hurricane Lili shall have the authority, at the discretion of the parish president of St. Martin Parish, to perform work on private property in order to expedite the clean-up efforts.

SECTION 2: Prior to the performance of any work on private property as contemplated by this Executive Order, an agreement shall be executed by the owner of the land upon which such work is to be performed whereby the landowner shall agree to hold the state of Louisiana and the parish of St. Martin harmless from any and all claims for damage which may in any way arise from such work performed on the private property.

SECTION 3: As to all work performed on abandoned property, the parish officials of St. Martin Parish shall make a special effort to identify and document any and all damages which have occurred to the abandoned property prior to the clean-up or removal of debris.

SECTION 4: As to any and all work performed on private property, the parish officials of St. Martin Parish shall limit employee work activity time on said private property to normal working hours.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with St. Martin Parish officials in implementing the provisions of this Order.

SECTION 6: 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 4th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#018

EXECUTIVE ORDER MJF 02-36

Hurricane Lili Clean-Up C St. Mary Parish

WHEREAS, Hurricane Lili has caused extensive damage in the parish of St. Mary;

WHEREAS, the residents of St. Mary Parish need all available assistance in order to clean-up the debris left by Hurricane Lili;

WHEREAS, the parish governing authority of St. Mary Parish may have regular employees who may be available to assist in the clean-up of the debris left by Hurricane Lili; and

WHEREAS, the parish president of St. Mary Parish has requested that this executive order be issued;

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,

and in particular, the Louisiana Emergency Assistance and Disaster Act, do hereby order and direct as follows:

SECTION 1: Regular employees of the parish of St. Mary who may be available to assist in removing debris left by Hurricane Lili shall have the authority, at the discretion of the parish president of St. Mary Parish, to perform work on private property in order to expedite the clean-up efforts.

SECTION 2: Prior to the performance of any work on private property as contemplated by this Executive Order, an agreement shall be executed by the owner of the land upon which such work is to be performed whereby the landowner shall agree to hold the state of Louisiana and the parish of St. Mary harmless from any and all claims for damage which may in any way arise from such work performed on the private property.

SECTION 3: As to all work performed on abandoned property, the parish officials of St. Mary Parish shall make a special effort to identify and document any and all damages which have occurred to the abandoned property prior to the clean-up or removal of debris.

SECTION 4: As to any and all work performed on private property, the parish officials of St. Mary Parish shall limit employee work activity time on said private property to normal working hours.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with St. Mary Parish officials in implementing the provisions of this Order.

SECTION 6: 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 4th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#019

EXECUTIVE ORDER MJF 02-37

Hurricane Lili Clean-Up C Iberia Parish

WHEREAS, Hurricane Lili has caused extensive damage in the parish of Iberia;

WHEREAS, the residents of Iberia Parish need all available assistance in order to clean-up the debris left by Hurricane Lili;

WHEREAS, the parish governing authority of Iberia Parish may have regular employees who may be available to assist in the clean-up of the debris left by Hurricane Lili; and

WHEREAS, the parish president of Iberia Parish has requested that this executive order be issued;

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,

and in particular, the Louisiana Emergency Assistance and Disaster Act, do hereby order and direct as follows:

SECTION 1: Regular employees of the parish of Iberia who may be available to assist in removing debris left by Hurricane Lili shall have the authority, at the discretion of the parish president of Iberia Parish, to perform work on private property in order to expedite the clean-up efforts.

SECTION 2: Prior to the performance of any work on private property as contemplated by this Executive Order, an agreement shall be executed by the owner of the land upon which such work is to be performed whereby the landowner shall agree to hold the state of Louisiana and the parish of Iberia harmless from any and all claims for damage which may in any way arise from such work performed on the private property.

SECTION 3: As to all work performed on abandoned property, the parish officials of Iberia Parish shall make a special effort to identify and document any and all damages which have occurred to the abandoned property prior to the clean-up or removal of debris.

SECTION 4: As to any and all work performed on private property, the parish officials of Iberia Parish shall limit employee work activity time on said private property to normal working hours.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with Iberia Parish officials in implementing the provisions of this Order.

SECTION 6: 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 4th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#20

EXECUTIVE ORDER MJF 02-38

Hurricane Lili Clean-Up Terrebonne Parish

WHEREAS, Hurricane Lili has caused extensive damage in the parish of Terrebonne;

WHEREAS, the residents of Terrebonne Parish need all available assistance in order to clean-up the debris left by Hurricane Lili;

WHEREAS, the parish governing authority of Terrebonne Parish may have regular employees who may be available to assist in the clean-up of the debris left by Hurricane Lili; and

WHEREAS, the parish president of Terrebonne Parish has requested that this executive order be issued;

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, and in particular, the Louisiana Emergency Assistance and Disaster Act, do hereby order and direct as follows:

SECTION 1: Regular employees of the parish of Terrebonne who may be available to assist in removing debris left by Hurricane Lili shall have the authority, at the discretion of the parish president of Terrebonne Parish, to perform work on private property in order to expedite the clean-up efforts.

SECTION 2: Prior to the performance of any work on private property as contemplated by this Executive Order, an agreement shall be executed by the owner of the land upon which such work is to be performed whereby the landowner shall agree to hold the state of Louisiana and the parish of Terrebonne harmless from any and all claims for damage which may in any way arise from such work performed on the private property.

SECTION 3: As to all work performed on abandoned property, the parish officials of Terrebonne Parish shall make a special effort to identify and document any and all damages which have occurred to the abandoned property prior to the clean-up or removal of debris.

SECTION 4: As to any and all work performed on private property, the parish officials of Terrebonne Parish shall limit employee work activity time on said private property to normal working hours.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with Terrebonne Parish officials in implementing the provisions of this Order.

SECTION 6: 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 7th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#068

EXECUTIVE ORDER MJF 02-39

Rescheduling in Ten Parishes the October 5, 2002, Primary Election for October 12, 2002, and the Periods for Absentee Voting in Person and Accepting Requests for Absentee Voting by Mail Ballots

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

and rescheduling of qualifying, absentee voting in person, and elections";

WHEREAS, Executive Order No. MJF 2002-34 was issued on October 4, 2002, pursuant to the provisions of R.S. 18:401.1(B), based on the certification of the secretary of state, in conjunction with the commissioner of elections and registration, delaying the October 5, 2002, primary election in the parishes of Acadia, Evangeline, Iberia, Jefferson Davis, Lafayette, St. Landry, St. Martin, St. Mary, Terrebonne, and Vermilion until such time as may be rescheduled; and

WHEREAS, on October 7, 2002, the secretary of state, in conjunction with the commissioner of elections and registration, certified their written recommendation to the governor that, in the parishes of Acadia, Evangeline, Iberia, Jefferson Davis, Lafayette, St. Landry, St. Martin, St. Mary, Terrebonne, and Vermilion, the October 5, 2002, primary election be rescheduled for Saturday, October 12, 2002, absentee voting in person be reopened for two (2) days, and the period for accepting requests for absentee voting by mail ballots be extended;

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: In accordance with the procedures set forth in R.S. 18:401.1 and/or R.S. 29:724, and on the written recommendation of the secretary of state, in conjunction with the commissioner of elections and registration, the October 5, 2002, primary election in the parishes of Acadia, Evangeline, Iberia, Jefferson Davis, Lafayette, St. Landry, St. Martin, St. Mary, Terrebonne, and Vermilion delayed by Executive Order No. MJF 2002-34, issued on October 4, 2002, is rescheduled for Saturday, October 12, 2002, opening at 6:00 a.m. and closing at 8:00 p.m. Notice of the rescheduling of the October 5, 2002, primary election shall be given in accordance with R.S. 18:401.1(C).

SECTION 2: Pursuant to the written recommendation of the secretary of state, in conjunction with the commissioner of elections and registration, notwithstanding any other provision of law, absentee voting in person in the parishes of Acadia, Evangeline, Iberia, Jefferson Davis, Lafayette, St. Landry, St. Martin, St. Mary, Terrebonne, and Vermilion for the October 5, 2002, primary election rescheduled for Saturday, October 12, 2002, shall be reopened on Tuesday, October 8, 2002, at 8:30 a.m. until 4:30 p.m. and Wednesday, October 9, 2002, at 8:30 a.m. until 4:30 p.m., concluding on Wednesday, October 9, 2002, at 4:30 p.m. R.S. 29:724. Notice of the reopening of absentee voting in person shall be advertised, published and/or broadcast by all reasonably available means of communication. R.S. 29:724.

SECTION 3: Pursuant to the written recommendation of the secretary of state, in conjunction with the commissioner of elections and registration, notwithstanding any other provision of law, the period for accepting requests for absentee voting by mail ballots in the parishes of Acadia, Evangeline, Iberia, Jefferson Davis, Lafayette, St. Landry, St. Martin, St. Mary, Terrebonne, and Vermilion for the October 5, 2002, primary election rescheduled for Saturday, October 12, 2002, shall be reopened and/or extended until 8:00 p.m. on Tuesday, October 8, 2002. R.S. 29:724. Notice

of the reopening and/or extension of the period for accepting requests for absentee voting by mail ballots shall be advertised, published and/or broadcast by all reasonably available means of communication. R.S. 29:724.

SECTION 4: Notwithstanding any other provision of law, if any polling places in the parishes of Acadia, Evangeline, Iberia, Jefferson Davis, Lafayette, St. Landry, St. Martin, St. Mary, Terrebonne, and Vermilion are destroyed and/or become unavailable for the October 5, 2002, primary election rescheduled for Saturday, October 12, 2002, as soon as practicable, the parish clerk of court in conjunction with the local parish governing authority shall designate alternate emergency polling places. R.S. 29:724. Notice of the location of the alternate emergency polling places shall be advertised, published and/or broadcast by all reasonably available means of communication. R.S. 29:724.

SECTION 5: This Order is effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 7th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#069

EXECUTIVE ORDER MJF 02-40

Hurricane Lili Clean-Up C Lafayette Parish

WHEREAS, Hurricane Lili has caused extensive damage in the parish of Lafayette;

WHEREAS, the residents of Lafayette Parish need all available assistance in order to clean-up the debris left by Hurricane Lili;

WHEREAS, the parish governing authority of Lafayette Parish may have regular employees who may be available to assist in the clean-up of the debris left by Hurricane Lili; and

WHEREAS, the parish president of Lafayette Parish has requested that this executive order be issued;

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, and in particular, the Louisiana Emergency Assistance and Disaster Act, do hereby order and direct as follows:

SECTION 1: Regular employees of the parish of Lafayette who may be available to assist in removing debris left by Hurricane Lili shall have the authority, at the discretion of the parish president of Lafayette Parish, to perform work on private property in order to expedite the clean-up efforts.

SECTION 2: Prior to the performance of any work on private property as contemplated by this Executive Order, an agreement shall be executed by the owner of the land upon which such work is to be performed whereby the landowner shall agree to hold the state of Louisiana and the parish of Lafayette harmless from any and all claims for damage

which may in any way arise from such work performed on the private property.

SECTION 3: As to all work performed on abandoned property, the parish officials of Lafayette Parish shall make a special effort to identify and document any and all damages which have occurred to the abandoned property prior to the clean-up or removal of debris.

SECTION 4: As to any and all work performed on private property, the parish officials of Lafayette Parish shall limit employee work activity time on said private property to normal working hours.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with Lafayette Parish officials in implementing the provisions of this Order.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 8th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#070

EXECUTIVE ORDER MJF 02-41

Hurricane Lili Clean-UpCLafourche Parish

WHEREAS, Hurricane Lili has caused extensive damage in the parish of Lafourche;

WHEREAS, the residents of Lafourche Parish need all available assistance in order to clean-up the debris left by Hurricane Lili;

WHEREAS, the parish governing authority of Lafourche Parish may have regular employees who may be available to assist in the clean-up of the debris left by Hurricane Lili; and

WHEREAS, the parish president of Lafourche Parish has requested that this executive order be issued;

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, and in particular, the Louisiana Emergency Assistance and Disaster Act, do hereby order and direct as follows:

SECTION 1: Regular employees of the parish of Lafourche who may be available to assist in removing debris left by Hurricane Lili shall have the authority, at the discretion of the parish president of Lafourche Parish, to perform work on private property in order to expedite the clean-up efforts.

SECTION 2: Prior to the performance of any work on private property as contemplated by this Executive Order, an agreement shall be executed by the owner of the land upon which such work is to be performed whereby the landowner

shall agree to hold the state of Louisiana and the parish of Lafourche harmless from any and all claims for damage which may in any way arise from such work performed on the private property.

SECTION 3: As to all work performed on abandoned property, the parish officials of Lafourche Parish shall make a special effort to identify and document any and all damages which have occurred to the abandoned property prior to the clean-up or removal of debris.

SECTION 4: As to any and all work performed on private property, the parish officials of Lafourche Parish shall limit employee work activity time on said private property to normal working hours.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with Lafourche Parish officials in implementing the provisions of this Order.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 8th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#071

EXECUTIVE ORDER MJF 02-42

Hurricane Lili Clean-UpThe Town of Youngsville

WHEREAS, Hurricane Lili has caused extensive damage in the town of Youngsville;

WHEREAS, the residents of the town of Youngsville need all available assistance in order to clean-up the debris left by Hurricane Lili;

WHEREAS, the parish governing authority of the town of Youngsville may have regular employees who may be available to assist in the clean-up of the debris left by Hurricane Lili; and

WHEREAS, the mayor of the town of Youngsville has requested that this executive order be issued;

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, and in particular, the Louisiana Emergency Assistance and Disaster Act, do hereby order and direct as follows:

SECTION 1: Regular employees of the town of Youngsville who may be available to assist in removing debris left by Hurricane Lili shall have the authority, at the discretion of the mayor of the town of Youngsville, to perform work on private property in order to expedite the clean-up efforts.

SECTION 2: Prior to the performance of any work on private property as contemplated by this Executive Order, an

agreement shall be executed by the owner of the land upon which such work is to be performed whereby the landowner shall agree to hold the state of Louisiana and the town of Youngsville harmless from any and all claims for damage which may in any way arise from such work performed on the private property.

SECTION 3: As to all work performed on abandoned property, the town officials of the town of Youngsville shall make a special effort to identify and document any and all damages which have occurred to the abandoned property prior to the clean-up or removal of debris.

SECTION 4: As to any and all work performed on private property, the town officials of the town of Youngsville shall limit employee work activity time on said private property to normal working hours.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the town of Youngsville officials in implementing the provisions of this Order.

SECTION 6: 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 9th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#072

EXECUTIVE ORDER MJF 02-43

Hurricane Lili Clean-Up The Town of Broussard

WHEREAS, Hurricane Lili has caused extensive damage in the town of Broussard;

WHEREAS, the residents of the town of Broussard need all available assistance in order to clean-up the debris left by Hurricane Lili;

WHEREAS, the local governing authority of the town of Broussard may have regular employees who may be available to assist in the clean-up of the debris left by Hurricane Lili; and

WHEREAS, the mayor of the town of Broussard has requested that this executive order be issued;

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, and in particular, the Louisiana Emergency Assistance and Disaster Act, do hereby order and direct as follows:

SECTION 1: Regular employees of the town of Broussard who may be available to assist in removing debris left by Hurricane Lili shall have the authority, at the discretion of the mayor of the town of Broussard, to perform work on private property in order to expedite the clean-up efforts.

SECTION 2: Prior to the performance of any work on private property as contemplated by this Executive Order, an agreement shall be executed by the owner of the land upon which such work is to be performed whereby the landowner shall agree to hold the state of Louisiana and the town of Broussard harmless from any and all claims for damage which may in any way arise from such work performed on the private property.

SECTION 3: As to all work performed on abandoned property, the town officials of the town of Broussard shall make a special effort to identify and document any and all damages which have occurred to the abandoned property prior to the clean-up or removal of debris.

SECTION 4: As to any and all work performed on private property, the town officials of the town of Broussard shall limit employee work activity time on said private property to normal working hours.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the town of Broussard officials in implementing the provisions of this Order.

SECTION 6: 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 9th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#073

EXECUTIVE ORDER MJF 02-44

Hurricane Lili Clean-Up The Town of Duson

WHEREAS, Hurricane Lili has caused extensive damage in the town of Duson;

WHEREAS, the residents of the town of Duson need all available assistance in order to clean-up the debris left by Hurricane Lili;

WHEREAS, the local governing authority of the town of Duson may have regular employees who may be available to assist in the clean-up of the debris left by Hurricane Lili; and

WHEREAS, the mayor of the town of Duson has requested that this executive order be issued;

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, and in particular, the Louisiana Emergency Assistance and Disaster Act, do hereby order and direct as follows:

SECTION 1: Regular employees of the town of Duson who may be available to assist in removing debris left by Hurricane Lili shall have the authority, at the discretion

of the mayor of the town of Duson, to perform work on private property in order to expedite the clean-up efforts.

SECTION 2: Prior to the performance of any work on private property as contemplated by this Executive Order, an agreement shall be executed by the owner of the land upon which such work is to be performed whereby the landowner shall agree to hold the state of Louisiana and the town of Duson harmless from any and all claims for damage which may in any way arise from such work performed on the private property.

SECTION 3: As to all work performed on abandoned property, the town officials of the town of Duson shall make a special effort to identify and document any and all damages which have occurred to the abandoned property prior to the clean-up or removal of debris.

SECTION 4: As to any and all work performed on private property, the town officials of the town of Duson shall limit employee work activity time on said private property to normal working hours.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the town of Duson officials in implementing the provisions of this Order.

SECTION 6: 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 9th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#074

EXECUTIVE ORDER MJF 02-45

Hurricane Lili Clean-UpC Vermilion Parish

WHEREAS, Hurricane Lili has caused extensive damage in the parish of Vermilion;

WHEREAS, the residents of Vermilion Parish need all available assistance in order to clean-up the debris left by Hurricane Lili;

WHEREAS, the parish governing authority of Vermilion Parish may have regular employees who may be available to assist in the clean-up of the debris left by Hurricane Lili; and

WHEREAS, the parish president of Vermilion Parish has requested that this executive order be issued;

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, and in particular, the Louisiana Emergency Assistance and Disaster Act, do hereby order and direct as follows:

SECTION 1: Regular employees of the parish of Vermilion who may be available to assist in removing debris left by Hurricane Lili shall have the authority, at the discretion of the parish president of Vermilion Parish, to perform work on private property in order to expedite the clean-up efforts.

SECTION 2: Prior to the performance of any work on private property as contemplated by this Executive Order, an agreement shall be executed by the owner of the land upon which such work is to be performed whereby the landowner shall agree to hold the state of Louisiana and the parish of Vermilion harmless from any and all claims for damage which may in any way arise from such work performed on the private property.

SECTION 3: As to all work performed on abandoned property, the parish officials of Vermilion Parish shall make a special effort to identify and document any and all damages which have occurred to the abandoned property prior to the clean-up or removal of debris.

SECTION 4: As to any and all work performed on private property, the parish officials of Vermilion Parish shall limit employee work activity time on said private property to normal working hours.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with Vermilion Parish officials in implementing the provisions of this Order.

SECTION 6: 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 9th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0210#075

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Shrimp and Crawfish Testing; Sale and Labeling (LAC 7:XXXV.Chapter 1)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rules governing the testing and sale of shrimp and crawfish in Louisiana and the labeling of foreign shrimp and crawfish. These Rules are being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the emergency rule provisions of R.S. 49:953 B of the Administrative Procedure Act.

The Louisiana Legislature, by SCR 13 of the 2002 Regular Session, has urged and requested that the Commissioner of Agriculture and Forestry require all shrimp and crawfish, prior to sale in Louisiana, meet standards relating to Chloramphenicol that are consistent with those standards promulgated by the United States Food and Drug Administration, (FDA). The Legislature has also urged and requested the Commissioner to promulgate rules and regulations necessary to implement the standards relating to Chloramphenicol in shrimp and crawfish that are consistent with those standards promulgated by the FDA, and which rules and regulations require all shrimp and crawfish sold in Louisiana to meet the standards adopted by the Commissioner, prior to sale.

Chloramphenicol is an antibiotic the FDA has restricted for use in humans only in those cases where other antibiotics or medicines have not been successful. The FDA has banned the use of Chloramphenicol in animals raised for food production. See, 21 CFR 522.390(3). The FDA has set a zero tolerance level for Chloramphenicol in food.

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, Chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of Chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize Chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken Chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, European Union inspectors found chloramphenicol residues in shrimp and crawfish harvested from and produced in China. The inspectors also found "serious deficiencies of the Chinese residue control system and problems related to the use of banned substances in the veterinary field," which may contribute to Chloramphenicol residues in Chinese shrimp and crawfish. The Chinese are known to use antibiotics, such as Chloramphenicol, in farm-raised shrimp. They are also known to process crawfish and shrimp harvested in the wild in the same plants used to process farm-raised shrimp.

The European Union, in January of this year, banned the import of shrimp and crawfish from China because Chloramphenicol has been found in shrimp and crawfish imported from China. Canada has, this year, banned the import of shrimp and crawfish that contain levels of Chloramphenicol above the level established by Canada. Between 1999 and 2000 imports of Chinese Shrimp to the United States doubled, from 19,502,000 pounds to 40,130,000 pounds. With the recent bans imposed by the European Union and Canada there is an imminent danger that the shrimp and crawfish that China would normally export to the European Union and Canada will be dumped and sold in the United States, including Louisiana.

The sale of such shrimp and crawfish in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health hazard. The sale, in Louisiana, of shrimp and crawfish containing Chloramphenicol presents an imminent peril to the public's health, safety and welfare.

This peril can cause consumers to quit buying shrimp and crawfish from any source, including Louisiana shrimp and crawfish. If consumers cease to buy, or substantially reduce, their purchases of Louisiana shrimp and seafood, Louisiana aquaculture and fisheries will be faced with substantial economic losses. Any economic losses suffered by Louisiana's aquaculture and fisheries will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

Consumers of shrimp and crawfish cannot make an informed decision as to what shrimp or crawfish to purchase and the Commissioner cannot adequately enforce the regulations regarding the sampling and testing of shrimp and crawfish unless shrimp and crawfish produced in foreign countries are properly labeled as to the country of origin.

The Commissioner of Agriculture and Forestry has, therefore, determined that these Emergency Rules are necessary to immediately implement testing of shrimp and crawfish for Chloramphenicol, to provide for the sale of shrimp and crawfish that are not contaminated with Chloramphenicol and to provide for the labeling of shrimp and crawfish harvested from or produced, processed or packed in countries other than the United States. These Rules become effective upon signature (September 20, 2002) and will remain in effect 120 days, unless renewed by the Commissioner or until permanent Rules are promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV Agro-Consumer Services

Chapter 1. Weights and Measures

§137. Chloramphenicol in Shrimp and Crawfish Prohibited; Testing and Sale of

A. Definitions

Food Producing Animals Both animals that are produced or used for food and animals, such as dairy cows, that produce material used as food.

Geographic Area Country, province, state, or territory or definable geographic region.

Packaged Shrimp or Crawfish Any shrimp or crawfish, as defined herein, that is in a package, can, or other container, and which is intended to eventually be sold to the ultimate retail purchaser in the package, can or container.

Shrimp or Crawfish Any such animals, whether whole, de-headed, de-veined or peeled, and any product containing any shrimp or crawfish.

B. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana if such shrimp or crawfish contain Chloramphenicol.

C. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana without being accompanied by the following records and information, written in English.

1. The records and information required are:
 - a. the quantity and species of shrimp and crawfish acquired or sold;
 - b. the date the shrimp or crawfish was acquired or sold;
 - c. the name and license number of the wholesale/retail seafood dealer or the out-of-state seller from whom the shrimp or crawfish was acquired or sold;
 - d. the geographic area where the shrimp or crawfish was harvested;
 - e. the geographic area where the shrimp or crawfish was produced processed or packed;
 - f. the trade or brand name under which the shrimp or crawfish is held, offered or exposed for sale or sold; and
 - g. the size of the packaging of the packaged shrimp or crawfish.

2. Any person maintaining records and information as required to be kept by the Louisiana Department of Wildlife and Fisheries in accordance with R.S. 56:306.5, may submit a copy of those records, along with any additional information requested herein, with the shrimp or crawfish.

3. Any shrimp or crawfish not accompanied by all of this information shall be subject to the issuance of a stop-sale, hold or removal order until the shrimp or crawfish is tested for and shown to be clear of Chloramphenicol, or the commissioner determines that the shrimp or crawfish does not come from a geographic area where Chloramphenicol is being used on or found in food producing animals, or in products from such animals.

D. No shrimp or crawfish that is harvested from or produced, processed or packed in a geographic area, that the commissioner declares to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection F.

E. The commissioner may declare a geographic area to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals, based upon information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such geographic area from a previous declaration that Chloramphenicol is being used on food producing animals in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

F. Shrimp or crawfish, that comes from a geographic area declared by the commissioner to be a location where Chloramphenicol is being used on, or is found in food producing animals, or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Sampling
 - a. The numbers of samples that shall be taken are as follows.
 - i. Two samples are to be taken of shrimp or crawfish that are in lots of 50 pounds or less.
 - ii. Four samples are to be taken of shrimp or crawfish that are in lots of 51 to 100 pounds.
 - iii. Twelve samples are to be taken of shrimp or crawfish that are in lots of 101 pounds up to 50 tons.
 - iv. Twelve samples for each 50 tons are to be taken of shrimp or crawfish that are in lots of over 50 tons.
 - b. For packaged shrimp or crawfish, each sample shall be at least eight ounces, (226.79 grams), in size and shall be taken at random throughout each lot of shrimp or crawfish. For all other shrimp or crawfish, obtain approximately one pound, (454 grams), of shrimp or crawfish per sample from randomly selected areas.
 - c. If the shrimp or crawfish to be sampled consists of packages of shrimp or crawfish grouped together, but labeled under two or more trade or brand names, then the shrimp or crawfish packaged under each trade or brand name shall be sampled separately. If the shrimp or crawfish to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.
 - d. A composite of the samples shall not be made. Each sample shall be tested individually. Each sample shall be clearly identifiable as belonging to a specific group of shrimp or crawfish. All samples shall be kept frozen and delivered to the lab.

2. Each sample shall be identified as follows:
 - a. any package label;
 - b. any lot or batch numbers;
 - c. the country, province and city of origin;
 - d. the name and address of the importing company;
 - e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of shrimp or crawfish up to and including one pound, use the entire sample. Shell the shrimp or crawfish, exercising care to exclude all shells from sample. Grind sample with food processor type blender while semi-frozen or with dry ice. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is one part per billion, (1 ppb) or less. Acceptable test kits include r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The manufacturer's specified calibration curve must be run with each set. All results 1 ppb or above must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in any geographic area that the commissioner has declared to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the shrimp or crawfish being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the shrimp or crawfish.

8. Upon actual receipt by the department of a copy of the certified test results and written documentation required to accompany the certified test results then the shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment

and be attached to the documentation submitted with every shipment of such shrimp or crawfish sent to each location in Louisiana or shall be immediately accessible to the Department, upon request, from any such location.

G Any person who is seeking to bring shrimp or crawfish that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such shrimp or crawfish in Louisiana shall be responsible for having such shrimp or crawfish sampled and tested in accordance with Subsection F. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

H. The commissioner may reject the test results for any shrimp or crawfish if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

I. In the event that any certified test results are rejected by the commissioner then any person shipping or holding the shrimp or crawfish will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, it will be the duty of any such person to abide by such order until the commissioner lifts the order in writing. Any such person may have the shrimp or crawfish retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the shrimp or crawfish are certified as being free of Chloramphenicol.

J. The department may inspect, and take samples for testing, any shrimp or crawfish, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

K. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any shrimp or crawfish that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the commissioner.

L. The department may take physical possession and control of any shrimp or crawfish that violate the requirements of this Section if the commissioner finds that the shrimp or crawfish presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

M. The commissioner declares that he has information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in the following geographic area(s).

1. The geographic area or areas are:

a. the country of the People's Republic of China.

2. All shrimp and crawfish harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

N. The records and information required under this Section shall be maintained for two years and shall be open to inspection by the department.

O. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

P. The effective date of this Section is May 24, 2002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 29:

§139. Labeling of Foreign Shrimp and Crawfish by Country of Origin

A. Definitions

Foreign Shrimp or Crawfish Any shrimp or crawfish, as defined herein that is harvested from or produced, processed or packed in a country other than the United States.

Shrimp or Crawfish Any shrimp or crawfish, whether whole, de-headed, de-veined or peeled, and any product containing any shrimp or crawfish.

B. All foreign shrimp or crawfish, imported, shipped or brought into Louisiana shall indicate the country of origin, except as otherwise provided in this Section.

C. Every package or container that contains foreign shrimp or crawfish, shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the shrimp or crawfish the English name of the country of origin.

1. Legibility must be such that the ultimate retail purchaser in the United States is able to find the marking or label easily and read it without strain.

2. Indelibility must be such that the wording will not fade, wash off or otherwise be obliterated by moisture, cold or other adverse factors that such shrimp or crawfish are normally subjected to in storage and transportation.

3. Permanency must be such that, in any reasonably foreseeable circumstance, the marking or label shall remain on the container until it reaches the ultimate retail purchaser unless it is deliberately removed. The marking or label must be capable of surviving normal distribution and storing.

D. When foreign shrimp or crawfish are combined with domestic shrimp or crawfish, or products made from or containing domestic shrimp or crawfish, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign shrimp or crawfish.

E. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign shrimp or crawfish, or any sign advertising such foreign shrimp or crawfish for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin of the shrimp or crawfish, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign. The wording indicating that the shrimp or crawfish is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the shrimp or crawfish is a product of the United States in a legible, indelible and permanent manner. No provision of this Section is intended to or is to be construed as authorizing the use of the words "United States," or "American," the letters "U.S.A.," any variation of such

words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

F. Foreign shrimp or crawfish shall not have to be marked or labeled with the country of origin if such shrimp or crawfish are included as components in a product manufactured in the United States and the shrimp or crawfish is substantially transformed in the manufacturing of the final product. But in no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, de-heading, de-veining, peeling, partially cooking or combining with domestic shrimp or crawfish shall not be considered to be a substantial transformation.

G. The commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal orders and the seizing of shrimp or crawfish mislabeled or misbranded as to the country of origin.

H. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 29:

Bob Odom
Commissioner

0210#005

DECLARATION OF EMERGENCY

**Department of Economic Development
Office of the Secretary**

**Capital Companies Tax Credit Program
(LAC 10:XV.325)**

The Department of Economic Development, Office of the Secretary, pursuant to the emergency provision of the Administrative Procedure Act, R.S. 49:953.B, adopts the following amendment to the rules of the Capital Companies Tax Credit Program as authorized by R.S. 51:1929. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective September 27, 2002 and shall remain in effect for the maximum period allowed under the Act or until adoption of a permanent rule, whichever occurs first.

The Department of Economic Development, Office of the Secretary has found an immediate need to provide direction to certified Louisiana capital companies who are seeking investments of certified capital by Requests for Allocation of Tax Credits which are required to be filed by insurance company investors on October 1, 2002. Without these Emergency Rules the public welfare may be harmed as a result of the failure of certified Louisiana capital companies to obtain investments of certified capital from insurance companies, which may result in a reduction of certified capital available to be invested in qualified Louisiana businesses, including qualified Louisiana startup businesses, disadvantaged businesses and qualified Louisiana technology-based businesses.

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES, AND UCC
Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

§325. Notes Receivable

A. The provisions of R.S. 22:1068.E.(1)(b) will be satisfied with respect to a note receivable issued by a certified Louisiana capital company or its investment pool to an investing insurance company if:

1. the note receivable has a stated final maturity date of not less than five years from the date on which the certified Louisiana capital company or its investment pool issues the note receivable; and

2. either:

a. the note receivable is repaid in a manner which results in the note receivable being fully repaid or otherwise satisfied in equal amounts over the stated maturity of the note receivable; or

b. the duration of the note receivable is no shorter than the duration of a hypothetical note that:

i. is issued on the same date as the note issued by the certified Louisiana capital company or its investment pool;

ii. has the same maturity date as the note issued by the certified Louisiana capital company or its investment pool;

iii. has a price and yield the same as that of the note issued by the certified Louisiana capital company or its investment pool, calculated in the same manner (i.e., with respect to compounding, 360 vs. 365 day per year calculations, etc.); and

iv. is fully amortized by equal daily payments, which amounts are calculated as follows:

(a). the aggregate of all amounts scheduled to be paid or otherwise credited to the holder of the note receivable issued by the certified Louisiana capital company or its investment pool for the entire term of the note receivable divided by;

(b). the total number of days scheduled to elapse from the date on which the certified Louisiana capital company or its investment pool issues its note receivable through and including the stated maturity date thereof, calculated on a 365 or 360 day year, consistent with the calculation of interest on the note receivable.

B. For purposes of this Section, a note receivable's "duration" shall mean the weighted-average time to receipt of the present value of the amounts used to repay or otherwise satisfy the note receivable obligation. For purposes of this Section, a note receivable's duration shall be calculated in a manner that is typical in the industry for publicly-traded debt instruments.

C. Each certified Louisiana capital company or its investment pool that issues notes to insurance companies other than those described in Subparagraph A.2.a of this Section shall submit to the Office of Financial Institutions, in writing, the duration for each such note issued by it (or one representative note, if all notes are similar except for the face

amount) and the duration for the note described in Subparagraph A.2.b of this Section. Each calculation shall show:

1. all information required to make the duration calculation; and

2. all interim worksheets and formulae used in the duration calculation, reasonably sufficient to allow the Office of Financial Institutions to duplicate the calculation. A copy of the actual spreadsheet model used by the certified Louisiana capital company or its investment pool for its duration calculation in a Microsoft Excel software format shall satisfy the requirements of the preceding sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1929.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 16:762 (September 1990), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1132 (September 1997), amended LR 25:1216 (July 1999), LR 29:

Don J. Hutchinson
Secretary

0210#014

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of the Secretary

Fee Increases for FY 02-03
(LAC 33:1.1409, 4707; III.223; V.5111, 5119,
5120, 5123, 5125, 5135, 5137, 5139, 5141, 5143,
and 5145; VII.525, 527, and 529; IX.1309 and
1507; XI.307 and 1305; and XV.579)(OSO41E1)

In accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953.B, and under the authority of R.S. 30:2011, the secretary of the Department of Environmental Quality declares that an emergency action is necessary in order to collect additional fees so no services provided by the department will be diminished.

Act 134 of the First Extraordinary Session of the 2002 Legislative Session authorized a 20 percent increase in fee collections by the department. In order to invoice these authorized fee increases during the current fiscal year, this Emergency Rule is being implemented. The department will propose a Rule that reflects the provisions of this Emergency Rule.

This is a renewal of Emergency OOS041E that was effective on July 1, 2002. This Emergency Rule is effective on October 29, 2002, and shall remain in effect for a maximum of 120 days or until a final Rule is promulgated, whichever occurs first. For more information concerning OS041E1, you may contact the Regulation Development Section at (225) 765-0399.

**Title 33
ENVIRONMENTAL QUALITY**

Part 1. 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.

Hazardous Waste Facilities	\$9,450
Solid Waste Facilities	\$6,300
Non-regulated Facilities	\$3,150

B. Corrective Action Oversight (Annual). The fee listed below covers the cost of reviewing, evaluating, and approving plans and/or actions to clean up groundwater that has been contaminated by a facility.

Hazardous Waste Facilities	\$12,600
Solid Waste Facilities	\$9,450
Nonregulated Facilities	\$3,150

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.

Hazardous Waste Facilities	\$1,260
Solid Waste Facilities	\$314

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.

Each well	\$600
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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.

Each well	\$300
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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.

Hazardous Waste Facilities	\$1,200
With sampling	\$9,000
Solid Waste Facilities	\$600
With sampling	\$1,800

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.

Casing pulled	\$120 each well
Casing reamed out	\$240 each well
Casing left in place	\$600 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.

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.

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

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:

Chapter 2. Part 3. Air Rules and Regulations for the Fee System of the Air Quality Control Programs

§223. Fee Schedule Listing

Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	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	3437.00	2064.00	688.00
0030	Coal Preparation	1211	1720.00	8596.00	5158.00	1720.00
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	2123.00	1273.00	425.00
0043	Crude Oil & Natural Gas Production Greater than 500 T/Yr Source	1311	707.00	2830.00	2123.00	707.00
0050	Natural Gas Liquids Per Unit	1321	345.00	1720.00	1031.00	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
0080	Salt Mining	1476	1720.00	8596.00	5158.00	1720.00
0090	Sulfur Mining	1477	1720.00	8596.00	5158.00	1720.00
0100	Commercial Rice Milling	2044	688.00	3437.00	2064.00	688.00
0110	Animal Feed Preparation	2048	688.00	3437.00	2064.00	688.00
0120	Cane Sugar, Except Refining Only	2061	1720.00	8596.00	5158.00	1720.00
0130	Cane Sugar Refining per 1,000 Lb/Hr Rated Capacity	2062 MIN.	13.74 1697.00	68.77 8491.00	41.26 5094.00	13.74 1697.00
0140	Cottonseed Oil Mill	2074	344.00	1720.00	1031.00	344.00
0150	Soybean Oil Mill	2075	241.00	1204.00	722.00	241.00
0160	Animal and Marine Fats and Oil (Rendering) 10,000 or More Ton/Yr	2077	823.00	4126.00	2474.00	823.00
0170	Animal and Marine Fats and Oil (Rendering) Less than 10,000 Ton/Yr	2077	413.00	2064.00	1238.00	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 MIN. MAX.	136.80 326.00 8632.00	687.60 1632.00 43164.00	411.60 979.00 25898.00	136.80 326.00 8632.00
0210 *Note 9*	Sawmill and/or Planing Less than 25,000 Bd Ft/Shift	2421	345.00	1720.00	1031.00	344.00
0220 *Note 9*	Sawmill and/or Planing More than 25,000 Bd Ft/Shift	2421	1031.00	5158.00	3095.00	1031.00
0230 *Note 9*	Hardwood Mill	2426	618.00	3095.00	1856.00	618.00
0240 *Note 9*	Special Product Sawmill N.E.C.	2429	618.00	3095.00	1856.00	618.00
0250	Millwork with 10 Employees or More	2431	618.00	3095.00	1856.00	618.00
0260	Hardwood Veneer and Plywood	2435	1375.00	6876.00	4126.00	1375.00
0270	Softwood Veneer and Plywood	2436	1375.00	6876.00	4126.00	1375.00
0280	Wood Preserving	2491	345.00	1720.00	1031.00	344.00
0290	Particleboard/Waferboard Manufacture (O.S.B.)	2492	1375.00	6876.00	4126.00	1375.00
0300	Hardboard Manufacture	2499	1031.00	5158.00	3095.00	1031.00
0310	Furniture and Fixtures - A) 100 or More Employees	2511	435.00	2177.00	1306.00	434.00
0320	Furniture and Fixtures - B) More than 10 and Less than 100 Employees	2511	206.00	1031.00	618.00	206.00
0330	Pulp Mills Per Ton Daily Rated Capacity	2611 MIN.	5.14 3538.00	25.78 17690.00	15.48 10614.00	5.14 3538.00

Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0340	Paper Mill Per Ton Daily Rated Capacity	2621	5.14	25.78	15.48	5.14
Note 1		MIN.	3538.00	17690.00	10614.00	3538.00
0350	Paperboard Mills Per Ton Daily Rated Capacity	2631	5.14	25.78	15.48	5.14
		MIN.	3538.00	17690.00	10614.00	3538.00
0360	Paper Coating	2641	206.00	1031.00	618.00	206.00
0365	Paper Bag Manufacture	2643	262.00	1306.00	784.00	262.00
0370	Insulation Manufacture	2649	345.00	1720.00	1031.00	344.00
0375	Folding Paper Board Boxes Per Packaging Press Line	2651	345.00	1720.00	1031.00	344.00
		MIN.	1697.00	8491.00	5094.00	1697.00
0380	Corrugated Boxes - Converters (with Boilers)	2653	515.00	2578.00	1548.00	515.00
0381	Corrugated Boxes - Sheet Plant	2653	217.00	1088.00	653.00	217.00
0390	Building Board and Tile	2661	1720.00	8596.00	5158.00	1720.00
0400	Commercial Printing - Black and White Per Press	2752	205.00	1031.00	618.00	205.00
		MIN.	990.00	4952.00	2971.00	990.00
0410	Commercial Printing - Color Per Press	2752	343.00	1718.00	1032.00	343.00
		MIN.	1697.00	8491.00	5094.00	1697.00
0420	Caustic/Chlorine Per 1,000,000 Lb/Yr Rated Cap Posed on Chlorine	2812	3.44	17.20	10.31	3.44
Note 2		MIN.	1697.00	8491.00	5094.00	1697.00
0440	Industrial Gases	2813	688.00	3437.00	2064.00	688.00
0450	Inorganic Pigments	2816	688.00	3437.00	2064.00	688.00
0460	Aluminum Sulfate Production Per 100 Ton/Yr Rated Capacity	2819	1.70	8.60	5.14	1.70
		MIN.	1415.00	7075.00	4246.00	1415.00
0470	Alumina Per 1,000,000 Lb/Yr Rated Capacity	2819	6.85	34.37	20.62	6.85
		MIN.	1415.00	7075.00	4246.00	1415.00
0480	Catalyst Mfg. and Cat. Regeneration Per Line	2819	1720.00	8596.00	5158.00	1720.00
0490	Fluosilicates	2819	1031.00	5158.00	3095.00	1031.00
0500	Industrial Inorganic Chemicals Mfg. N.E.C. Per 1,000,000 Lb/Yr	2819	1.70	8.60	5.14	1.70
		MIN.	990.00	4952.00	2971.00	990.00
0510	Industrial Inorganic Acids N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2819	17.20	85.96	51.58	17.20
		MIN.	1697.00	8491.00	5094.00	1697.00
0520	Nitric Acid Manufacture Per 1,000 Ton/Yr Rated Capacity	2819	6.85	34.37	20.62	6.85
		MIN.	1697.00	8491.00	5094.00	1697.00
0530	Phosphoric Acid Mfg. Per Ton Daily Rated Cap	2819	1.70	8.60	5.14	1.70
		MIN.	1415.00	7075.00	4246.00	1415.00
0540	Sulphuric Acid Manufacture Per Ton Daily Rated Capacity	2819	1.70	8.60	5.14	1.70
		MIN.	1415.00	7075.00	4246.00	1415.00
0550	Polyethylene/Polypropolene Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821	13.74	68.77	41.26	13.74
		MIN.	1697.00	8491.00	5094.00	1697.00
0560	PVC Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821	17.20	85.96	51.58	17.20
		MIN.	1697.00	8491.00	5094.00	1697.00
0570	Synthetic Resins Manufacture N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2821	17.20	85.96	51.58	17.20
		MIN.	1697.00	8491.00	5094.00	1697.00
0580	Rubber Mfg. Per 1,000,000 Lb/Yr Rated Capacity	2822	17.20	85.96	51.58	17.20
		MIN.	1697.00	8491.00	5094.00	1697.00
0585	Paint Manufacturing and Blending	2851	640.00	3198.00	1919.00	640.00
0590	Charcoal Per Oven	2861	344.00	1720.00	1031.00	344.00
0600	Gum and Wood Chemicals Per Unit	2861	1031.00	5158.00	3095.00	1031.00
0610	Styrene Monomer Per 1,000,000 Lb/Yr Rated Capacity	2865	6.85	34.37	20.62	6.85
		MIN.	1697.00	8491.00	5094.00	1697.00
0620	Halogenated Hydrocarbons Per 1,000,000 Lb/Yr Rated Capacity	2869	10.31	51.58	30.95	10.31
		MIN.	1697.00	8491.00	5094.00	1697.00
0630	Organic Oxides, Alcohols, Glycols Per 1,000,000 Lb/Yr Rated Capacity	2869	6.85	34.37	20.62	6.85
		MIN.	1697.00	8491.00	5094.00	1697.00
0635	Olefins and Aromatics N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2869	6.85	34.37	20.62	6.85
		MIN.	1697.00	8491.00	5094.00	1697.00
0640	Ammonia Manufacture Per Ton Daily Rated Capacity	2873	3.43	17.20	10.31	3.43
		MIN.	1697.00	8491.00	5094.00	1697.00
0650	Fertilizer Manufacture Per 1,000 Ton/Yr Rated Capacity	2873	1.70	8.60	5.14	1.70
		MIN.	990.00	4952.00	2971.00	990.00
0660	Urea and Ureaform Per 1,000 Ton/Yr Rated Capacity	2873	3.43	17.20	10.31	3.43
		MIN.	990.00	4952.00	2971.00	990.00
0670	Pesticides Mfg. Per Train	2879	1375.00	6876.00	4126.00	1375.00
0680	Carbon Black Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2895	20.62	103.13	61.90	20.62
		MIN.	1697.00	8491.00	5094.00	1697.00

Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0690	Chemical and Chemical Prep. N.E.C. Per 1,000,000 Lb/Yr	2899 MIN.	17.20 1415.00	85.96 7075.00	51.58 4246.00	17.20 1415.00
0695	Chemical and Chemical Prep. N.E.C. with Output Less than 1,000,000 Lb/Yr	2899	979.00	4898.00	2939.00	979.00
0700	Drilling Mud-Storage and Distribution	2899	344.00	1720.00	1031.00	344.00
0710	Drilling Mud-Grinding	2899	1375.00	6876.00	4126.00	1375.00
0715	Salt Processing and Packaging Per 1,000,000 Lb/Yr	2899 MIN.	00.28 425.00	1.40 2123.00	0.84 1273.00	0.28 425.00
0720 *Note 3*	Petroleum Refining Per 1,000 BBL/Day Rated Capacity Crude Thruput	2911 MIN.	85.96 1697.00	429.79 8491.00	258.00 5094.00	85.96 1697.00
0730 *Note 4*	Asphaltic Concrete Paving Plants Per Ton/Hr Rated Capacity	2951 MIN.	2.59 707.00	12.92 3538.00	7.75 2123.00	2.59 707.00
0740	Asphalt Blowing Plant (Not to be Charged Separately if in Refinery)	2951	1031.00	5158.00	3095.00	1031.00
0760 *Note 5*	Blending, Compounding, or Refining of Lubricants Per Unit	2992	1031.00	5158.00	3095.00	1031.00
0770	Petroleum Coke Calcining Per 1,000 Ton/Yr Rated Capacity	2999 MIN.	13.74 1697.00	68.77 8491.00	41.26 5094.00	13.74 1697.00
0773	Fiberglass Swimming Pools	N/A	242.00	1204.00	722.00	241.00
0775	Plastics Injection Moulding and Extrusion Per Line	3079	344.00	1720.00	1031.00	344.00
0780	Glass and Glass Container Mfg. Natural Gas Fuel Per Line	3229	515.00	2578.00	1548.00	515.00
0790	Cement Manufacture Per 1,000 Ton/Yr Rated Capacity	3241 MIN.	10.31 1415.00	51.58 7075.00	30.95 4246.00	10.31 1415.00
0800	Glass and Glass Container Mfg. Fuel Oil Per Line	3241	1031.00	5158.00	3095.00	1031.00
0810	Brick Manufacture Per 1,000 Ton/Yr Rated Capacity	3251 MIN.	5.14 707.00	25.78 3538.00	15.48 2123.00	5.14 707.00
0815	Concrete Products	3272	348.00	1741.00	1044.00	348.00
0820 *Note 12*	Ready-Mix Concrete	3273	860.00	2612.00	1720.00	860.00
0830	Lime Manufacture Per 1,000 Ton/Yr Rated Capacity	3274 MIN.	10.31 990.00	51.58 4952.00	30.95 2971.00	10.31 990.00
0840	Gypsum Manufacture Per 1,000 Ton/Yr Rated Capacity	3275 MIN.	10.31 990.00	51.58 4952.00	30.95 2971.00	10.31 990.00
0850	Asbestos Products Per Site or Per Production Unit	3292	2064.00	10315.00	6190.00	2064.00
0860	Clay Kiln	3295	413.00	2064.00	1238.00	413.00
0870	Rock Crusher	3295	378.00	1891.00	1135.00	378.00
0880	Gray Iron and Steel Foundries A) 3,500 or More Ton/Yr Production	3321	551.00	2749.00	1650.00	551.00
0890	Gray Iron and Steel Foundries B) Less than 3,500 Ton/Yr Production	3321	274.00	1375.00	824.00	274.00
0900	Malleable Iron Foundries A) 3,500 or More Ton/Yr Production	3322	551.00	2749.00	1650.00	551.00
0910	Malleable Iron Foundries B) Less than 3,500 Ton/Yr Production	3322	274.00	1375.00	823.00	274.00
0920	Steel Investment Foundries A) 3,500 or More Ton/Yr Production	3324	551.00	2749.00	1650.00	551.00
0930	Steel Investment Foundries B) Less than 3,500 Ton/Yr Production	3324	274.00	1375.00	823.00	274.00
0940	Steel Foundries Not Elsewhere Classified A) 3,500 or More Ton/Yr Production	3325	551.00	2749.00	1650.00	551.00
0950	Steel Foundries Not Elsewhere Classified B) Less than 3,500 Ton/Yr Production	3325	274.00	1375.00	823.00	274.00
0960	Primary Smelting and Refining of Copper Per 100,000 Lb/Yr Rated Capacity	3331 MIN.	6.85 1697.00	34.37 8491.00	20.62 5094.00	6.85 1697.00
0970	Aluminum Production Per Pot	3334 MIN.	34.37 1697.00	171.92 8491.00	103.00 5094.00	34.37 1697.00
0980	Refining of Non-Ferrous Metals N.E.C. Per 1,000 Lb/Yr Rated Capacity	3339 MIN.	0.04 1697.00	0.32 8491.00	0.19 5094.00	0.04 1697.00

Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0990	Secondary Smelting of Non-Ferrous Metals Per Furnace	3341 MIN.	1031.00 2123.00	5158.00 10614.00	3095.00 6368.00	1031.00 2123.00
1000	Wire Manufacture	3357	688.00	3437.00	2064.00	688.00
1010	Aluminum Foundries (Castings) Per Unit	3361	274.00	1375.00	823.00	274.00
1020	Brass/Bronze/Copper-Based Alloy Foundry Per Furnace	3362	344.00	1720.00	1031.00	344.00
1030	Metal Heat Treating Including Shotpeening	3398	206.00	1031.00	618.00	206.00
1040	Metal Can Manufacture	3411	688.00	3437.00	2064.00	688.00
1050	Drum Manufacturing and/or Reconditioning	3412	1031.00	5158.00	3095.00	1031.00
1059	Fabricated Structural Steel with 5 or More Welders	3441	688.00	3437.00	2064.00	688.00
1060	Fabricated Plate Work with 5 or More Welders	3443	870.00	4354.00	2612.00	870.00
1070	Electroplating, Polishing and Anodizing with 5 or More Employees	3471	206.00	1031.00	618.00	207.00
1080	Sandblasting or Chemical Cleaning of Metal: A) 10 or More Employees	3471	1031.00	5158.00	3095.00	1031.00
1090	Sandblasting or Chemical Cleaning of Metal: B) Less than 10 Employees	3471	515.00	2578.00	1548.00	515.00
1100	Coating, Engraving, and Allied Services: A) 10 or More Employees	3479	378.00	1891.00	1135.00	378.00
1110	Coating, Engraving, and Allied Services: B) Less than 10 Employees	3479	206.00	1031.00	618.00	206.00
1120	Galvanizing and Pipe Coating Excluding All Other Activities	3479	413.00	2064.00	1238.00	413.00
1130	Painting Topcoat Per Line	3479	344.00	1720.00	1031.00	344.00
1140	Potting Per Line	3479	206.00	1031.00	618.00	206.00
1150	Soldering Per Line	3479	206.00	1031.00	618.00	206.00
1160	Wire Coating Per Line	3479	688.00	3437.00	2064.00	688.00
1170	Oil Field Machinery and Equipment	3533	344.00	1720.00	1031.00	344.00
1180	Power Chain Saw Manufacture Per Line	3546	515.00	2578.00	1548.00	515.00
1190	Commercial Grain Dryer	3559	413.00	2064.00	1238.00	413.00
1193	Commercial Laundry, Dry Cleaning, and Pressing Machines	3582	515.00	2578.00	1548.00	515.00
1195	Electric Transformers Per 1,000 Units/Year	3612 MIN.	159.92 434.00	799.60 2177.00	479.76 1306.00	159.92 434.00
1200	Electrode Manufacture Per Line	3624	481.00	2405.00	1444.00	481.00
1210	Telephone Manufacture Per Line	3661	1204.00	6017.00	3610.00	1204.00
1220	Electrical Connector Manufacture Per Line	3678	618.00	3095.00	1856.00	618.00
1230	Battery Manufacture Per Line	3691	688.00	3437.00	2064.00	688.00
1240	Electrical Equipment Per Line	3694	413.00	2064.00	1238.00	413.00
1245	Automobile, Truck and Van Assembly Per 1,000 Vehicles Per Year Capacity	3711 MIN. MAX.	171.92 1088.00 34390.00	859.55 5443.00 171950.00	515.72 3265.00 103170.00	171.92 1088.00 34390.00
1250	Ship and Boat Building: A) 5001 or More Employees	3732	5158.00	25787.00	15473.00	5158.00
1260	Ship and Boat Building: B) 2501 to 5000 Employees	3732	3437.00	17192.00	10315.00	3437.00
1270	Ship and Boat Building: C) 1001 to 2500 Employees	3732	1720.00	8596.00	5158.00	1720.00
1280	Ship and Boat Building: D) 201 to 1000 Employees	3732	1031.00	5158.00	3095.00	1031.00
1290	Ship and Boat Building: E) 200 or Less Employees	3732	344.00	1720.00	1031.00	345.00
1300	Playground Equipment Manufacture Per Line	3949	515.00	2578.00	1548.00	515.00
1310	Grain Elevators: A) 20,000 or More Ton/Yr	4221	1098.00	5500.00	3300.00	1098.00
1320	Grain Elevators: B) Less than 20,000 Ton/Yr	4221	551.00	2749.00	1650.00	551.00

Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
1330 *Note 6*	A) Petroleum, Chemical Bulk Storage and Terminal (over 3,000,000 BBL Capacity)	4226	10315.00	51575.00	30946.00	10315.00
1340 *Note 6*	B) Petroleum, Chemical Bulk Storage and Terminal (1,000,000-3,000,000 BBL Capacity)	4226	6876.00	34382.00	20629.00	6876.00
1350 *Note 6*	C) Petroleum, Chemical Bulk Storage and Terminal (500,001-1,000,000 BBL Capacity)	4226	3437.00	17192.00	10315.00	3437.00
1360 *Note 6*	D) Petroleum, Chemical Bulk Storage and Terminal (500,000 BBL Capacity or Less)	4226	1720.00	8596.00	5158.00	1720.00
1361 *Note 8*	Wholesale Distribution of Coke and Other Bulk Goods Per 1,000 Ton/Yr Capacity	4463 MIN.	0.70 1696.00	3.44 8491.00	2.04 5094.00	0.70 1697.00
1362	Crude Oil Pipeline - Facility with Less than 100,000 BBL Storage Capacity	4612	762.00	3810.00	2286.00	762.00
1363	Crude Oil Pipeline - Facility with 100,000 to 500,000 BBL Storage Capacity	4612	1088.00	5443.00	3265.00	1088.00
1364	Crude Oil Pipeline - Facility with Over 500,000 BBL Storage Capacity	4612	1524.00	7620.00	4572.00	1524.00
1366	Refined Oil Pipeline - Facility with Less than 100,000 BBL Storage Capacity	4613	653.00	3265.00	1958.00	653.00
1367	Refined Oil Pipeline - Facility with 100,000 to 500,000 BBL Storage Capacity	4613	870.00	4354.00	2612.00	870.00
1368	Refined Oil Pipeline - Facility with Over 500,000 BBL Storage Capacity	4613	1306.00	6532.00	3918.00	1306.00
1370	Railcar/Barge/Tank Truck Cleaning Heavy Fuels Only	4742	344.00	1720.00	1031.00	344.00
1380	Railcar and Barge Cleaning Other Than Heavy Fuels	4742	1720.00	8596.00	5158.00	1720.00
1390	Tank Truck Cleaning Other Than Heavy Fuels	4742	1031.00	5158.00	3095.00	1031.00
1400	A) Electric Power Gen. Per MW (Over 0.7 percent S in Fuel)	4911 MIN.	15.97 3254.00	79.94 16274.00	47.96 9764.00	15.97 3254.00
1410 *Note 7*	B) Electric Power Gen. Per MW (0.7 percent S or Less in Fuel)	4911 MIN.	9.58 1556.00	47.96 7783.00	28.78 4670.00	9.58 1556.00
1420	C) Electric Power Gen. Per MW (Natural Gas Fired)	4911 MIN.	4.81 1132.00	23.99 5660.00	14.39 3396.00	4.81 1132.00
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	1720.00	688.00	688.00
1500 *Note 10*	Coal Gassification Per \$100,000 Capital Cost	4925 MIN MAX	6.85 1088.00 55052.00	34.37 5443.00 275262.00	20.62 3265.00 165156.00	6.85 1088.00 55052.00
1510 *Note 10*	Co-Generation Per \$100,000 Capital Cost	4939 MIN MAX	6.85 1088.00 34390.00	34.37 5443.00 171950.00	20.62 3265.00 103170.00	6.85 1088.00 34390.00
1520	Incinerators: A) 1,000 Lb/Hr and Greater Capacity	4953	434.00	2177.00	1306.00	434.00
1521	Incinerators: B) Less than 1,000 Lb/Hr Capacity	4953	140.00	707.00	425.00	140.00

Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
1525	Sanitary Landfill per Million Mg of Planned Capacity	4953 MIN	120.00 240.00	600.00 1200.00	360.00 720.00	120.00 240.00
1530	Municipal Incinerators	4953	3437.00	17192.00	10316.00	3437.00
1532	Commercial Hazardous Waste Incinerator Per 1,000,000 BTU Per Hour Thermal Capacity	4953 MIN.	198.13 4354.00	990.66 21773.00	594.40 13063.00	198.13 4354.00
1533	Non Commercial Hazardous Waste Incinerator (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN.	99.06 2830.00	496.01 14152.00	297.19 8491.00	99.06 2830.00
1534	Commercial Hazardous Waste Disp. Facility N.E.C.	4953	28304.00	141523.00	84913.00	28304.00
1535	Commercial Hazardous Waste Underground Injection (Surface Facilities) Per Location	4953	5660.00	28304.00	16982.00	5660.00
1536	Recoverable/Re-usable Materials Proc. Facility (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN. MAX.	99.06 2830.00 14152.00	495.32 14152.00 70762.00	297.19 8491.00 42456.00	99.06 2830.00 14152.00
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 1415.00	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 3538.00	10.31 2123.00	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 4952.00	15.48 2971.00	5.14 990.00
1570	Cement (Bulk Distribution)	5052	1375.00	6876.00	4126.00	1375.00
1580	Wholesale Distribution of Coal Per 1,000 Ton/Yr Throughput	5052 MIN.	0.32 990.00	1.70 4952.00	1.01 2971.00	0.32 990.00
1590	Automobile Recycling Scrap Per 1000 Ton/Yr	5093 MIN. MAX.	14.15 707.00 34390.00	70.75 3538.00 171950.00	42.46 2123.00 103170.00	14.15 707.00 34390.00
1600	Bulk Loader: Over 100,000 Ton/Yr Throughput	5153	3437.00	17192.00	10315.00	3437.00
1610 *Note 14a*	Bulk Loader: Less than or equal to 100,000 and more than 25,000 Ton/Yr Throughput	5153	1720.00	8596.00	5158.00	1720.00
1611 *Note 14a*	Bulk Loader: 25,000 Ton/Yr or Less Throughput	5153	979.00	4898.00	2939.00	979.00
1612 *Note 14a*	Bulk Loader – No Grain or Dusty Materials Transfer	5153	653.00	3265.00	1958.00	653.00
1620	Grain Elevators-Terminal Per 10,000 Bu/Yr Throughput	5153 MIN.	0.32 1556.00	1.70 7783.00	1.01 4670.00	0.32 1556.00
1630	Wholesale Distribution of Chemicals and Allied Products Per Facility	5161	860.00	3437.00	2578.00	860.00
1640	Petroleum Bulk Plants	5171	70.00	344.00	206.00	70.00
1650	Petroleum Bulk Terminal	5171	688.00	3437.00	2064.00	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	1031.00	5158.00	3095.00	1031.00
1690	Tire Recapping Plant	7534	140.00	707.00	425.00	140.00
1700	Chemical Waste Disposal Facility for Non Hazardous Waste	9998	3198.00	15992.00	9595.00	3198.00
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

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 60.00
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 90.00
2200	Air Toxics Annual Fee Per Ton Emitted on an Annual Basis	
Note 13	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 (NO _x) Sulfur dioxide (SO ₂) Non-toxic organic (VOC) Particulate (PM ₁₀)	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	3000.00
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]	

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 (effective July 1, 2002) total for any one gas transmission company.

Note 12. The maximum annual maintenance fee for one location with two or more plants shall be \$1,556 (effective July 1, 2002).

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).

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).

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

QualityC Hazardous Waste

Chapter 51. Fee Schedules

§5111. Calculation of Application Fees

- A. ...
- B. Application Fee Schedule

Item	Fee
Site analysis—per acre site size	\$300 ¹
Process and plan analysis	\$1,200
Facility analysis—per facility ²	\$600
Management/financial analysis	\$1,200

[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

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 (Non-commercial)	\$24,000
On-Site Disposer	\$12,000

[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

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

- C. Fee Based on Volume

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

- 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.

On-Site	\$1,200
Off-Site Non-commercial	\$2,400
Reclaimer	\$3,000
Off-Site Commercial	\$6,000

- 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 28:

§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.

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

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.

Initial Fee	\$11.35
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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.

B. Annual prohibited waste fee is \$120 for each generator who generates for land disposal as provided in LAC 33:V.Chapter 22. 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. 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.

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.

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

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.

Casing pulled	\$120 each
Casing reamed out	\$240 each
Casing left in place	\$600 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.

Each Well	\$600
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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.

Each Well	\$300
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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 for each day of the test burn or trial burn.

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.

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.

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.

ZOI soil samples	\$1,200 each acre
Soil-pore liquid monitors (Lysimeters)	\$3,000 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.

Hazardous Waste Facilities	\$1,200 each report
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C. Permit Review Fee. This fee covers the cost of reviewing permits for geology, geotechnical design, and hydrological separation requirements of these regulations.

Initial Permit	\$6,000 each
Permit Modifications	
Class 1	\$240 each
Class 2 or 3	\$900 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, and the fee shall accompany each permit application submitted.

B. Applicants for Type III standard permits or beneficial-use permits shall pay a permit application review fee of \$600 for each facility, and the fee shall accompany each permit application submitted.

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, and the fee shall accompany each modification submitted. Permit holders providing mandatory modifications in response to these regulations shall pay a \$600 permit-modification fee, and the fee shall accompany each mandatory modification submitted. 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, and the fee shall accompany each modification submitted.

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, and the fee shall accompany each closure plan submitted.

B. Applicants for Type III or beneficial-use facilities closures shall pay a \$300 closure-plan review fee, and the fee shall accompany each closure plan submitted.

C. Permit holders providing closure-plan modifications for Type I, I-A, II, and II-A facilities shall pay a \$600 closure-plan modification review fee, and the fee shall accompany each modification submitted.

D. Permit holders providing closure-plan modifications for Type III or beneficial-use facilities shall pay a \$150 closure-plan modification review fee, and the fee shall accompany each modification submitted.

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.

Initial fee	\$120
Fee Per Vehicle	\$30

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 for Type I facilities (including facilities that handle both industrial and nonindustrial waste);
 - b. \$1,800 for Type II facilities; and
 - c. \$600 for Type IA, II-A, III, and beneficial-use facilities.

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;
- b. for nonindustrial wastes (Type II facilities, except surface impoundments), \$0.18/ton for amounts exceeding 75,000 tons;
- 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; the maximum fee per facility for Type II facilities is \$24,000 (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; and
 - iv. \$134.54 per rating point as of July 1, 2002; 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; and
 - iv. \$247.24 per rating point as of July 1, 2002.
- B.4. - E.1.a. ...
- b. \$244.56 from July 1, 1998, through June 30, 1999;
 - c. \$261.63 as of July 1, 1999; and
 - d. \$314.00 as of July 1, 2002.

E.2. - 2.a. ...

- b. \$101,587.50 from July 1, 1998, through June 30, 1999;
- c. \$108,675 as of July 1, 1999; and
- d. \$130,410 as of July 1, 2002.

F. - M. ...

N. Other Fees

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
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

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.

Noncommercial Activities	\$30/application
Commercial Activities	\$318/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.

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

B.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, 2014, 2195, 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

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	1296	1104

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;
2. certification renewal fee, \$120.

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 shall be paid to the department for each replacement of an I.D. card. 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:

Appendix A Radiation Protection Program Fee Schedule		
	Application Fee	Annual Maintenance Fee
8. Mobile nuclear medicine services	1296	1104
9. "Broad scope" medical licenses	1296	1104
10. Manufacturing of medical devices/sources	1512	1260
11. Distribution of medical devices/sources	1134	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	6552	6552
2. For the concentration and recovery of uranium from phosphoric acid as "yellow cake" (powered solid)	3276	3276
3. For the concentration of uranium from or in phosphoric acid	1638	1638
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	6480	4878
2. For industrial radiography operations performed in a shielded radiography installation(s) or permanently designated areas at the address listed in the license	1104	870
3. For industrial radiography operations performed at temporary jobsite(s) of the licensee	3252	2448
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	1638	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	3252	1626
6. For distribution of items containing radioactive material	1638	1638
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	1638	1638
d. Field flood studies and/or tracers equal to or greater than 5 Curies	2460	2460
8. Operation of a nuclear laundry	6492	3252
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	1638	1638
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	3780	3150
b. at temporary jobsite(s) of the licensee	3780	3780
18. Commercial NORM storage	3150	3150
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	6480	3252
3. All other commercial waste disposal involving storage, packaging and/or transfer	3252	3252
F. Civil defense licenses	396	330
G. Teletherapy service company license	1638	1638
H. Consultant licenses		
1. No calibration sources	162	94
2. Possession of calibration sources equal to or less than 500 mCi each	240	162
3. Possession of calibration sources greater than 500 mCi	330	240
4. Installation and/or servicing of medical afterloaders	438	378

Appendix A Radiation Protection Program Fee Schedule		
	Application Fee	Annual Maintenance Fee
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 de Graaf)	504	504
c. 1 MeV to 10 MeV	756	756
d. 10 MeV or greater	1008	1008
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 \$1890 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	1890	1890
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		1260
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
	I-131	228
C. Water	Gamma	228
	I-131	228
	H-3	84
D. Sediment	Gamma	240
E. Vegetation	Gamma	228

Appendix A Radiation Protection Program Fee Schedule		
	Application Fee	Annual Maintenance Fee
F. Fish	Gamma	240
G. Leak test	Gamma H-3	198 84
H. NORM sample		
1. Soil	Gamma	210
2. Produced water	Gamma	228
* 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:

L. Hall Bohlinger
Secretary

0210#085

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Community Supports and Services**

**Mentally Retarded/Developmentally Disabled Waiver
Skilled Nursing Services**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts 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 adopted in accordance with the Administrative Procedure Act, R. S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Under the provisions of Section 1915(c) of the Social Security Act, states may provide services not generally reimbursable by the Medicaid Program to groups of individuals in the community who meet the qualifications for institutional care. Such programs are known as home and community based services waivers. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June 1990 establishing the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver and the provisions governing the services covered under the waiver (*Louisiana Register*, Volume 16, Number 7). The MR/DD Waiver is one of the five waivers that are currently administered by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services.

The Bureau of Community Supports and Services has determined that it is necessary to incorporate a new service into the MR/DD Waiver. The Centers for Medicare and Medicaid Services has approved a waiver amendment to add skilled nursing services to the list of services provided under the MR/DD Waiver.

This action is being taken to protect the health and welfare of MR/DD Waiver recipients by providing skilled nursing services to those individuals in need of such services. It is estimated that implementation of this emergency rule will increase expenditures for services by approximately \$1,464,000 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on and after November 1, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services amends the July 20, 1990 Rule to include skilled nursing services as a service in the Mentally Retarded/Developmentally Disabled Waiver.

Recipient Criteria

A. Skilled nursing services will be available to medically fragile individuals who meet the following criteria:

1. are ventilator dependent or non-ambulatory, or have undergone a tracheotomy, or gastrostomy; and
2. require life-sustaining equipment (ventilator, suction machines, and/or pulse oximeters, apnea monitors, nebulizers); and
3. are medically approved by their primary physician, as documented by a doctor's order and a letter of medical necessity from the physician.

Provider and Staff Qualifications

A. A home health agency must enroll as a MR/DD waiver service provider in order to provide skilled nursing services under the MR/DD Waiver.

B. Skilled nursing services shall be provided by either a licensed registered nurse or a licensed practical nurse employed by a Medicaid enrolled home health agency.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P. O. Box 91030, Baton Rouge, Louisiana 70821-9030. She is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0210#047

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Community Supports and Services**

Mentally Retarded/Developmentally Disabled
WaiverCSupervised Independent Living

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts 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 adopted in accordance with the Administrative Procedure Act, R. S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Community Supports and Services provides reimbursement for Supervised Independent Living (SIL) services under the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver. SIL services include comprehensive plan of care development, implementation and monitoring; training; consultation and companion services. An Emergency Rule was adopted in July of 1995 to revise the reimbursement methodology for SIL services (*Louisiana Register*, Volume 21, Number 7). This Rule was subsequently repealed in October of 1995 (*Louisiana Register*, Volume 21 Number 10). As a result of allocation of additional funds by the Legislature during the 2001 Regular Session, a Rule was adopted to increase the reimbursement rates for SIL day and night companion services (*Louisiana Register*, Volume 27, Number 11).

As a result of the allocation of additional funds by the Legislature during the 2002 Regular Session, the Bureau of Community Supports and Services proposes to increase the reimbursement rate for a certain designated procedure code for SIL services. This action is being taken to promote the health and welfare of Medicaid recipients and maintain access to Supervised Independent Living services by encouraging the continued participation of these providers in the Medicaid Program.

Emergency Rule

Effective for dates of service on and after November 16, 2002, the Department of Health and Hospitals, 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

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. She is the person responsible for responding to inquiries regarding this emergency rule. A copy of this

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

David W. Hood
Secretary

0210#053

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital
Payment MethodologiesCFinal Payment

Editor's Note: The following Emergency Rule is being repromulgated for corrections. The original Emergency Rule may be viewed in the September 2002 edition of the Louisiana Register on page 1922.

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

necessary to amend the August 20, 2002 Rule in order to clarify the policy governing final payments and adjustments.

This action is being taken to avoid a budget deficit. It is estimated that the implementation of this proposed Rule will not have a programmatic fiscal impact to the state.

Emergency Rule

Effective for dates of service on or after September 7, 2002, 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 for non-state operated hospitals, 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 the following address: 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

0210#010

DECLARATION OF EMERGENCY

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

Durable Medical Equipment Program Motorized/Power Wheelchairs

Editor's Note: The following Emergency Rule is being repromulgated for corrections. The original Emergency Rule may be viewed in the September 2002 edition of the Louisiana Register on pages 1922-1924.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted 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/power wheelchairs under the Durable Medical Equipment Program. In order to be considered for a motorized/power wheelchair, Medicaid policy currently requires that a recipient must be either employed or in an education training program. The bureau now proposes to amend its current policy governing recipient qualifications for motorized/power wheelchairs and adopt new provisions.

This action is being taken to promote the health and welfare of Medicaid recipients by avoiding further deterioration of their physical functioning. It is estimated that implementation of this Emergency Rule will increase expenditures in the Durable Medical Equipment Program by approximately \$750,000 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after September 21, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions under the Durable Medical Equipment Program governing authorization for motorized/power wheelchairs.

Recipient Criteria

A. In order to be considered for a motorized/power wheelchair, a recipient must be non-ambulatory and have severe weakness of the upper extremities due to a neurological or muscular disease/condition. In addition, all of the following criteria must be met:

1. the recipient's condition is such that without the use of a wheelchair the recipient would otherwise be bed or chair confined; and
2. the recipient's condition is such that a wheelchair is medically necessary and he/she is unable to operate a wheelchair manually; and

3. the recipient is capable of safely operating the controls for a motorized/power wheelchair.

Prior Authorization

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

- 1. a completed PA -01 form;
- 2. a physicians prescription;
- 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 patient 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/power wheelchair is covered if the recipient's condition is such that the requirement for a motorized/power wheelchair is long term (at least six months). Approval will be made for only one wheelchair at a time. Backup chairs, either motorized/power or manual, will be denied as not medically necessary.

C. Wheelchairs with individualized features required to meet the needs of a particular recipient will be approved under the correct procedure code for the wheelchair base and the appropriate procedure codes for wheelchair options and accessories. All such features and modifications are subject to prior authorization along with the wheelchair.

Covered Services

A. The following motorized/power wheelchairs are considered for reimbursement:

- 1. standard-weight frame motorized/power wheelchairs;
- 2. standard-weight frame motorized/power wheelchairs with programmable control parameters for speed adjustment, tremor dampening, acceleration control and braking; and
- 3. lightweight portable motorized/power wheelchairs.

B. Motorized/power wheelchairs are characterized by:

- 1. Seat Width: 14"B18";
- 2. Arm Style: fixed height, detachable;
- 3. Seat Depth: 16";
- 4. Footplate Extension: 16"-21";
- 5. Seat Height: 1 9"-21";
- 6. Footrests: fixed or swingaway detachable;
- 7. Back Height: sectional 16@ or 18@.

C. A lightweight motorized/power wheelchair is characterized by:

- 1. Weight: less than 80 lbs. without battery;
- 2. Folding back or collapsible frame.

D. Wheelchair Apoundage@(lbs.) represents the weight of the usual configuration of the wheelchair without front riggings.

E. The Medicaid Program will provide the least costly wheelchair that is appropriate to meet the medical needs of the recipient. Approval and reimbursement for the wheelchair procedure codes includes all labor charges involved in the assembly of the wheelchair and all covered additions or modifications. Reimbursement also includes:

- 1. support services such as emergency services;
 - 2. delivery (within the same parish);
 - 3. set-up;
 - 4. education; and
 - 5. on-going assistance with use of the wheelchair.
- F. The following components may be approved for use with the motorized/power wheelchair:
- 1. motorized/power wheelchair parts:
 - a. wheel tire for power wheelchair, any size
 - b. rear wheel tire tube other than zero pressure for motorized/power wheelchair, any size
 - c. rear wheel zero pressure tire tube (flat free insert) for motorized/power wheelchair, any size
 - d. wheel tire for power base, any size;
 - e. wheel tire tube other than zero pressure for each base, any size;
 - f. drive belt for motorized/power wheelchair; and
 - g. front caster for motorized/power wheelchair
 - 2. batteries/chargers for motorized/power wheelchairs:
 - a. 22 NF deep cycle lead acid battery;
 - b. 22 NF gel cell battery;
 - c. group 24 deep cycle lead acid battery;
 - d. group 24 gel cell battery;
 - f. U-1 lead acid battery;
 - g. U-1 gel cell battery;
 - h. battery charger, lead acid or gel cell; and
 - i. battery charger, dual mode.

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

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

0210#001

DECLARATION OF EMERGENCY

**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 adopts 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 adopted 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, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT)

dental services under the Medicaid Program. Reimbursement for these services is a flat fee established by the Bureau minus the amount that any third party coverage would pay. In compliance with Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature, the Bureau adopted a rule to make additional increases to the fees for certain designated dental procedure codes (*Louisiana Register, Volume 27, Number 8*). In addition, the bureau established requirements that EPSDT Dental Program providers process the recipient's last name and first initial, the month and year, and their Medicaid provider number into all new removable dental prosthetics reimbursed under the Medicaid Program. As a result of the allocation of additional funds by the Legislature during the 2002 Regular Session, the Bureau proposes to again increase the reimbursement rates for certain designated dental procedure codes.

This action is being taken to protect the health and welfare of Medicaid recipients and to maintain access to EPSDT dental services by encouraging the continued participation of dental providers in the Medicaid Program.

Emergency Rule

Effective for dates of services on or after November 4, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement fees for certain designated procedure codes to the following rates:

Procedure Code	Procedure Name	New Rate
00120	Periodic Oral Exam	\$ 16.00
00220	RadiographCPeriapicalCFirst Film	\$ 6.00
00230	RadiographC PeriapicalCEach Additional Film	\$ 5.00
00272	RadiographsCBitewingCTwo Films	\$ 12.00
01110	Adult Prophylaxis	\$ 27.00
01120	Child Prophylaxis	\$ 12.00
01351	SealantCPer Tooth	\$ 16.00
02120	AmalgamCTwo Surface, Primary	\$ 50.00
02130	AmalgamCThree Surface, Primary	\$ 60.00
02140	AmalgamCOne Surface, Permanent	\$ 42.00
02150	AmalgamCTwo Surface, Permanent	\$ 53.00
02160	AmalgamCThree Surface, Permanent	\$ 64.00
02330	ResinCOne Surface	\$ 45.00
02331	ResinCTwo Surface	\$ 55.00
02332	ResinCThree Surface	\$ 65.00
02930	Stainless Steel Crown, Primary	\$ 80.00
02931	Stainless Steel Crown, Permanent	\$ 80.00
02950	Crown Buildup	\$ 85.00
03220	PulpotomyCDeciduous Tooth Only	\$ 40.00
03310	Root CanalCOne Canal	\$ 212.00
03320	Root CanalCTwo Canals	\$ 241.00
03330	Root CanalCThree Canals	\$ 306.00
07110	Simple Extraction	\$ 38.00
07210	Surgical Extraction	\$ 57.00

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

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

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

David W. Hood
Secretary

0210#051

DECLARATION OF EMERGENCY

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

Emergency Medical Transportation Program
Emergency Ambulance ServicesCReimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.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, Bureau of Health Services Financing provides reimbursement for emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. As a result of the allocation of additional funds by the Legislature during the 2001 Regular Session, the bureau increased the reimbursement for certain designated procedure codes for emergency ambulance transportation services by 1.4 percent (*Louisiana Register, Volume 27, Number 11*).

As a result of the allocation of additional funds by the Legislature during the 2002 Regular Session, the bureau now proposes to increase the reimbursement for certain designated procedure codes for emergency ambulance transportation services by either 5 percent or 6 percent. This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to emergency ambulance transportation services by encouraging the continued participation of providers in the Medicaid Program.

Emergency Rule

Effective for dates of service November 4, 2002 and after, 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

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

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

0210#050

DECLARATION OF EMERGENCY

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

Medical Transportation Services CNon-Emergency
Ambulance Services CReimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.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 reimbursement for non-emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. As a result of the allocation of additional funds by the Legislature during the 2001 Regular Session, the bureau adopted a rule to increase the reimbursement for certain designated procedure codes for non-emergency ambulance transportation services (*Louisiana Register*, Volume 27, Number 11).

As a result of the allocation of additional funds by the Legislature during the 2002 Regular Session, the bureau proposes to again increase the reimbursement for certain designated procedure codes for non-emergency ambulance transportation services. This action is being taken to promote the health and welfare of recipients and to maintain access to non-emergency ambulance transportation services by encouraging the continued participation of these providers in the Medicaid Program.

Emergency Rule

Effective for dates of service October 30, 2002 and after, 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, 1 st 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.

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

0210#049

DECLARATION OF EMERGENCY

**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.4571)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 40:2131-2141. This Emergency Rule is adopted in accordance with the Administrative Procedure Act 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 Human Resources adopted regulations governing the licensing of ambulatory surgical centers (*Louisiana Register*, Volume 3, Number 3). The March 20, 1977 Rule was subsequently amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing to repeal requirements for the periodic processing of cultures (*Louisiana Register*, Volume 24, Number 2) and the semi-annual sampling for bacteria (*Louisiana Register*, Volume 24, Number 10).

Act 754 of the 2001 Session of the Louisiana Legislature amended R.S. 40:2133.A and 2136 to expand the definition of ambulatory surgical centers to include treatment centers

that offer stereotactic radiosurgery by use of a Gamma Knife or similar neurosurgical tool. In addition, the Act directed the Department to establish rules, regulations and minimum standards for the licensing of ambulatory surgical centers as defined in R.S. 40:2133.A. In compliance with Act 754, the Department proposes to amend the licensing standards for ambulatory surgical centers in order to exempt facilities that perform stereotactic radiosurgery procedures from certain requirements. This action is being taken in order to comply with R.S. 40:2136.B.

Effective November 18, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the licensing standards governing the operations of ambulatory surgical centers to exempt facilities operated primarily for the purpose of performing stereotactic radiosurgery procedures from certain requirements.

**Title 48
PUBLIC HEALTH GENERAL
Part I. General Administration**

Subpart 3. Licensing and Certification

Chapter 45. Ambulatory Surgical Center

§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, shall comply with all licensing requirements contained in Chapter 45 and applicable sections of the Guidelines for Design and Construction of Hospital and Health Care Facilities, except for the following.

1. Section 4509.L.
2. Section 4545.B.
3. Section 4545.D.

4. The centers shall also be exempt from Section 9.5.F5.c of the *Guidelines for Design and Construction of Hospital and Health Care Facilities*. This Section states: "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 Section 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 29:

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

0210#054

DECLARATION OF EMERGENCY

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

Outpatient Hospital Service
Clinic Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.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 January of 1996 which established a uniform reimbursement methodology for outpatient hospital services (*Louisiana Register*, Volume 22, Number 1). The January 1996 Rule was subsequently amended to revise the reimbursement methodology for specified outpatient surgical procedures and the interim reimbursement for all other outpatient hospital services (*Louisiana Register*, Volume 26, Number 12). The interim reimbursement rate for all outpatient hospital services, except for designated outpatient surgical procedures, is a hospital specific cost to charge ratio calculation based on filed cost reports for the period ending in state fiscal year 1997. Act 13 of the 2002 Regular Session of the Louisiana Legislature allocated additional funds to the Department of Health and Hospitals for enhancement of the reimbursement rates paid to hospitals for outpatient services. In compliance with Act 13, the bureau has decided to increase the reimbursement rates for outpatient hospital clinic services.

This action is being taken to promote the health and well being of Medicaid recipients by encouraging the continued participation of hospitals providing outpatient clinic services. It is estimated that implementation of this emergency rule will increase expenditures for outpatient hospital clinic services by approximately \$2,750,000 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after October 21, 2002 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rates for outpatient hospital clinic services. Hospitals must use the revenue codes and Physicians' Current Procedural Terminology (CPT)/Health Care Current Procedure Code System (HCPCS) specified by the Department when billing for services. The revenue codes and new reimbursement rates will be as follows.

Hospital Revenue Code	Description
510	General Internal Medicine Clinic
514	OB-Gyn Clinic
515	Pediatric Clinic
517	Family Practice Clinic
519	Specialty Clinic

CPT/HCPCS	Description	Payment Rate
99201	Office/Outpatient visit, new	\$33.00
99202	Office/Outpatient visit, new	\$33.00
99203	Office/Outpatient visit, new	\$38.00
99204	Office/Outpatient visit, new	\$57.00
99205	Office/Outpatient visit, new	\$57.00
99211	Office/Outpatient visit, established	\$33.00
99212	Office/Outpatient visit, established	\$33.00
99213	Office/Outpatient visit, established	\$38.00
99214	Office/Outpatient visit, established	\$57.00
99215	Office/Outpatient visit, established	\$57.00

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

Interested persons may submit written comments to Ben A. Bearden at the following address: 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

0210#046

DECLARATION OF EMERGENCY

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

Private Hospitals COutlier Payments

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.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 established a reimbursement methodology for payments to disproportionate share hospitals for catastrophic costs associated with providing medically necessary services to children under six years of age (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology also addressed payments to all acute care hospitals for catastrophic costs associated with providing medically necessary services to infants one year of age or under. An outlier payment is calculated on an individual case basis and paid at cost if covered charges for medically necessary services exceeds 200 percent of the prospective payment.

The June 20, 1994 rule was subsequently amended to revise the qualification and calculation for outlier payments (*Louisiana Register*, Volume 22, Number 2). To qualify for an outlier payment, the covered charges for the case must exceed both \$150,000 and 200 percent of the prospective

payment. Outlier cases qualifying under these criteria are reimbursed the marginal cost associated with the excess cost above the prospective payment amount. As a result of the allocation of funds by the Legislature during the 2002 Regular Session, the bureau has determined it is necessary to reduce the outlier payments made to private hospitals by amending the definition of marginal cost contained in the February 20, 1996 rule. In addition, the bureau proposes to change the base period for the hospital specific cost-to-charge ratio that is currently utilized for the calculation of outlier payments and establish a deadline for receipt of the written request filing for outlier payments.

Taking into consideration the reduction in outlier payments in state fiscal year 2002-2003, the department has carefully reviewed the proposed payments and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) inpatient hospital services for children under six years of age and infants up to one year of age under the state plan are available at least to the extent that they are available to children in the general population in the state.

This action is being taken to avoid a budget deficit in the medical assistance program.

Emergency Rule

Effective for dates of service on or after October 30, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt an Emergency Rule to amend the February 20, 1996 rule by changing the definition of marginal cost. The marginal cost factor for outliers shall be considered to be 100 percent of costs after the costs for the case exceed the hospital's prospective payment. Outlier payments are not payable for transplant procedures as transplants are not reimbursed on a prospective basis. In addition, the bureau proposes to amend the reimbursement methodology for calculating outlier payments for private hospitals to change the hospital specific cost-to-charge ratio from the base period currently being utilized to a hospital specific cost-to-charge ratio based on the hospital's cost report period ending in state fiscal year (SFY) 2000 (July 1, 1999 through June 30, 2000). The cost-to-charge ratio for new hospitals and hospitals that did not provide Medicaid Neonatal Intensive Care Unit (NICU) services in SFY 2000 will be calculated based on the first full year cost reporting period that the hospital was open or that Medicaid NICU services were provided.

A deadline of six months subsequent to the date that the final claim is paid shall also be established for receipt of the written request filing for outlier payments.

The hospital specific cost-to-charge ratio will be reviewed bi-annually and the outlier payment may be adjusted as a result of this review at the discretion of the Secretary. Upon adoption of the Rule, hospitals shall receive notification of an impending change to the hospital specific outlier payment by means of a letter sent directly to the hospital.

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

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

91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this public notice. The deadline for receipt of all written comments is August 1, 2002 by 4:30 p.m. A copy of this public notice is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0210#048

DECLARATION OF EMERGENCY

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

Rehabilitation Services CReimbursement Fee Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.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, Bureau of Health Services Financing provides coverage and reimbursement for rehabilitation services under the Medicaid Program. Rehabilitation services include physical, occupational and speech therapies. Reimbursement is available for these services through outpatient hospital, home health, rehabilitation center and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services. The bureau adopted a Rule establishing the reimbursement methodology for EPSDT rehabilitation services in April of 1997 (*Louisiana Register*, Volume 23, Number 4). The bureau also adopted a Rule establishing the reimbursement methodology for rehabilitation services rendered in rehabilitation center and outpatient hospital settings in June of 1997 (*Louisiana Register*, Volume 23, Number 6). A subsequent Rule was adopted by the bureau in May of 2001 to establish the reimbursement methodology for rehabilitation services rendered by home health agencies (*Louisiana Register*, Volume 27, Number 5). Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay.

The Appropriation Bill (House Bill 1) of the 2002 Regular Session of the Louisiana Legislature directs the Department to increase the reimbursement for physical therapy, occupational therapy, and speech/language and hearing therapy services provided to children under three years of age. In compliance with the Appropriation Bill and as a result of the allocation of additional funds by the Legislature, the Bureau proposes to increase the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of three, regardless of the type of provider performing the services.

This action is being taken to protect the health and welfare of Medicaid recipients under the age of three and to ensure access to rehabilitation services by encouraging the

participation of rehabilitation providers in the Medicaid Program.

Emergency Rule

Effective for dates of services on or after November 4, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the April 20, 1997, June 20, 1997 and May 20, 2001 Rules governing the reimbursement methodology for rehabilitation services provided by outpatient hospitals, rehabilitation centers, home health agencies and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services providers to increase the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of three, regardless of the type of provider performing the services.

Home Health Agencies and Outpatient Hospitals

Procedure Code	Procedure Name	New Rate
Y2602	Initial Sp/Lang Evaluation	\$ 70.00
Y2612	Initial Hearing Evaluation	\$ 70.00
Y2615	Sp/Lan/Hear Therapy 60 Minutes	\$ 56.00
Y7101	Visit W/Procedure(S) 45 Minutes	\$ 56.00
Y7102	Visit W/Procedure(S) 60 Minutes	\$ 74.00
Y7104	Visit W/Procedures 90 Minutes	\$112.00
Y7202	Procedures And Modalities 60 Minutes	\$ 74.00
Y7702	Pt And Rehab Evaluation	\$ 75.00
Y7812	Initial Ot Evaluation	\$70.00
Y7814	Ot 45 Minutes	\$ 45.00
Y7815	Ot 60 Minutes	\$ 60.00

Rehabilitation Centers

Procedure Code	Procedure Name	New Rate
Y2509	Group Sp Lang Hear Therapy 1/2 Hour	\$ 26.00
Y2511	Speech Group Therapy Add 15 Minutes	\$ 13.00
Y2512	Group Sp Lang Hear Therapy 1 Hour	\$ 51.00
Y2602	Initial Sp/Lang Evaluation	\$ 70.00
Y2612	Initial Hearing Evaluation	\$ 70.00
Y2613	Sp/Lang/Hear Therapy 30 Minutes	\$ 26.00
Y2614	Sp/Lang/Hear Therapy 45 Minutes	\$ 39.00
Y2615	Sp/Lang/Hear Therapy 60 Minutes	\$ 52.00
Y7100	Visit W/Procedure(S) 30 Minutes	\$ 34.00
Y7101	Visit W/Procedure(S) 45 Minutes	\$ 51.00
Y7102	Visit W/Procedure(S) 60 Minutes	\$ 68.00
Y7103	Visit W/Procedure(S) 75 Minutes	\$ 85.00
Y7104	Visit W/Procedure(S) 90 Minutes	\$102.00
Y7106	Ctr Visit One/More Modal/Proc 15 Minutes	\$ 17.00
Y7202	Procedures And Modalities 60 Minutes	\$ 68.00
Y7702	Pt And Rehab Evaluation	\$ 75.00
Y7812	Initial Ot Evaluation	\$ 70.00
Y7813	Ot 30 Minutes	\$ 26.00
Y7814	Ot 45 Minutes	\$ 39.00
Y7815	Ot 60 Minutes	\$ 52.00

EPSDT Health Services

Procedure Code	Procedure Name	New Rate
97032	Electrical Stimulation	\$ 17.00
97110	Pt-One Area-Therapeutic-30 Minutes	\$ 17.00
97112	Pt-Neuromuscular Reed-30 Minutes	\$ 17.00
97116	Pt-Gait Trainin g-30 Minutes	\$ 34.00
97504	Orthotic Training	\$ 14.00
97530	Kinetic Act One Area-30 Minutes	\$ 14.00
97750	Physical Performance Test	\$ 14.00
X0404	Physical Therapy Evaluation/Re-Evaluation	\$ 92.00
X0411	Occ Therapy Evaluation/Re-Evaluation	\$ 70.00

X0412	Speech/Language Evaluation/Re-Evaluation	\$ 70.00
X0423	Speech/Language Therapy 30 Minutes	\$ 26.00
X0424	Speech/Language Therapy Add 15 Minutes	\$ 13.00
Y2509	Group Sp Lang Hear Therapy 1/2 Hour	\$ 26.00
Y2510	Speech Group Therapy 20 Minutes	\$ 13.00
Y2511	Speech Group Therapy Add 15 Minutes	\$ 13.00
Y2512	Group Sp Lang Hear Therapy 1 Hour	\$ 52.00
Y2611	Speech Lang Hearing Therapy 20 Minutes	\$ 17.00
Y2615	Sp/Lan/Hear Therapy 60 Minutes	\$ 52.00
Y7200	Procedures And Modalities 30 Minutes	\$ 34.00
Y7201	Procedures And Modalities 45 Minutes	\$ 52.00

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

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

David W. Hood
Secretary

0210#052

DECLARATION OF EMERGENCY

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

Food Stamp Program C 2002 Farm Bill
(LAC 67:III.Chapter 19)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953.B to adopt changes to LAC 67:III, Subpart 3, effective October 1, 2002. This Rule shall remain in effect for a period of 120 days.

Pursuant to Public Law 107-171, The Food Stamp Reauthorization Act of 2002, the agency is amending §§1932, 1949, 1953, 1961, and 1983, to comply with mandates issued by the United States Department of Agriculture, Food and Nutrition Service. P.L. 107-171, also known as the 2002 Farm Bill, authorizes changes in alien regulations whereby a disabled alien will be eligible for benefits for an unlimited period of time; the addition of Individual Development Accounts as an excludable resource; an increase in the resource limit for households that include a disabled member; and changes in the method by which the standard deduction is determined.

Emergency action in this matter is necessary as failure to promulgate the Rule in a timely manner could result in the imposition of sanctions or penalties by the USDA, Food and Nutrition Service, the governing authority of the Food Stamp Program in Louisiana.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter B. Application Processing

§1932. Time Limitations for Certain Aliens

A. ...

B. The following qualified aliens are eligible for an unlimited period of time:

1. - 3. ...

4. individuals who are lawfully residing in the United States and are receiving benefits or assistance for blindness or disability as defined in §3(r) of the Food Stamp Act of 1997.

5. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with P. L. 104-193, P. L. 105-33, P. L. 105-185, and P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:711(April 1999), LR 29:

§1949. Exclusions from Resources

A. The following are excluded as a countable resource:

1. - 4. ...

5. effective October 1, 2002, an Individual Development Account (IDA) which is a special account established in a financial institution for specific purposes.

B. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8 and 273.9C(v), P.L. 103-66, P.L. 106-387, 45 CFR 263.20

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security in LR 13:656 (November 1987). Amended in LR 13:249 (August 1987), LR 17:953 (October 1991). Amended by the Department of Social Services, Office of Family Support in LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 28:1031 (May 2002), LR 29:

§1953. Income Eligibility Standards

A. The income eligibility standards for the Food Stamp Program shall be as follows:

1. - 3. ...

4. 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.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.9, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), amended LR 9:130 (March 1983), LR 29:

§1961. Adjustment of Standard Deduction

A. Effective October 1, 2002, the standard deduction shall be set at 8.31 percent of the poverty level based on household size of up to 6 persons with a minimum deduction

of \$134. The standard deduction may be adjusted in accordance with directives from the United States Department of Agriculture, Food and Nutrition Services.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.9, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), LR 29:

§1983. Income Deductions and Resource Limits

A. ...

B. The resource limit for a household is \$2,000, and the resource limit for a household that includes at least one elderly or disabled member is \$3,000.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9 (d)(2) and (d)(6), P.L. 104-193, P.L. 106-387, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989). Amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19:905 (July 1993), LR 20:780 (July 1994), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:82 (January 1997), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 29:

Gwendolyn P. Hamilton
Secretary

0210#012

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives
(LAC 67:III.5533, 5565, 5567, 5569, and 5571)

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 amend §5533 and adopt §§5565, 5567, 5569, and 5571, effective September 30, 2002. This emergency rule will remain in effect for a period of 120 days.

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature, the Office of Family Support will adopt four new TANF Initiatives including Family Strengthening and Healthy Marriages Program, Parental Involvement Services Program, Alternatives to Abortion Services Program, and Parenting/Fatherhood Services Program, to further the goals and intentions of the Temporary Assistance For Needy Families (TANF) Block Grant to Louisiana. Additionally, the agency is amending §5533, Transportation Services Program, to provide low-income families with a variety of transportation services in order to overcome transportation barriers.

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. Family Support

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

Chapter 55. TANF Initiatives

§5533. Transportation Services Program

A. Effective September 30, 2002, the agency shall enter into contracts with public agencies, non-profit, or for-profit organizations to provide low-income families with transportation services to assist them in overcoming transportation barriers. These services may include but are not limited to: vehicle ownership, commuter shuttles, reverse-commute shuttles, vanpools, and other modes of transportation. The agency may also make funding available for transportation of participants in TANF Initiative Programs.

B. Eligibility for services is limited to persons participating in a TANF Initiative Program or to members of a needy family. A needy family consists of minor children, custodial and non-custodial parents, legal guardians, and caretaker relatives of minor children, who have earned income at or below 200 percent of the federal poverty level. An eligible person who is employed may be provided on-going services. An eligible, unemployed person may be provided short-term, non-recurrent services that shall not exceed four months and shall be associated with an episode of need or crisis situation.

C. Services meet the TANF goals to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives or to end dependence of needy parents by promoting job preparation, work, and marriage.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and 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), LR 29:

§5565. Family Strengthening and Healthy Marriages Effective September 30, 2002

A. The Department of Social Services, Office of Family Support, shall enter into Memoranda of Understanding or contracts to provide services to improve and promote family relationships, encourage marriage, reduce incidence of out-of-wedlock births, decrease the rate of divorce, and provide services that will educate and supply young people with the guidance to break the cycle of living in fatherless homes. These intervention and support services are designed to enable low-income parents to act in the best interest of their children.

B. Services offered by providers meet the TANF goals to end dependence of needy parents by promoting job preparation, work, and marriage, to prevent and reduce the incidence of out-of-wedlock births, and to encourage the formation and maintenance of two-parent families and may be accomplished through a variety of projects including but not limited to:

1. development of an information clearing house;
2. best practices research;
3. development of a statewide network of marriage trainers and additional partners such as health care providers, members of the judiciary, and faith-based partners, to assist in implementing the initiative; and
4. development of handbooks and videos, media buys for outreach, curriculum development, and demonstration projects.

C. Eligibility for services is limited to needy families which consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children who have 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 29:

**§5567. Parental Involvement Services Program
 Effective September 30, 2002**

A. The Office of Family Support shall enter into contracts to provide pro bono or low cost legal services that may include: mediation; development of parenting plans or other services to obtain regular visitation arrangements with the children; or legal assistance to non-custodial parents in resolving disputes resulting from a deviation in an existing visitation order. Referrals that assist low-income, non-custodial parents to overcome social, financial, and emotional barriers that hinder access to their children will also be provided. These services are designed to enable low-income parents to act in the best interest of their children.

B. These services meet the TANF goals to end dependence of needy parents by promoting job preparation, work, and marriage, to prevent and reduce the incidence of out-of-wedlock births, and to encourage the formation and maintenance of two-parent families by improving the parent's ability to act in the best interest of their children, providing the children continuous and quality access to both parents, improving the well-being of the children, and encouraging healthy relationships, youth development, and responsible fatherhood.

C. Eligibility for services is limited to non-custodial parents of minor children who have 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 29:

**§5569. Alternatives to Abortion Services Program
 Effective September 30, 2002**

A. The Office of Family Support shall enter into contracts with public agencies, non-profit organizations, or for-profit organizations to provide intervention services including crisis intervention, counseling, mentoring, support services, and pre-natal care information, in addition to information and referrals regarding healthy childbirth, adoption, and parenting to help ensure healthy and full-term pregnancies as an alternative to abortion.

B. These services meet the TANF goals to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives and to encourage the formation and maintenance of two-parent families by providing pregnancy and parenting support to low-income women, their male partners, and families who are experiencing an unplanned pregnancy.

C. Eligibility for services is limited to pregnant or potentially pregnant women, their male partners, and/or minor children whose earned income is 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 29:

**§5571. Parenting/Fatherhood Services Program
 Effective September 30, 2002**

A. The Office of Family Support shall enter into contracts with public agencies, non-profit, or for-profit organizations to create programs that will assist low-income fathers with various skills including employment, life, parenting, and other skills in order to increase their ability to provide emotional and financial support for their children, and to create a network of community- and faith-based programs that will provide linkages to and for state entities, specifically Child Support Enforcement Services.

B. These services meet the TANF goals to end the dependence of needy parents by promoting job preparation, work, and marriage, to prevent and reduce the incidence of out-of-wedlock births and to encourage the formation and maintenance of two-parent families by eliminating emotional, social, financial, and legal barriers that hinder a father's ability to be fully engaged in his children's lives.

C. Eligibility for services is limited fathers of minor children, who have 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 29:

Gwendolyn Hamilton
 Secretary

0210#013

DECLARATION OF EMERGENCY

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

TANF Initiatives CCommunity Response Initiative
 and Substance Abuse Treatment Program
 (LAC 67:III.Chapter 55)

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 amend §§5511 and 5547 and to adopt §§5551 and 5553, effective July 1, 2002. This Emergency Rule is effective October 29, 2002, and will remain in effect for a period of 120 days. This

declaration is necessary to extend the original Emergency Rule of July 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 Community Response Initiatives and Substance Abuse for Office of Community Services Clients will be published in November.)

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature, the Office of Family Support will adopt two new TANF Initiatives to further the goals and intentions of the Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana. Additionally, the agency will amend §5511, Micro-Enterprise Development, to make language regarding the TANF partner consistent with language in the Memorandum of Understanding (MOU). The agency initially entered into an MOU with the Office of Women's Services; however, the initiative will now be administered by the Department of Economic Development. Language in §5547, Housing Services, is being amended to revise the initiative from a pilot program to a permanent, statewide program.

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

§5511. Micro-Enterprise Development

A. Effective July 1, 2002, the Office of Family Support shall enter into a Memorandum of Understanding with the Department of Economic Development to provide assistance to low-income families who wish to start their own businesses.

B. - 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 28:871 (April 2002), amended LR 29:

§5547. Housing Services

A. Effective July 1, 2002, the Department of Social Services, Office of Family Support, may enter into Memoranda of Understanding or contracts to create programs that provide transitional, short-term, or one-time housing services to needy families with minor children who participate in self-sufficiency activities, who are at risk of losing existing housing arrangements, who are in an emergency situation, or who face ineligibility because of increased earnings. These services can include but are not limited to: relocation assistance; costs associated with moving or relocation; down payment of deposit and/or initial month's rent; short-term continuation of a housing voucher; down payment for the purchase of a house; housing counseling and home buyer education for prospective homeowners; or other transitional services determined in conjunction with the Department of Social Services and the Division of Administration.

B. - 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 28:871 (April 2002), amended LR 29:

§5551. Community Response Initiative Effective July 1, 2002

A. The Department of Social Services, Office of Family Support, may enter into Memoranda of Understanding or contracts with for-profit organizations, non-profit organizations (exempt from taxation under Section 501(c) of the Internal Revenue Code), and state or local public or quasi-public agencies, to develop innovative and strategic programming solutions suited to the unique needs of Louisiana's communities.

B. The services provided by the various partners must meet one, or a combination, of the four TANF goals:

1. to provide assistance to needy families;
2. to end dependence of needy parents by promoting job preparation, work, and marriage;
3. to prevent and reduce out-of-wedlock pregnancies; and
4. to encourage the formation and maintenance of two-parent families.

C. Eligibility for those services meeting TANF goals 1 and 2 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, Title IV-E, 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 consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children.

D. Eligibility for those services meeting TANF goals 3 and 4 may include any family in need of the provided services regardless of income. A family consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children.

E. 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:

§5553. Substance Abuse Treatment Program for Office of Community Services Clients Effective July 1, 2002

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 referred by and receiving services in certain parish offices from the Office of Community Services (OCS).

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 custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children who are members of a needy family. A

needy family 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, Title IV-E, 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 and in which any member receives services through OCS as Child Protection Investigation clients, Family Services clients, or Foster Care clients.

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

E. The program will be offered in the following parish offices: Orleans (Uptown District), Jefferson (West Bank), East Baton Rouge (North District), Terrebonne, St. Landry, Calcasieu, Rapides, Caddo, Ouachita, and Tangipahoa. The parish offices in which the program is available may be expanded at the assistant secretary's discretion based on the availability of funding 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 Reg. Session.

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

Gwendolyn Hamilton
Secretary

0210#094

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives CDiversion Assistance Program (LAC 67:III.Chapter 56)

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 LAC 67:III, Subpart 15, Chapter 56, Diversion Assistance Program, effective July 1, 2002. This Emergency Rule is effective October 29, 2002, and will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of July 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 Diversion Assistance Program will be published in December.)

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature, the agency will implement the Diversion Assistance Program in order to further the goals and intentions of the federal Temporary Assistance for Needy Families (TANF) Block Grant, by providing assistance to needy families who have suffered a job loss or the threat of a job loss due to extraordinary and unexpected expenses. The program will provide a one-time, lump-sum, cash payment to a needy family, to avert the loss of a family member's job or to assist the member in securing another one.

Authorization for emergency action in the matter of TANF funds is also 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 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 29:

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 29:

§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 29:

§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 29:

§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 29:

§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 29:

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. 46:231.1B., and Act 13, 2002 Regular Session.

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

§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 29:

§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-grand);
2. brother or sister (including half-brother and half-sister);
3. uncle or aunt (extends to great-great);
4. first cousin (including first cousin once removed);
5. nephew or niece (extends to great-great);
6. stepfather or stepmother;
7. stepbrother or stepsister.

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 29:

§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 twelve-month period. After a twelve-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 29:

§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 29:

§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 29:

§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 3 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 29:

§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 29:

§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 29:

§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 29:

Gwendolyn P. Hamilton
Secretary

0210#091

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives C Individual Development
Account Program and Energy Assistance
Program for Low-Income Families
(LAC 67:III.1235, 5555, and 5557)

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 §§5555 and 5557 as part of the TANF Initiatives and to

amend §1235 of the Family Independence Temporary Assistance Program (FITAP), effective July 1, 2002. This Emergency Rule is effective October 29, 2002, and will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of July 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 Energy Assistance for Low-Income Families will be published in November and the final Rule for Individual Development Account Program will be published in January 2003.)

Pursuant to Act 1098 of the 2001 Regular Session of the Louisiana Legislature and Act 84 of the 2002 Regular Session of the Louisiana Legislature, OFS shall adopt §5555, the Individual Development Account (IDA) Program, to provide asset and savings opportunities to low-income families for specific purposes as well as provide financial management education. The agency will contract with qualified non-profit organizations, or state or local governments who work with non-profit organizations, to develop and administer the IDA Program for low-income families.

Additionally, the agency proposes to amend §1235 in FITAP by revising the IDA excludable resource to coincide with federal regulations as stated in the new program.

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature, the agency will adopt §5557, Energy Assistance for Low-Income Families, to make payments to utility companies on behalf of low-income families in order to further the goals and intentions of Louisiana's Temporary Assistance For Needy Families (TANF) Block Grant.

Authorization for emergency action in this matter 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 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1235. Resources

A. Assets are possessions which a household can convert to cash to meet needs. The maximum resource allowable for an assistance unit is \$2,000. All resources are considered except:

1. - 20. ...

21. an Individual Development Account (IDA) which is a special account established in a financial institution for specific purposes. Only one IDA per assistance unit is allowed. The balance of the account cannot exceed \$6000, including interest, at any time. IDA funds may be used for one of three purposes. Withdrawal of funds for purposes other than those listed below shall be deemed as a countable resource. Effective July 1, 2002, IDA funds may be used for the following purposes only:

- a. postsecondary educational expenses paid from an IDA directly to an eligible educational institution;
- b. first home purchase C qualified acquisition costs with respect to a qualified principal residence for a qualified

first-time homebuyer, if paid from an IDA directly to the persons to whom the amounts are due.

c. business capitalizationCamounts paid from an IDA directly to a business capitalization account which is established in a federally-insured financial institution and is restricted to use solely for qualified business capitalization expenses.

A.22. - B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), amended LR 27:736 (May 2001), LR 27:866 (June 2001), LR 28:1031 (May 2002), LR 29:

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

Chapter 55. TANF Initiatives

§5555. Individual Development Account Program

Effective July 1, 2002

A. OFS shall establish the Individual Development Account (IDA) Program to provide asset and savings opportunities to low-income families for specific purposes as well as provide financial management education. The agency will contract with qualified non-profit organizations, or state or local governments who work with non-profit organizations, to develop and administer the IDA Program for low-income families.

B. An IDA is a financial account established by, or on behalf of, an individual eligible for assistance to allow that individual to accumulate funds for specific purposes. Funds deposited into the account may be matched by the agency using Temporary Assistance For Needy Families (TANF) Block Grant funds. The balance of the account cannot exceed \$6000, including interest, at any time. Funds deposited by the individual into the account must be derived from earned income. All matching contributions must be deposited in a separate matching fund account and used in accordance with the purposes outlined in §5555.C. The program will also provide financial management and organization education to eligible families.

C. IDA funds may be used for the following qualified purposes only:

1. postsecondary educational expenses paid from an IDA directly to an eligible educational institution;

2. first home purchaseCqualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an IDA directly to the persons to whom the amounts are due.

3. business capitalizationCamounts paid from an IDA directly to a business capitalization account which is established in a federally-insured financial institution and is restricted to use solely for qualified business capitalization expenses.

D. Definitions

Eligible Educational InstitutionC

a. an institution described in section 481(a)(1) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1) or 1141(a)), as such sections are in effect on the date of the enactment of this subsection [enacted August 22, 1996].

b. an area vocational education school (as defined in Subparagraph (C) or (D) of Section 521(4) of the Carl D.

Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)), which is in any State (as defined in Section 521(33) of such Act [20 USCS §521(33)]), as such sections are in effect on the date of the enactment of this subsection [enacted August 22, 1996].

Post-Secondary Educational ExpensesCtuition and fees required for the enrollment or attendance of a student at an eligible education institution, and fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

Qualified Acquisition CostsCthe costs of acquiring, constructing, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

Qualified BusinessCany business that does not contravene any law or public policy (as determined by the federal secretary of the Department of Health and Human Services).

Qualified Business Capitalization ExpensesCqualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

Qualified ExpendituresCexpenditures included in a qualified plan including capital, plant, equipment, working capital, and inventory expenses.

Qualified First-Time HomebuyerCa taxpayer (and if married, the taxpayer's spouse), who has no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principle residence to which this subsection applies. Date of acquisition means the date on which a binding contract to acquire, construct, or reconstruct the principal residence to which this subparagraph applies is entered into.

Qualified PlanCa business plan which:

a. is approved by a financial institution, or by a nonprofit loan fund having demonstrated fiduciary integrity;

b. includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

c. may require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor.

Qualified Principal ResidenceCa principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986 [26 USCS §1034]), the qualified acquisition costs of which do not exceed 100 percent of the average area purchase price applicable to such residence (determined in accordance with Paragraphs (2) and (3) of section 143(e) of such Code [26 USCS §143(e)]).

E. These services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in homes of relatives.

F. Eligibility is limited to low-income families at or below 200 percent of the federal poverty level.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 1098, 2001 Reg. Session; and Act 84, 2002 First Extraordinary Session.

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

§5557. Energy Assistance Program for Low-Income Families Effective July 1, 2002

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Louisiana Housing Finance Agency (LHFA) to provide energy assistance to

low-income families based on the availability of funding and a determination of need by the agency, and to educate those families regarding energy conservation. The energy assistance payments shall be provided to LHFA for reimbursement of payments made to utility companies by LHFA on behalf of needy families with minor children.

B. The Office of Family Support hereby declares that all families who have earned income at or below 200 percent of the federal poverty level are in need of energy assistance. Each family's episode of need is evidenced by the seeking of energy assistance under this program.

C. Services meet the TANF goal of providing assistance to needy families so that children may be properly cared for in their own homes or in the homes of relatives by providing funds to help pay the costs of cooling and heating the homes.

D. Eligibility for services is limited to a needy family, that is, a family with minor children who has earned income at or below 200 percent of the federal poverty level.

E. Services are considered non-assistance by the agency as the payments are non-recurrent, short-term, and will not be provided more than once every six months.

F. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity and eligibility as defined for a "needy family" as well as proof of residency at the utility service address. An energy assistance payment of up to \$400 will be paid by LHFA directly to the recipient's utility company or provider. The payment may be used for past-due deposits, reconnection fees, current bills, or as credit towards future services.

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

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

Gwendolyn Hamilton
Secretary

0210#092

DECLARATION OF EMERGENCY
Department of Wildlife and Fisheries
Office of Fisheries

Iatt Lake Fishing Closure

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 be closed to all fishing beginning on September 30, 2002 and continue until the Department officially announces the reopening of the lake to fishing, sometime after January 15, 2003 when the lake reaches pool stage (83 feet MSL). Effective with the closure, no person shall take or possess or attempt to take any species of fish while on the waters of Iatt Lake or take or possess or attempt to take any fish from the waters of Iatt Lake. No person shall possess while on the waters of Iatt Lake any fishing gear capable of taking fish.

The reasons for the promulgation of this Declaration of Emergency are as follows: the Aquatic Plant Section of the Department of Wildlife and Fisheries conducts annual vegetative samples on water bodies in late summer, when aquatic vegetation infestations are most severe. Management plans, if necessary, are then written, approved by the Department and presented to local citizens. This years management plan for Iatt Lake in Grant Parish calls for an eight-foot drawdown. This will reduce the surface acreage of Iatt Lake by 80 percent and increase the vulnerability of fish to anglers. The Department feels it in the best interest of the resource to prohibit fishing while the lake is drawn down to prevent the over-harvest of fish. Poor fish populations in subsequent years would negatively impact the welfare of businesses catering to Iatt Lake fishermen, some individuals living on the lake and the fishermen using the lake. Because it is necessary to conduct vegetation sampling in late summer, and the lakes which are candidates for drawdowns cannot be determined until after sampling has been completed, there is insufficient time to file a Notice of Intent.

James H. Jenkins, Jr.
Secretary

0210#006

DECLARATION OF EMERGENCY
Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Deer Hunting Season Closure

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

Upon the authority of R.S. 56:6.1 and the authority granted to the Secretary by the Commission to close seasons, deer hunting in the following described portion of the state is hereby closed effective 10 a.m., October 4, 2002. This closure shall apply to that portion of Louisiana south of Interstate 10, from the Texas/Louisiana border eastward to the junction of I10 and I12 in Baton Rouge, south of Interstate 12 eastward to the junction of I12 and I10 in Slidell, south of I10 eastward to the Louisiana/Mississippi state line. This closure also includes all of the Pearl River Wildlife Management Area.

The decision to close deer hunting was based upon the flooding and other damages that have occurred throughout this region due to Tropical Storm Isidore and Hurricane Lili. This season closure will remain in effect until the decision is made by the Department Secretary to reopen deer hunting. This closure does not apply to the small game season which opens statewide October 5, 2002.

James H. Jenkins, Jr.
Secretary

0210#021

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Deer Hunting Season Reopening

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act and under the authority of R.S. 56:6.1, R.S. 56:115, and the authority granted to the Secretary by the Commission to close and open seasons, the Secretary of the Department of Wildlife and Fisheries hereby adopts the following Emergency Rule:

Deer hunting in the following described portion of the state previously closed on October 4, 2002 (that portion of Louisiana south of Interstate 10, from the Louisiana/Texas border eastward to the junction of I10 and I12 in Baton Rouge, then eastward to the junction of I10 and I12 in Slidell, then eastward to the Louisiana/Mississippi border, including all the Pearl River Wildlife Management Area) will re-open 30 minutes before sunrise on October 8, 2002, except for Joyce Wildlife Management Area, Manchac Wildlife Management Area, and Lake Maurepas Swamp Wildlife Management Area. Joyce WMA, Manchac WMA, and Lake Maurepas Swamp WMA will re-open for deer hunting 30 minutes before sunrise on October 12, 2002.

James H. Jenkins, Jr.
Secretary

0210#077

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Large Coastal Shark Fishery Closure

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

Effective 11:30 p.m., September 15, 2002, the commercial fishery for large coastal sharks in Louisiana waters, as described in LAC 76:VII.357.B.2, (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, night shark, sandbar shark, silky shark, spinner shark, and tiger shark) will close through December 31, 2002. Nothing herein shall preclude the legal harvest of large coastal sharks by legally licensed recreational fishermen during the open season for

recreational harvest. Effective with this closure, no person shall commercially harvest, purchase, exchange, barter, trade, sell or attempt to purchase, exchange, barter, trade or sell large coastal sharks or fins thereof. Also effective with the closure, no person shall possess large coastal sharks in excess of a daily bag limit, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale of fish by a commercial dealer if legally taken prior to the closure providing that all commercial dealers possessing large coastal sharks taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The Secretary has been notified by the National Marine Fisheries Service that the second semiannual subquota for large coastal sharks will be reached on or before September 15, 2002 and that the Federal season closure is necessary to ensure that the semiannual quota for large coastal sharks for the period July 1 through December 31, 2002, is not exceeded.

James H. Jenkins, Jr.
Secretary

0210#004

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Lease Moratorium (LAC 76:VII.505)

In accordance with emergency provisions of the Administrative Procedure Act, R.S. 49:953.B and in accordance with R.S. 56:6(10), R.S. 56:422, R.S. 56:425, R.S. 56:429 and R.S. 56:432.1, the Wildlife and Fisheries Commission declares an immediate moratorium on the issuance of oyster leases and on the taking of oyster lease applications for state waterbottoms not presently under lease. Continuation of issuance of new oyster leases would pose an imminent peril to the public welfare and requires adoption of a rule upon shorter notice than provided in R.S. 49:953.A, the Wildlife and Fisheries Commission does hereby adopt the following Emergency Rule. Adoption of this Declaration of Emergency is necessary, according to the Department of Natural Resources, inasmuch as immediate action is essential to reduce the state's exposure to potential claims from oyster leaseholders and further, that failure to do so would pose an imminent peril to the coastal restoration program and to the federal/state partnership which is critical to the efforts of the state to obtain comprehensive coast-wide restoration authorization and funding.

This Declaration of Emergency will become effective on October 30, 2002, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule.

Title 76

WILDLIFE AND FISHERIES

PART VII. Fish and Other Aquatic Life

Chapter 5. Oyster

§505. Oyster Lease Moratorium

A. A moratorium on the issuance of oyster leases for waterbottoms not presently under lease is established. This includes a moratorium on the taking of oyster lease

applications for waterbottoms not presently under lease. All pending applications will be held, along with all fees paid, pending a resolution of the moratorium, unless the applicant requests cancellation of the application and refund of fees. In the event of the death of an applicant, the applicant's heirs or legatees should so notify the department; and any lease ultimately issued shall only be issued to persons placed in possession of the application by Judgement of Possession or to a court-appointed administrator or executor on behalf of a deceased applicant's estate.

B. A moratorium is placed on the auction of oyster leases in default in payment of rent per LAC 76:VII.501.G, as authorized by R.S. 56:429.

C. Any leases selected by a leaseholder who has previously selected the relocation option pursuant to R.S. 56:432.1 shall be exempt from this moratorium but only to the extent of such previous selection.

D. At such time as the moratorium is lifted, applications for oyster leases will be accepted in accordance with all applicable statutes, rules and regulations and the procedures set out below.

1. One week prior to the date that the moratorium is lifted, the date, time and place where applications are to be taken will be publicly advertised.

2. On the date for taking of applications only one applicant at a time will be allowed in the office and this applicant will be allowed to take only one application. Each applicant will have 15 minutes to designate the area he wishes to apply for. After the applicant pays the application and survey fees, he may return to the end of the line for another application.

3. Applications will be taken 24 hours a day (on a first come basis) until the department feels the influx of applicants can be handled during regular office hours at the New Orleans Office, at which time anyone will be able to take an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:422, R.S. 56:425, R.S. 56:429, and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 10:948 (November 1984), amended LR 29:

James H. Jenkins, Jr.
Secretary

0210#039

DECLARATION OF EMERGENCY

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

Oyster Season Extension

In accordance with emergency provisions of the Administrative Procedure Act, R.S. 49:953.B and 49:967.D, which allow the Wildlife and Fisheries Commission to use emergency procedures when it finds that an imminent peril to the public welfare exists, and in accordance with R.S.

56:433.B(1), which authorizes the Wildlife and Fisheries Commission to extend the taking of oysters on natural reefs by setting the last day of the season to be no later than May 15, notice is hereby given that the Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to extend the oyster season in the Bay Junop Oyster Seed Reservation for a period of up to 10 consecutive days following the reopening of shellfish harvest areas in Area 21 by the Department of Health and Hospitals.

On August 1, 2002, the Wildlife and Fisheries Commission approved a one-month season in the Bay Junop Oyster Seed Reservation beginning at sunrise September 4, 2002 and ending at sunset October 4, 2002. Due to high winds and rough seas associated with Tropical Storm Isidore fishing vessels were prevented from harvesting oysters within Bay Junop in the days immediately prior to the storm's landfall on September 26. Additionally, the Department of Health and Hospitals issued an emergency closure of shellfish harvest areas 1 through 24, including Bay Junop, effective at official sunset September 27, 2002 and the reopening of shellfish harvest areas within Bay Junop by the Department of Health and Hospitals did not occur before this oyster season closed. Furthermore, the effects of Hurricane Lili have resulted in the additional closure of all remaining oyster harvest areas in the state by the Department of Health and Hospitals effective at sunset October 2, 2002. There may remain a significant yet limited oyster resource available for harvest in Bay Junop and such oyster harvests may be sustained for a period of up to 10 consecutive days at fishing effort levels anticipated to remain comparable to those documented preceding the current Department of Health and Hospitals emergency closure. This extension shall enhance public welfare by providing oyster harvesters with increased economic opportunities following impacts sustained by Tropical Storm Isidore and Hurricane Lili.

The Secretary of the Department of Wildlife and Fisheries is also authorized to take emergency action as necessary to close the season in the Bay Junop Oyster Seed Reservation if oyster mortalities are occurring or to delay the season extension if significant spat catch has occurred with good probability of survival or if enforcement problems develop, or where it is found that there are excessive amounts of shell in seed oyster loads.

The Secretary is authorized to take emergency action to reopen Bay Junop if previously closed and the threat to the resource has ended.

Notice of this extension, delaying or closing of the season will be made by public notice at least 72 hours prior to such action.

Thomas M. Gattle, Jr.
Chairman

0210#076

Rules

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Correction to 2001 IBR of 40 CFR Parts 60, 61, and 63
(LAC 33:III.3003, 5116, 5122, and 5311)(AQ229*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.3003, 5116, 5122, and 5311 (Log #AQ229*).

This Rule is identical to federal regulations found in 40 CFR 60, 61, and 63, July 1, 2001, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953.F(3) and (4).

This rulemaking corrects inadvertent errors made in earlier rulemaking to update the incorporation by reference (IBR) of 40 CFR Parts 60, 61, and 63. Earlier IBR rulemaking did not list new additions to the *Code of Federal Regulations*, July 1, 2001. Additional changes are included to follow the IBR rulemaking procedure. The basis and rationale for this Rule are to mirror the federal regulations, with the exception of 40 CFR 63, Subpart S.

This Rule meets an exception listed in R.S. 30:2019.D(2) and R.S. 49:953.G(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

A printing error that occurred in LAC 33:III.3003.B.5 of the Notice of Intent, which was published on page 1822 of the *Louisiana Register* on August 20, 2002, is being corrected in this final Rule publication.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference (IBR)

§3003. IBR 40 Code of Federal Regulations (CFR) Part 60

A. Except as modified in this Section, regulations at 40 CFR Part 60, as revised July 1, 2001, are hereby incorporated by reference as they apply to the state of Louisiana.

Table 1C Repealed.

Table 1.A.C Repealed.

B. - B.4. ...

5. The department's emission guideline plan, required by the Clean Air Act (CAA), Section 111(d), for Hospital/Medical/Infectious Waste Incinerators includes the following CFR citations: 40 CFR 60.30, 60.30(e), 60.31(e),

60.32(e), 60.33(e), 60.35(e), 60.36(e), 60.37(e), 60.38(e), and 60.39(e). Until the department has a mechanism to approve training programs in compliance with 40 CFR 60.34(e), the department accepts accreditation approved by other states complying with 40 CFR 60.34(e).

6. The department's emission guideline plan, required by the CAA, Section 111(d), for Commercial and Industrial Solid Waste Incineration (CISWI) Units includes 40 CFR 60.2575-60.2630, 60.2640-60.2875, and Tables 1-5. Until the department has a mechanism to approve training programs in compliance with 40 CFR 60.2635, the department shall accept accreditation approved by other states complying with 40 CFR 60.2635.

C. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20242, or their website, www.access.gpo.gov/nara/cfr/index.html, the Department of Environmental Quality, Office of Environmental Services, Permits Division, or a public library.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), LR 25:1239 (July 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000), LR 26:2460 (November 2000), LR 26:2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. - Table. ...

B. Modifications or Exceptions. The following modifications or exceptions are made to the incorporated federal standards.

1. 40 CFR Part 61, Subpart A, Section 61.04(b)(T) is modified to read as follows: Louisiana Department of Environmental Quality, Office of Environmental Services, Permits Division.

2. Whenever the referenced regulations (i.e., 40 CFR Part 61) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 61) to be provided to "the Administrator" shall be provided to the Office of Environmental Services, Permits Division where the state is

designated authority by EPA as "the Administrator" or shall be provided to the Office of Environmental Services, Permits Division and EPA where EPA retains authority as "the Administrator."

C. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, www.access.gpo.gov/nara/cfr/index.html, the Department of Environmental Quality, Office of Environmental Services, Permits Division, or a public library.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), LR 25:1464 (August 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002).

**Subchapter C. Incorporation by Reference of 40 CFR
Part 63 (National Emission Standards for
Hazardous Air Pollutants for Source
Categories) as it Applies to Major Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63
(National Emission Standards for Hazardous Air
Pollutants for Source Categories) as it Applies to
Major Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR Part 63, dated July 1, 2001, are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference is EPA rule entitled "National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions and Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j)," promulgated on April 5, 2002, in the *Federal Register*, 57 FR 16595-16611.

Note: Table is being deleted

B. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, www.access.gpo.gov/nara/cfr/index.html, the Department of Environmental Quality, Office of Environmental Services, Permits Division, or a public library.

C. Modifications or Exceptions. The following modifications or exceptions are made to the incorporated federal standards.

1. Whenever the referenced regulations (i.e., 40 CFR Part 63) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 63) to be provided to "the Administrator" shall be provided to the Office of Louisiana Register Vol. 28, No. 10 October 20, 2002

Environmental Services, Permits Division where the state is designated authority by EPA as "the Administrator" or shall be provided to the Office of Environmental Services, Permits Division and EPA where EPA retains authority as "the Administrator."

2. In Section 63.440(d)(1) of 40 CFR 63, Subpart S, National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry, the requirement is modified to read, "Each kraft pulping system shall achieve compliance with the pulping system provisions of Section 63.443 for the equipment listed in Section 63.443(a)(1) (ii)-(v), as expeditiously as practicable, but in no event later than December 20, 2004, and the owners and operators shall establish dates, update dates, and report the dates for the milestones specified in Section 63.455(b)."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), LR 25:1464 (August 1999), LR 25:1798 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002).

**Chapter 53. Area Sources of Toxic Air Pollutants
Subchapter B. Incorporation by Reference of 40 CFR
Part 63 (National Emission Standards for
Hazardous Air Pollutants for Source
Categories) as it Applies to Area Sources**

**§5311. Incorporation by Reference of 40 CFR Part 63
(National Emission Standards for Hazardous Air
Pollutants for Source Categories) as it Applies to
Area Sources**

A. - Table. ...

B. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, www.access.gpo.gov/nara/cfr/index.html, the Department of Environmental Quality, Office of Environmental Services, Permits Division, or a public library.

C. Modifications or Exceptions. Whenever the referenced regulations (i.e., 40 CFR Part 63) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 63) to be provided to "the Administrator" shall be provided to the Office of Environmental Services, Permits Division where the state is designated authority by EPA as "the Administrator" or shall be provided to the Office of Environmental Services, Permits Division and EPA where EPA retains authority as "the Administrator."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), LR 25:1464 (August 1999), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2181 (October 2002).

James H. Brent, Ph.D.
Assistant Secretary

0210#066

RULE

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

Corrections to Organizational Citations
(LAC 33:V.4201, 4205, 4211, and 4241)(HW082)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.4201, 4205, 4211, and 4241 (Log #HW082).

This Rule makes a minor correction for clarification and corrects errors in the use of "administrative authority" by replacing the term with the correct office and division for submittals or notification requirements. This action is being taken to encourage and assist the regulated entities in the proper submittal of information and notification to the department. The basis and rationale for this rule are to provide consistency in the regulations with regards to information submittal and notification to the department.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

**Subpart 1. Department of Environmental
QualityC Hazardous Waste**

**Chapter 42. Conditional Exemption for Low-Level
Mixed Waste Storage and Disposal**

§4201. What Definitions Apply to this Chapter?

A. This Chapter uses the following special definitions.

We or UsAdministrative authority, as defined in LAC 33:V.109. Within this Chapter, the administrative authority is the Office of Environmental Services, Permits Division, unless otherwise indicated.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1004 (May 2002), amended LR 28:2181 (October 2002).

**§4205. What Wastes are Eligible for the Storage and
Treatment Conditional Exemption?**

A. LLMW, defined in LAC 33:V.4201, is eligible for this conditional exemption if it is generated and managed by you under a single department, NRC, or other NRC agreement state license. (Mixed waste generated at a facility with a

different license number and shipped to your facility for storage or treatment requires a permit and is ineligible for this exemption. In addition, NARM waste is ineligible for this exemption.)

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1005 (May 2002), amended LR 28:2181 (October 2002).

**§4211. How Could You Lose the Conditional Exemption
for Your LLMW and What Action Must You
Take?**

A. -A.1.c. ...

2. If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify the Office of Environmental Compliance by telephone or by e-mail within 24 hours after learning of the discharge. Notification should be made to the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at www.deq.state.la.us/surveillance and followed up with a written notification within five days. Failures that may endanger human health or the environment include, but are not limited to, discharge of a CERCLA reportable quantity or other leaking or exploding tanks or containers or detection of radionuclides above background or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environment, you must follow the provisions of your emergency plan.

B. ...

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1006 (May 2002), amended LR 28:2181 (October 2002).

**§4241. How Could You Lose the Transportation and
Disposal Conditional Exemption for Your Waste
and What Actions Must You Take?**

A. Any waste will automatically lose the transportation and disposal exemption if you fail to manage it in accordance with all of the conditions specified in LAC 33:V.4225.

1. When you fail to meet any of the conditions specified in LAC 33:V.4225 for any of your wastes, you must report to the Office of Environmental Compliance, Surveillance Division, in writing by certified delivery, within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

a. - c. ...

2. If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify the Office of Environmental Compliance by telephone or by e-mail within 24 hours after learning of the discharge. Notification should be made to the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form

and procedures found at www.deq.state.la.us/surveillance then followed up with a written notification within five days.

B. ...

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1008 (May 2002), amended LR 28:2181 (October 2002).

James H. Brent
Assistant Secretary

0210#080

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators C Computer/Technology Education (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). BESE recently adopted new Louisiana K-12 Technology Standards, including those for Computer Education courses at the secondary level. As a result, several new course titles and descriptions for secondary courses were developed. These new courses reflect the increasing role of technology in our society and the need to have students prepared to use and adapt the technology to locate information, create quality products, and to solve problems. The broadening of the numbers of teachers who may teach these elective courses will increase the likelihood that schools will offer a variety of the course offerings as part of a computer education experience. This change in policy will allow teachers holding secondary certification in any area, with demonstrated technology proficiencies, to teach certain secondary level courses in the computer education course of study. These courses include Web Mastering, Computer Systems and Networking, among other delineated courses. Computer Science certification is maintained for Computer Science I or II.

**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), and (15); R.S. 17:7.(5), (7), and (11); R.S. 17:10 and 11; R.S. 17:22.(2) and (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 and 695 (May 2001), LR 27:815 (June 2001), LR 28:2182 (October 2002).

Computer/Technology Education

2.105.02 Computer/technology education course offerings shall be as follows:

Course Title	Unit(s)
Computer Applications	1
Computer Architecture	1
Computer Science I	1
Computer Science II	1
Computer Systems and Networking I	1
Computer Systems and Networking II	1
Computer/Technology Literacy	1/2
Desktop Publishing	1/2
Digital Graphics and Animation	1/2
Multimedia Productions	1
Web Mastering	1/2
Independent Study in Technology Application	1

In order to teach Computer Science I or II, Computer Science certification is required. Teachers who are identified to teach one of the other Computer Education course offerings at the high school level must hold a valid Louisiana secondary certificate in any area and demonstrate sufficient technology proficiencies to teach the course. The district and school shall ensure that teachers have appropriated and demonstrated technology knowledge and skills to teach the courses.

Weegie Peabody
Executive Director

0210#029

RULE

**Office of the Governor
Division of Administration
Racing Commission**

Substance Abuse and Drug-Free Workplace Program (LAC 4:VII.2101-2121)

Editor's Note: The following Sections are being repromulgated. These Sections are being moved from Title 13 to Title 4, as the Racing Commission has been moved from the Department of Economic Development to the Office of the Governor.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Louisiana State Racing Commission has repromulgated Rules concerning the Substance Abuse and Drug-Free Workplace Program. The Louisiana State Racing Commission has been relocated from the Office of Economic Development to the Office of the Governor.

The table below indicates the Substance Abuse and Drug-Free Workplace Program codification change, from LAC 13:IX.101-121 to LAC 4:VII.2101-2121.

Previous Section Number	Current Section Number
§101	§2101
§103	§2103
§105	§2105
§107	§2107
§109	§2109
§111	§2111
§113	§2113
§115	§2115
§117	§2117
§119	§2119
§121	§2121

Title 4
ADMINISTRATION
Part VII. Governor's Office

Chapter 21. Racing Commission
Subchapter A. Substance Abuse and Drug-Free Workplace Program

§2101. Philosophy

A. The Louisiana State Racing Commission (LRC) is totally committed to deterring substance abuse or use which imperils the health and well-being of our employees and the citizens of this state. To accomplish this, the LRC hereby adopts these Substance Abuse and Drug-Free Workplace rules which will enhance the safety and welfare of our employees, increase overall productivity and the quality of our service to the public, preserve property and equipment, promote public safety, reduce absenteeism and job-related accidents which, in turn, will improve the image and reputation of the LRC and its employees.

B. The LRC's philosophy is consistent with the state of Louisiana's long-standing commitment to establishing a drug-free workplace. To deter 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 recently 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 in accordance with R.S. 49:1001, et seq. The LRC fully supports these actions and is committed to a drug-free workplace.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:33 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2183 (October 2002).

§2103. Applicability

A. These rules apply to domicile employees, field auditors and appointees of the LRC, as well as potential employees and appointees to those positions.

B. Following a job offer, potential employees and potential appointees will be required to submit to pre-employment drug testing. All employees/appointees are subject to post-accident/incident, reasonable suspicion and return-to-duty/rehabilitation monitoring drug and alcohol testing. Employees who incumbent safety-sensitive positions and applicants who apply for safety-sensitive positions are subject to both random and pre-selection drug and alcohol testing. Finally, prior to being reassigned, temporarily detailed, promoted or demoted to a safety-sensitive position, an employee is required to undergo drug and alcohol testing. A list of the safety-sensitive positions within the LRC is contained within §2121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:33 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2183 (October 2002).

§2105. Requirements

A. To maintain a safe and productive work environment, all LRC employees are required to:

1. report for duty in the physical and emotional condition which maximizes his/her ability to perform assigned tasks in a competent and safe manner;

2. promptly and cooperatively submit to drug/alcohol testing when required by a supervisor or appointing authority;

3. notify a supervisor on the first scheduled workday following any arrest or conviction for DWI, drug or drug-related offense which occurs on or off duty.

B. The LRC prohibits the use, abuse and presence of unauthorized alcohol, illegal or unauthorized drugs, and other prohibited substances in the bodies of its employees while on duty, scheduled on-call or engaged in LRC business, on or off LRC/state premises. The presence of unauthorized alcohol, illegal or unauthorized drugs, and other prohibited substances in a state vehicle while on or off duty is also prohibited.

1. The presence of alcohol is indicated by a confirmed blood alcohol concentration of 0.05 percent or more by weight based upon grams of alcohol per 100 cubic centimeters of blood.

2.a. Illegal or unauthorized drugs include:

i. any drug which is not legally obtainable;

ii. any drug which is legally obtainable, but has been illegally obtained;

iii. prescription drugs not being used in accordance with the prescription; or

iv. any substance which affects the employee's ability to safely and competently perform assigned duties.

b. Controlled dangerous substances are listed in schedule I, II, III, IV and V of R.S. 40:964.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:33 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2183 (October 2002).

§2107. Drug/Alcohol Testing

A. All employees may be required to submit to drug and/or alcohol testing as a condition of employment, as a condition of continued employment, or as a condition of promotion, demotion, reassignment or detail to a safety-sensitive position. Whether announced or unannounced, tests will be administered under the following circumstances.

1. Pre-Employment. Drug tests are required of all prospective employees and appointees of the LRC. Each prospective employee/appointee shall be required to submit to drug screening at the designated time and place following a job offer. Pursuant to R.S. 49:1008, a prospective employee/appointee testing positive for the presence of a prohibited substance shall be eliminated from consideration for employment/appointment. Additionally, applicants for safety-sensitive positions listed in §2121 shall be required to submit to alcohol testing. Applicants who test positive for the presence of alcohol shall be eliminated from consideration for employment.

2. Post-Accident/Incident. An employee may be subject to drug testing following an on-duty accident where

there is a reasonable suspicion that the employee was under the influence of drugs or alcohol. *Reasonable suspicion* is a belief, based upon reliable, objective and articulable facts derived from direct observation of specific physical and behavioral characteristics (behavior, speech, appearance, odor), which causes a prudent person to suspect that an employee has engaged in drug or alcohol use. Only an appointing authority shall require an employee to submit to post-accident/incident testing. Generally, this decision will be based upon the recommendation of supervisory personnel at the scene who have objectively and thoroughly reviewed the circumstances of the accident/incident. The supervisor will fully document the facts upon which the recommendation for testing is made. Any employee directly involved in an on-duty accident shall be required to submit to drug and alcohol testing if:

- a. the accident involves circumstances giving rise to a reasonable suspicion that the accident may have involved the employee's drug or alcohol use and the employee's action or inaction may have been a causative factor;
- b. the accident meets the criteria of §2107.A.2.a and results in or causes the release of hazardous waste as defined by R.S. 30:2173(2) or hazardous materials as defined by R.S. 32:1502(5); or
- c. the accident results in a fatality or serious bodily injury.

NOTE: When post-accident/incident testing is ordered, an LRC representative shall transport the individual being tested to and from the testing site. Under no circumstances should any employee who is reasonably believed to be impaired or under the influence of any drug or alcohol be permitted to operate a motor vehicle.

3. Random. Random alcohol and drug testing is required of all employees holding safety-sensitive positions as listed in §2121. Such testing shall be periodic and unannounced, and employee selection therefor shall be by a computer-generated random selection process. All such testing shall, unless impracticable, occur during the employee's normal work hours.

4. Promotion/Reassignment/etc. to Safety-Sensitive Position. Current employees are required to undergo drug and alcohol testing prior to being reassigned, temporarily detailed, promoted or demoted to a safety-sensitive position as defined in §2121. An offer of promotion, reassignment, detail or demotion will be withdrawn if a positive drug or alcohol test result is reported, and employees are further subject to disciplinary action as specified in these rules.

5. Reasonable Suspicion. An employee shall be required to submit to drug and alcohol testing when he/she exhibits behavior or appearance that is characteristic of drug or alcohol use. The decision to test will be by an appointing authority based upon reliable, objective and articulable facts derived from direct observation of the employee's physical appearance, behavior, speech, body odor or physical manifestations. The observation must be made by supervisory personnel (two, if possible) who shall record, in writing, the observations leading to the recommendation for testing.

NOTE: When reasonable suspicion testing is ordered, an LRC representative shall transport the individual being tested to and from the testing site. Under no circumstances should any employee who is reasonably believed to be impaired or under the influence of any drug or alcohol be permitted to operate a motor vehicle.

6. Return-to-Duty/Rehabilitation Monitoring. Any employee who retains his/her job following a violation of these rules shall be required, at his/her own expense, to undergo and complete any and all treatment recommended by a certified substance abuse professional. Any such employee shall be subject to periodic drug/alcohol testing. Further, any employee who voluntarily or, as a condition of continued employment, participates in an alcohol/substance abuse rehabilitation program, shall be subject to random drug/alcohol testing for a minimum of one year or longer as determined by the treating substance abuse professional. Any such employee shall be required to certify, in writing, his/her understanding and acceptance of such a rehabilitation agreement as a condition of returning to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:34 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2183 (October 2002).

§2109. Drug Testing Procedures

A. Drug testing pursuant to this policy shall be for the presence of marijuana, opiates, cocaine, amphetamine/methamphetamine and phencyclidine (PCP) in accordance with R.S. 49:1001, et seq. Testing shall be performed by a contractor chosen by the Office of State Purchasing, Division of Administration. At a minimum, the testing procedure shall assure:

1. that all specimens for drug testing are collected, stored, transported and tested in compliance with United States Department of Health and Human Services (DHHS) guidelines (and applicable federal and state regulations) to ensure integrity of the testing process;

2. urine specimens will be collected with emphasis upon the privacy rights of the employee. Direct observation of the employee during collection of the urine specimen will be allowed only under the following conditions:

a. when there is specific, articulable reason to believe that the individual may alter or substitute the specimen;

b. when the individual has provided a urine specimen which falls outside the acceptable temperature range;

c. when the last urine specimen provided by the individual was verified by the medical review officer as adulterated; or

d. when collection site personnel observe conduct or behavior indicating an attempt to substitute/adulterate the sample or otherwise alter the integrity of the collection process;

NOTE: In all instances in which direct observation is deemed appropriate, the designated LRC representative shall review and concur, in advance, with any decision by collection site personnel to obtain a specimen under direct observation. This representative shall maintain, in a confidential record, the full name of the reporting collection site personnel and the specific facts relied upon to approve the direct observation. The record shall be signed by the LRC representative. All direct observations shall be conducted by same gender collection site personnel.

3. the split sample collection methodology must be used in accordance with R.S. 49:1006.D, with both the primary and split specimens properly stored and transported to the testing laboratory. The primary urine sample will be

analyzed for the presence of marijuana, opiates, amphetamines/methamphetamine, cocaine and phencyclidine (PCP);

4. appropriate chain of custody forms shall be utilized to ensure the integrity of each urine specimen by tracking its handling, storage and transportation from point of collection to final disposition;

5. testing shall be performed by laboratories certified for forensic urine drug testing by the U.S. Department of Health and Human Services and in strict compliance with DHHS Guidelines;

6. the dual testing procedure shall be used for all samples. Each primary sample that tests positive for a prohibited substance shall be subject to an additional, more precise confirmatory test (gas chromatography/mass spectrometry);

7. all positive test results (those which exceed federally established cut-off levels as set forth in 49 CFR 40, Section 40.29), shall first be reported by the testing laboratory to the LRC's qualified medical review officer (MRO). The MRO is a licensed physician knowledgeable of substance abuse who has received specialized training in interpreting and evaluating test results in conjunction with an individual's medical history and other relevant biomedical information. The MRO will review the collection procedure, chain of custody and testing methodology before contacting the employee/appointee/applicant to rule out the possibility of error or that medications, medical history or any other condition caused the positive test result;

8. if the test is confirmed to be positive by the MRO, the employee may, within 72 hours of notification from the MRO, request, in writing, directly to the MRO, that the split specimen (initially collected but separated and stored during the collection process) be tested in a different DHHS certified laboratory. This split sample testing shall be allowed if timely requested and performed at the employee's expense;

9. once a positive test is confirmed and reported to the LRC by the MRO, an employee in a safety-sensitive position will be prohibited from performing safety-sensitive functions. A request for testing of the split sample will not delay any such employee's removal from performing safety-sensitive functions; and

10. if testing of the split specimen results in a negative result, the MRO will cancel the positive result of the initial test. All doubts shall be resolved in favor of the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:35 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2184 (October 2002).

§2111. Alcohol Testing Procedures

A. Evidential breath testing (EBT) devices approved by the National Highway Traffic Safety Administration will be used by certified breath alcohol technicians to determine the presence of alcohol in the employee's system.

B. The employee will be advised of the results of the breath-screening test. No further testing will be required if the test results are negative. If the screening test is positive for the presence of alcohol, a confirmation test will be performed within 20 minutes, but not less than 15 minutes of completion of the screening test. If the confirmatory test

indicates a blood alcohol concentration of 0.05 percent or more by weight based upon grams of alcohol per 100 cubic centimeters of blood, the results will be reported as positive to the LRC's designated representative.

C. An employee occupying a safety-sensitive position will be immediately removed from performing safety-sensitive functions in the event of a positive alcohol test.

D. Positive test results will also be reported to the appointing authority whenever an employee refuses to complete or sign the breath alcohol confirmation testing form, provide breath or an adequate amount of breath (excluding medical inability), or fails to cooperate with the testing procedure in any way that prevents completion of the test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:35 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2185 (October 2002).

§2113. Enforcement

A. The use of illegal drugs, unauthorized alcohol and other controlled or unauthorized substances will not be tolerated. Substance abuse endangers the health and well-being of our employees, prevents quality service to the public and is inconsistent with the LRC's mission. While the LRC's position is firm, the LRC will resolve any reasonable doubt regarding the testing procedure or results in the employee's favor.

B. Disciplinary action will be taken after a complete and thorough review of the applicable data in accordance with Chapter 12 of the Civil Service Rules. Employees will be provided pre-deprivation notice and a meaningful opportunity to respond prior to the imposition of disciplinary action.

C. Penalty for a First Positive Test. A first positive test (drug or alcohol) will result in disciplinary action up to and including the possibility of termination. Factors to be considered in determining the appropriate sanction include, but are not limited to, the employee's work history, length of service, current job performance and the existence of prior disciplinary action. At a minimum, the first-time offender will remain off from work at least 30 calendar days. For any such period, the first ten workdays will be a suspension, without pay. For the remaining 20 days, the employee will be permitted to use annual, sick or compensatory leave, if available. During this 30-day period, the employee shall obtain a substance abuse evaluation and commence any recommended rehabilitative treatment. Refusal to participate in the evaluation/treatment process, at the employee's expense, will result in termination.

D. Termination will be the recommended penalty for the following violations:

1. second positive drug test result or confirmed blood alcohol level above the applicable thresholds;
2. refusal to submit to a drug or alcohol test;
3. failure to cooperate in any way which prevents the completion of a drug or alcohol test;
4. submission of an adulterated or substitute sample for testing;
5. buying, selling, dispensing, distributing or possessing unauthorized alcohol or any illegal or

unauthorized substance while on duty, in a state vehicle or on LRC/state premises; and

6. operating a state vehicle or personal vehicle while on duty under the influence of drugs or alcohol where testing administered by an authorized official confirms a violation of these rules.

E. Suspension will be the recommended penalty for the following violations:

1. failure to notify a supervisor of an off-duty arrest or conviction of DWI or drug-related offense at the beginning of the next scheduled workday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:36 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2185 (October 2002).

§2115. Confidentiality/Employee Rights

A. All drug and alcohol testing results and records (including all information, interviews, reports and statements) are considered 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 proceeding, except in an administrative or disciplinary proceeding or civil litigation where drug use by the tested individual is relevant. Exceptions to these confidentiality provisions are limited to written employee consent; federal agencies when licensure or certification actions are required; to a decision-maker in arbitration, litigation or administrative proceedings arising from a positive drug test; and as otherwise required by law.

B. In compliance with R.S. 49:1011, any employee, upon learning of a confirmed positive test result, shall, upon written request, have the right of access, within seven working days, to records and other documentation relating to the drug testing process and any records relating to the results of any relevant certification, review, suspension/revocation proceedings of the testing facility.

C. Employees should know that statistical records and reports of drug testing are maintained by the LRC, contract physicians and drug testing laboratories. This information is aggregate data and is used to monitor compliance and to assess the effectiveness of the drug testing program.

D. The LRC has no interest in informing law enforcement authorities of a positive drug test. However, nothing contained in these rules will be construed to preclude the delivery of any illegal drug, controlled dangerous substance, or other substance prohibited by this policy, discovered in/on LRC/state property, or upon the person of an LRC employee, to law enforcement officials. Likewise, any employee engaged in the sale, attempted sale, distribution or transfer of illegal drugs or controlled substances while on duty or on LRC/state property shall be referred to appropriate law enforcement authorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:36 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2186 (October 2002).

§2117. Employee Assistance Program

A. Early recognition and treatment of drug abuse or dependency are essential to successful rehabilitation. Employees experiencing a substance abuse problem are encouraged to seek assistance from the LRC's Employee Assistance Program (EAP) coordinator within the Human Resources Division of the Department of Economic Development. Any such involvement will be held in strict confidence, but employees should know that supervisors and appointing authorities (who need to know) will be kept abreast of the employee's treatment and leave needs.

B. Employees referred to the EAP coordinator by supervisory personnel or who, as a condition of continued employment, participate in a substance abuse rehabilitation program will be subject to the return-to-duty/rehabilitation monitoring testing set forth in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:36 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2186 (October 2002).

§2119. General Provisions

A. The LRC reserves the right to have a licensed physician, of its own choosing and at its own expense, determine if use of prescription medication produces effects which impair the employee's performance or increase the risk of injury to the employee or others. In such case, the LRC will modify the employee's customary job duties or work activities for the period the employee is unable to safely perform his/her customary job duties. Alternatively, the employee may be required/permitted to use accrued leave.

B. Although the substance abuse testing defined in these rules is restricted to five specified drugs and alcohol, the LRC reserves the right to require employees to submit to additional testing, if warranted. Such tests will only be administered when post-accident or reasonable suspicion testing produce negative results and the employee's behavior clearly indicates impairment or other indicia of substance use. Separate samples will be collected for these additional tests and the testing process will fully comply with DHHS regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:37 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2186 (October 2002).

§2121. Safety-Sensitive Positions

A. There are no safety sensitive positions in the LRC at this time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:37 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2186 (October 2002).

Charles A. Gardner, III
Executive Director

0210#028

RULE

Department of Health and Hospitals Board of Practical Nurse Examiners

Discipline, Licensure, and Temporary Permits
(LAC 46:XLVII.303, 306, 1703, 1705, and 1707)

The Board of Practical Nurse Examiners has amended LAC 46:XLVII. 303, 306, 1703, 1705, 1707, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 3. Board of Practical Nurse Examiners

§303. Additional Duties and Powers of the Board

A. - A.2. ...

3. determine the passing score for the practical nursing licensure examination of initial licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:193 (April 1977), amended LR 10:335 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 26:2614 (November 2000), LR 28:2187 (October 2002).

§306. Rules and Adjudication and License Suspension and Revocation Proceedings

A. - B. ...

C. Communications received by the board expressing such allegation(s) shall be privileged, confidential, and shall not be revealed to any person except when such document(s) are offered for evidence in a formal hearing.

D. The allegation(s) shall be investigated by the executive director, his/her designee, and/or staff. Any information and/or documents generated pursuant to such investigation of the allegation(s) shall be considered the work product of the board and shall be privileged, confidential, and shall not be revealed to any person except when such investigative information and/or documents are offered for evidence in a formal hearing.

E. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default. A consent order or agreed settlement shall be presented to the board for approval before it becomes binding.

F. If a matter is not concluded by informal proceedings and a formal hearing is deemed necessary by the executive director, a formal hearing shall be scheduled before a hearing officer designated by the board. A decision to initiate a formal complaint by the board expressing the allegation(s) and specific violation(s) of R.S. 37:961-979 may be made if one or more of the following conditions exist:

1. the allegation(s) are sufficiently serious;
2. the licensee fails to respond to the board's correspondence concerning the allegation(s);

3. the licensee's response to the board's correspondence is insufficient, unsatisfactory, or fails to be convincing that no action is warranted;

4. an informal proceeding has failed to resolve all of the issues or allegation(s).

G. Formal hearing procedures shall commence with the filing of a formal complaint by the board. The complaint shall include:

1. a statement of the time, place and nature of the hearing;

2. a statement of the legal authority and jurisdiction under which the hearing is to be held;

3. a reference to the particular sections of R.S. 37:961 et seq., and/or rules involved;

4. A short and plain statement of the matters asserted. If the board is unable to state the matters in detail at the time the complaint is served, the initial complaint may be limited to a statement of the issues involved. Thereafter, upon request, a more definite and detailed statement shall be furnished.

H. The formal complaint shall be sent by certified mail, a minimum of 20 days prior to the hearing date, to the last known address of the accused licensee. If the mailing is not returned to the board, it is assumed to have been received by said licensee as it is the licensee's obligation and duty to keep the board informed of his/her whereabouts.

I. The licensee shall return his/her response to the complaint to the board within 10 days or shall be deemed to have waived his/her right to a hearing. In response, the licensee shall either deny or admit the allegations of the complaint and may either:

1. appear for the scheduled hearing;

2. submit a written response to the hearing officer to be presented at the hearing in lieu of the licensee's live testimony; or

3. waive his/her right to a hearing.

J. If the licensee waives his/her right to a hearing or does not respond in writing within the time allotted, the hearing officer shall decide the case forthwith. The hearing officer shall make specific findings of fact, conclusions of law, and make recommendations to the board.

K. Opportunity shall be afforded to all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

L. Except for conditions of extreme emergency, motions requesting the continuance of a formal hearing must be received by the board at least five days prior to the date fixed for a formal hearing. Such motion must express the specific reason(s) and show good cause why a continuance is warranted and be relevant for due process.

M. Discovery

1. Prior to a formal hearing, an accused licensee shall have the right to retain an attorney to represent his/her interest before, during, and after the proceedings. All costs and/or expenses incurred by a licensee as a result of his/her exercise of said right shall be the sole responsibility and obligation of the licensee.

2. Prior to a formal hearing, the executive director or his/her designee will, upon written request received by the board at least five days prior to the formal hearing, issue subpoenas on behalf of the board and/or the accused licensee. Such subpoenas include or are for the purpose of:

a. requiring that a person appear and give testimony in the formal hearing; and

b. subpoena duces tecum, requiring that a person produce books, records, correspondence, or other materials over which he/she has control providing:

i. the information requested is reasonable in terms of amount; and

ii. the scope of the information requested is limited to documentary material that is relevant to the proceeding;

iii. the information requested does not include those documents referred to in §306.C-D; and

iv. the requesting party deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in the proceedings is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.

3. Prior to a formal hearing, an accused licensee shall, upon written notice received by the board at least five days prior to said hearing, be given a list of all witnesses the board will or may call to give testimony during a formal hearing.

4. Prior to a formal hearing, an accused licensee, his/her attorney, or any party representing his/her interest is prohibited from having any contact whatsoever with any witness which will or may be called to give testimony in a formal hearing.

5. Depositions for the purpose of discovery are not permissible and may only be allowed for the perpetuation of a witness's testimony upon good showing to the board that a witness will be unavailable to appear in person at a formal hearing. All costs of a deposition are borne by the requesting party.

6. Motions may be made before, during, and/or after a formal hearing. All motions made before and after a formal hearing shall be made in writing and in a timely manner in accordance with the nature of the request. Motions made during a formal hearing shall be made orally, as they become a part of the transcript of the proceeding.

N. During a formal hearing, the licensee or his/her attorney shall be afforded the opportunity to present documentary, visual, physical or illustrative evidence and to cross-examine witnesses as well as call witnesses to give oral testimony on behalf of the licensee. All testimony given during a formal hearing shall be under oath and before a certified stenographer.

O. The record of the proceeding shall be retained until such time for any appeal has expired or until an appeal has been concluded. The record of the proceeding shall not be transcribed until such time as a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

P. After the hearing is concluded, the hearing officer shall issue a report containing his/her findings of fact, conclusions of law and recommendations. This report shall be presented to the board.

Q. The board shall make a decision based on the hearing officer's report and determine what sanctions, if any, should

be imposed and issue an appropriate order with respect thereto. This order of the board shall be sent to the licensee by certified mail.

R. Sanctions imposed by the board may include reprimand, probation, suspension, revocation, as well as penalties provided under R.S. 37:961 et seq., as amended or any combination thereof.

1. Reprimand. May include a personal conference between the licensee and the executive director and/or a letter to the licensee regarding the incident or incidents which have been brought to the board's attention and which may or may not be determined to warrant a hearing.

2. Probation. Will include stipulations which may be imposed by the board as a result of the findings of facts of a hearing and the order shall clarify the obligations of the licensee through a specified period of time. A licensee who is placed on probation by the board may practice practical nursing in the state of Louisiana provided the probation terms are met.

3. Suspension. A license to practice practical nursing in the state of Louisiana may be withheld by the board as a result of the findings of facts presented in a hearing. The time of suspension may be a definite stated period or an indefinite term. A licensee whose license is suspended may not practice practical nursing in the state of Louisiana during the suspension period so designated.

a. Definite time of suspension shall be stipulated by the board in the order to the licensee. Upon termination of the time period the licensee shall be entitled to receive his/her license upon payment of the required fee and upon documented compliance with the conditions which may have been imposed by the board at the time of the original order.

b. If a license is suspended for an indefinite term, the licensee may petition for reinstatement of his/her license only after one calendar year has lapsed from the date of the original order. The board may terminate the suspension and reinstate such license after a hearing is held and the board determines that the cause/causes for the suspension no longer exist or that intervening circumstances have altered the condition leading to the suspension. If reinstatement is granted the licensee shall pay the required reinstatement fee.

4. Revocation. A license to practice practical nursing in the state of Louisiana may be withdrawn by the board. A person whose license is so revoked shall never again be allowed to practice practical nursing in the state.

S. A petition by a party for reconsideration or rehearing must be in proper form and filed within 30 days after notification of the board's decision. The petition shall set forth the grounds for the rehearing, which include one or more of the following:

1. the board's decision is clearly contrary to the law and the evidence;

2. there is newly discovered evidence which was not available to the board or the licensee at the time of the hearing and which may be sufficient to reverse the board's action;

3. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly;

4. it would be in the public interest to further consider the issues and the evidence.

T. The grounds for disciplinary proceedings against a licensed practical nurse include, but are not limited to:

1. being guilty of fraud or deceit in procuring or attempting to procure a license to practice practical nursing;
2. being guilty of a crime;
3. being unfit, or incompetent by reason of negligence, habit or other causes;
4. being habitually intemperate or is addicted to the use of habit-forming drugs;
5. being mentally incompetent;
6. practicing practical nursing without being duly licensed to do so by the board;
7. using in connection with his name any designation tending to imply that he is a practical nurse without being duly licensed to practice by the board; or
8. being guilty of unprofessional conduct; unprofessional conduct includes, but is not limited to the following:
 - a. failure to practice practical nursing in accordance with the standards normally expected;
 - b. failure to utilize appropriate judgment in administering nursing practice;
 - c. failure to exercise technical competence in carrying out nursing care;
 - d. violating the confidentiality of information or knowledge concerning a patient;
 - e. performing procedures beyond the authorized scope of practical nursing;
 - f. performing duties and assuming responsibilities within the scope of the definition of practical nursing when competency has not been achieved or maintained, or where competency has not been achieved or maintained in a particular specialty;
 - g. improper use of drugs, medical supplies, or patients' records;
 - h. misappropriating personal items of an individual or the agency;
 - i. falsifying records;
 - j. intentionally committing any act that adversely affects the physical or psychosocial welfare of the patient;
 - k. delegating nursing care, functions, tasks, or responsibilities to others contrary to regulation;

r. possess a physical or psychological impairment which interferes with the judgment, skills or abilities required for the practice of practical nursing;

s. refusal to cooperate with employer's request to submit to a drug screen;

t. has violated any provisions of R.S. 37:961 et seq. (the practical nursing practice act), as amended or aid or abet therein.

U. The board may, at its discretion, impose a reasonable monetary assessment against the licensee or applicant for licensure for the purpose of defraying expenses of a hearing and/or expenses of the board in monitoring any disciplinary stipulations imposed by order of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:978 and Acts 675 and 827, 1993.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 20:663 (June 1994), amended LR 26:2614 (November 2000), LR 28:2187 (October 2002).

Chapter 17. Licensure

§1703. Types of Licensure

A. - A.2. ...

3. complete a board approved refresher course if a passing score is not attained within four years of program completion.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, 37:971 and 37:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), LR 10:341 (April 1984), LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1129 (October 1992), repromulgated LR 18:1263 (November 1992), LR 28:2189 (October 2002).

§1705. Temporary Permit

A. A temporary permit to practice as a practical nurse in Louisiana may be issued as follows.

1. A temporary permit may be issued to graduates of approved or accredited practical nursing programs in Louisiana before the first writing of the licensure examination which permit shall expire upon the date of licensure of that examination and which shall not be subject to extension or renewal under any circumstances - including reentry and completion of a program in practical nursing, providing the application for licensure and the specified fee have been submitted by the applicant and an official transcript has been submitted by the institution from which he/she graduated.

A.2 - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 5:65 (March 1979), LR 10:341 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), LR 28:2189 (October 2002).

§1707. Retirement from Practice

A. - B.3. ...

C. Review Courses. Licensees or applicants for licensure in Louisiana who have been out of practice for four or more

years shall be required to successfully complete a refresher course approved by the board. Said course shall have a clinical component of a minimum of 60 hours. Special student permits may be issued by the board to participants in such courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, 37:972-975, 37:977, 37:978 and 37:979.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 26:2614 (November 2000), LR 28:2189 (October 2002).

Claire Doody Glaviano
Executive Director

0210#027

RULE

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

Facility Need Review
Emergency Community Home Bed Pool
(LAC 48:I.12501 and 12503)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended the Facility Need Review regulations as authorized by R.S. 40:2116. This Rule is amended in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

**PUBLIC HEALTHC GENERAL
Part I. General Administration
Subpart 5. Health Planning**

Chapter 125. Facility Need Review

§12501. Introduction

- A. ...
- B. Definitions

*Emergency Community Home Bed Pool*Ca pool consisting of approved beds which have been transferred from state developmental centers and which are made available for transfer to nonstate-operated community homes in order to address emergency situations on a case-by-case basis.

- C. - F.6. ...

7. Beds may not be disenrolled, except as provided under the alternate use policy, under the Emergency Community Home Bed Pool exception, and during the 120-day period to have beds relicensed or recertified. The approval for beds disenrolled, except as indicated, will automatically expire.

- 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002).

§12503. Determination of Bed Need

- A. - A.6.d. ...

7. Emergency Community Home Bed Pool Exception

a. The Emergency Community Home Bed Pool consists of all Medicaid enrolled beds which have been authorized to be transferred from state developmental centers to nonstate-operated community homes on or before June 30, 2002, in order to address emergency situations on a case-by-case basis.

b. Effective July 1, 2002, the Secretary of the Department may not authorize the transfer of any beds from the Emergency Community Home Bed Pool to a nonstate operated community home unless the bed had been authorized to be transferred to a nonstate operated community home on or before June 30, 2002 and was subsequently transferred from that facility back to the pool pursuant to §12503.7.f.

c. Emergency situations which may be addressed through the use of the Emergency Community Home Bed Pool shall include, but not be limited to, situations in which it is difficult or impossible to find a placement for an individual in an ICF/MR because of one of the following:

i. an inadequate number of available ICF/MR beds in the service area to serve the needs of the mentally retarded/developmentally disabled population in general;

ii. an inadequate number of available ICF/MR beds in the service area to serve the needs of the mentally retarded/developmentally disabled population who also have physical or behavioral disabilities or difficulties;

iii. an inadequate number of available ICF/MR beds in the service area to provide for the transition of individuals from residing in large residential facilities to residing within the community.

d. Any agency or individual who becomes aware of an actual or potential emergency situation should inform the Office for Citizens with Developmental Disabilities (OCDD). The OCDD shall submit to the Facility Need Review Program its recommendations for emergency placement. The recommendations from the OCDD shall include identification of the individual in need of emergency placement, the individual's needs, the service area in which transfer from the Emergency Community Home Bed Pool is requested, and the names of one or more existing community homes that would be appropriate for emergency placement.

e. To be eligible for transfer of one or more beds from the Emergency Community Home Bed Pool, a community home must meet the following requirements, based on documentation provided by the Health Standards Section.

i. The facility must comply with the physical accessibility requirements of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, or if it does not comply with those requirements, it must have a written plan to be in compliance within 24 months.

ii. The facility can not have been on a termination track or have had any repeat deficiencies within the last 12 months.

iii. The facility must meet all square footage requirements, *Life Safety Code* requirements and general construction requirements of 42 CFR Subpart D, Conditions of Participation for ICF/MR, as well as Standards for

Payment, LAC 50:II.Chapter 103 and Louisiana Licensing Requirements for Intermediate Care Facilities.

iv. The facility must ensure the provision of sufficient staffing and behavior modification plans to meet the needs of current residents and prevent clients residing in the facility from being adversely affected by the emergency admission.

f. The Secretary shall authorize the transfer of the bed to be used at the nonstate-operated community home, and upon the enrollment of the transferred bed at that community home, it shall be permanently transferred to that facility, subject to the following conditions.

i. Once the bed is no longer needed to remedy the emergency situation, the facility shall continue to make it available for subsequent emergency placements, although it may be used temporarily to serve other individuals until it is needed for a new emergency placement.

ii. The facility shall make the bed available for a new emergency placement within 72 hours after receiving a request for such placement from the department as set forth herein. If the facility does not comply with such a request, the secretary may, at his discretion, transfer the bed from the facility back to the Emergency Community Home Bed Pool.

g. Beds which have been placed in the Emergency Community Home Bed Pool shall be exempt from the bed need criteria and the requirements for requests for proposals which are normally applicable to ICF/MRs.

h. For purposes of the Emergency Community Home Bed Pool exception, the definition of "service area" provided in §12503.A.1 is applicable.

B. - B.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002).

David W. Hood
Secretary

0210#061

RULE

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

**Minimum Licensing Standards
End Stage Renal Disease Treatment Facilities
(LAC 48:I.Chapter 84)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This final Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTHB GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 84. End Stage Renal Disease Treatment Facilities

Subchapter A. General Provisions

§8401. Acronyms and Definitions

A. The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Abuse Any act or failure to act that caused or may have caused injury to a patient knowingly, recklessly, or intentionally, including incitement to act. Injury may include, but is not limited to: physical injury, mental disorientation, or emotional harm, whether it is caused by physical action or verbal statement. Patient abuse includes:

- a. any sexual activity between facility personnel and a patient;
- b. corporal punishment;
- c. efforts to intimidate;
- d. the use of any form of communication to threaten, curse, shame, or degrade a patient;
- e. restraints that do not conform to standard practice;
- f. coercive or restrictive actions that are illegal or not justified by the patient's condition, taken in response to the patient's request for discharge or refusal of medication or treatment; and
- g. any other act or omission classified as abuse by Louisiana law.

Acronyms (Federal)C

- a. CFRC Code of Federal Regulations
- b. CMSC Centers for Medicare and Medicaid Services
- c. Network (13)CFederal ESRD Quality Assurance Supplier
- d. PROC Peer Review Organization

Adequacy of Dialysis Cterm describing the outcome of dialysis treatment as measured by clinical laboratory procedures.

Adequate/Sufficient Creasonable, enough: e.g., personnel to meet the needs of the patients.

Advertise Cto solicit or induce to purchase the services provided by a facility.

Assessment Cgathering of information relative to physiological, behavioral, sociological, spiritual, functional and environmental impairments and strengths of the patient using the skills, education, and experience of one's professional scope of practice.

Board(s) Centities responsible for licensing/certification of specific professions (e.g., nursing, counselors, social workers, physicians, etc.).

Chronic Maintenance Dialysis Cdialysis that is regularly furnished to an End Stage Renal Disease (ESRD) patient in a hospital-based, independent (free-standing), or home setting.

Consultation Cprofessional oversight, advice, or services provided under contract.

Consumer/PatientCperson assigned or accepted for treatment furnished by a licensed facility as specified.

Delegation of TasksCassignment of duties by a registered nurse to a licensed practical nurse, or other personnel with respect to their training, ability and experience. The registered nurse cannot delegate complex nursing tasks that have not been approved as appropriate for delegation, responsibility, or tasks requiring judgment.

DepartmentCthe Louisiana Department of Health and Hospitals (DHH). The following is a list of pertinent sections of DHH.

a. **Health Standards Section (HSS)**Cthe section within the Bureau of Health Services Financing that is responsible for conducting surveys, issuing licenses, and serving as the regulatory body for health care facilities in the state.

b. **Office for Public Health (OPH)**Cthe office that is responsible for the development and enforcement of public health regulations and codes.

c. **Division of Architectural Services**Cthe office that is responsible for the professional review of all facility floor plans and site plans prior to licensing to assure compliance with state laws and codes.

d. **Program Integrity Section**Cthe section within the Bureau of Health Services Financing that is responsible for investigating alleged fraud and abuse.

DialysisCa process by which dissolved substances are removed from a patient's body by diffusion from one fluid compartment to another across a semipermeable membrane. The two types of dialysis that are currently in common use are hemodialysis and peritoneal dialysis.

End-Stage Renal Disease (ESRD)Cthat stage of renal impairment that appears irreversible and permanent, and requires a regular course of dialysis or kidney transplantation to maintain life.

End-Stage Renal Disease Treatment FacilityCa facility that presents to the public as a supplier of chronic dialysis services including, at least, hemodialysis, but may also include peritoneal dialysis, home training, or home support.

ExploitationCany act or process to use (either directly or indirectly) the labor or resources of a patient for monetary or personal benefit, profit, or gain of another individual or organization. Examples of exploitation include:

a. use of a patient's personal resources such as credit cards, medical assistance cards, or insurance cards to bill for inappropriate services;

b. use of the patient's food stamps or other income to purchase food or services used primarily by others; and

c. using the patient to solicit money or anything of value from the public.

FacilityCa supplier of services, including all employees, consultants, managers, owners, and volunteers as well as the premises and activities.

Medication AdministrationCthe preparation and giving of legally prescribed individual doses of medication to a patient, including the observation and monitoring of the patient's response to the medication.

Medication DispensingCthe compounding, packaging, and giving of legally prescribed multiple doses of medication to a patient.

NeglectCfailure to provide adequate health care or failure to provide a safe environment that is free from abuse

or danger; failure to maintain adequate numbers of appropriately trained staff; or any other act or omission classified as neglect by Louisiana law.

Office of the State Fire Marshal (OSFM)Cthe office that is responsible for establishing and enforcing the regulations governing building codes, including Life Safety Codes for healthcare facilities.

On CallCimmediately available for telephone consultation.

Sexual ExploitationCa pattern, practice, or scheme of conduct that can reasonably be construed as being for the purpose of sexual arousal or gratification or sexual abuse of any person. It may include sexual contact, a request for sexual contact, or a representation that sexual contact or exploitation is consistent with or part of treatment.

Site/PremisesCan identifiable location owned, leased, or controlled by a facility where any element of treatment is offered or provided.

StaffCindividuals who provide services for the facility in exchange for money or other compensation, including employees, contract providers/suppliers, and consultants.

StandardsCpolicies, procedures, rules, and other guidelines (i.e., standards of current practice) contained in this document for the licensing and operation of end-stage renal disease treatment facilities.

SupervisionCoccupational oversight, responsibility and control over employees and/or service delivery by critically watching, monitoring, and providing direction.

Unethical ConductCconduct prohibited by the ethical standards adopted by DHH, state or national professional organizations or by a state licensing agency.

Unprofessional ConductCany act or omission that violates commonly accepted standards of behavior for individuals or organizations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2191 (October 2002).

§8403. Licensing

A. Any facility that presents itself to the public as a supplier of chronic dialysis treatment services and/or dialysis training to individuals diagnosed with end stage renal disease is required to have a valid and current license. The facility shall not provide services without the appropriate license and shall advertise (or otherwise notify the public or other referral entities) only for services that the facility is licensed to provide. Each licensed facility must comply with the minimum requirements in order to remain licensed. In addition, each facility is required to have a copy of the minimum standards on site, and all administrative and professional staff shall be familiar with the minimum standards.

B. In order to be licensed as an ESRD facility in Louisiana the facility must also be in continuous compliance with federal regulatory requirements applicable to ESRD facilities, including but not limited to: 42CFR §405.2135-2140; 42 CFR §405.2150, and §2160-2164.

C. The initial application process assures that the facility is capable of organizing and planning an operation to provide dialysis services as designated on the license. The application packet and procedures may be obtained from DHH/HSS.

D. Renewal. A license must be renewed at least annually.

E. License Types

1. Full License. A full license is issued to agencies that are in compliance with the minimum standards and all other licensing requirements. The license is valid until the date of expiration unless it is revoked or suspended prior to the date of expiration, or the license renewal is denied.

2. Provisional License. A provisional license is issued to facilities that are not in compliance with the minimum standards and whose license will be terminated if systemic changes fail to correct identified problems. Cited deficiencies shall not be detrimental to the health and safety of clients. A provisional license is valid for six months or until a designated termination date.

F. The current license shall be displayed on-site at each facility. Any license issued by DHH supersedes all other licenses and those previously issued licenses are deemed invalid. Any facility displaying and/or using an invalid or altered license will be sanctioned.

G Notification of Change. Failure to report any of the following changes in writing to HSS within 10 days of the occurrence of the change is considered delinquent and subject to sanction. Written approval of changes by DHH is required for the facility to remain in compliance with licensing standards. An on-site survey, at the discretion of HSS, may be required prior to issuance of a new license.

1. Change of Ownership. A license is non-transferrable. The new owners must apply for a new license and submit a new application form, copy of the bill of sale, licensing fee, disclosure of ownership form, and information regarding relocation, name change, etc.

2. New Construction. All plans must have prior approval of the OSFM and Division of Architectural Services.

3. Renovations. All plans must have prior approval of the OSFM and Division of Architectural Services, when required.

4. Change of Address. Address changes require the issuance of a replacement license and must be prior authorized. Authorization is based on the submission of requested information to HSS.

5. Change in Services. Providing additional services requires the submission of an application packet appropriate to the new service. Interim approval may be granted based on the review of the submitted documentation. Permanent approval will be granted automatically at the next on-site survey unless the facility is found to be out of compliance. Deleting existing services requires the submission of written notification to HSS.

6. Days of Operation. Written notification to HSS is required in advance of a change in the facility's days of operation.

7. Change in Stations. Facilities wishing to increase or decrease the number of stations shall be required to submit in writing to HSS at least 30 days in advance of the change.

H. If at any time the facility decides to cease operations, the facility shall notify HSS of the date of the cessation of services, the permanent location of the records and surrender the license.

1. All active patients and pertinent information shall be referred/transferred to the nearest appropriate treatment facility.

2. Written notification and the license shall be sent to HSS within five working days.

3. Notice of intent to cease operation shall be published in the local newspaper with the widest circulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2192 (October 2002).

§8405. Fees, Fines, and Assessments

A. All fees must be submitted to DHH in the form of a company or certified check or money order, and made payable to the Department of Health and Hospitals. All fees are non-refundable and non-transferable.

1. The current fee schedule is available upon request.

2. The fee for the initial application and licensing process shall be submitted prior to review and consideration of the licensing application.

3. The annual renewal fee is payable in advance of the issuance of the renewal license.

4. A fee must accompany any request requiring the issuance of a replacement license.

5. A renewal or other fee is considered delinquent after the due date and an additional fee shall be assessed beginning on the day after the date due. No license will be issued until applicable fees are paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2193 (October 2002).

§8407. Survey

A. All surveys shall be unannounced and may be conducted with other agency personnel and/or personnel from other local, state or federal agencies. A survey of all aspects of the facility's operation is required prior to issuing a license.

B. Initial Survey. DHH shall determine through an on-site review if the facility is capable of becoming fully operational. The procedures for the on-site review may be obtained from HSS.

C. Annual Survey. An on-site survey of the facility is performed or an attestation from the facility is received annually to assure continuous adherence to standards.

D. Follow-up Surveys. An on-site visit is performed or documentation is requested for a desk review to ensure that corrective actions have been taken as stated in the plan of corrections and to assure continued compliance between surveys.

E. DHH shall determine the type and extent of investigation to be made in response to complaints in accordance with R.S. 40:2009.13 et seq.

1. The facility may be required to do an internal investigation and submit a report to HSS.

2. HSS and other federal, state and local agencies may conduct an on-site focused or complete survey as appropriate.

F. Written plans of correction shall be submitted to HSS to describe actions taken by the facility in response to cited violations. The plan must be submitted within 10 days of the date of the receipt of the notice of deficiencies, or the provider may be sanctioned. All components of the

corrective action plan must be specific and realistic, including the dates of completion.

1. The correction plan shall include the following components:
 - a. the actions taken to correct any problems caused by a deficient practice directed to a specific patient;
 - b. the actions taken to identify other patients who may also have been affected by a deficient practice, and to assure that corrective action will have a positive impact for all patients;
 - c. the systemic changes made to ensure that the deficient practice will not recur;
 - d. a monitoring plan developed to prevent recurrence; and
 - e. the date(s) when corrective action will be completed.

G. Corrections must be completed within 60 days of the survey unless HSS directs that corrective action be completed in less time due to danger or potential danger to patients or staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2193 (October 2002).

§8409. Adverse Actions

A. DHH reserves the right to suspend, deny (initial or renewal), or revoke any license at the discretion of the Secretary or his/her designee. Any involuntary termination of a facility's license or voluntary termination to avoid adverse action automatically disqualifies the facility and those associated with the facility from applying for a license for a period of at least one year.

B. Provisional License Designation. See §8403.E.2.

C. Denial of Initial Licensing. An initial license request may be denied in accordance with R.S. 40:2117.5(A).

D. A license may be revoked or denied for any of the following nonexclusive reasons. See also R.S. 40:2117.5:

1. cruelty or indifference to the welfare of the patients;
2. misappropriation or conversion of the property of the patients; or
3. violation of any provision of the End Stage Renal Disease Facilities statute R.S.40:2117 et seq. or of the minimum standards, rules, and regulations, as follows:
 - a. providing services to more stations than authorized by license;
 - b. repeated failure to adhere to rules and regulations that resulted in the issuance of a provisional license or other sanction;
 - c. serious violation of these standards or current professional standards of practice;
 - d. failure to submit corrective action plans for identified violations;
 - e. reasonable cause to suspect that patient health and/or safety is jeopardized;
 - f. reliable evidence that the facility has:
 - i. falsified records;
 - ii. bribed, solicited or harassed any person to use the services of any particular facility;
 - g. failure to submit required fees in a timely manner;
 - h. failure to cooperate with a survey and/or investigation by DHH and/or authorized agencies; or

i. failure to meet operational requirements as defined in §8423.C;

4. permitting, aiding, or abetting the unlawful, illicit, or unauthorized use of drugs or alcohol within the facility;

5. conviction or plea of nolo contendere by the applicant for a felony. If the applicant is an agency, the head of that agency must be free of such conviction. If a subordinate employee is convicted of a felony, the matter must be handled administratively to the satisfaction of HSS;

6. documented information of past or present conduct or practices of the facility that are detrimental to the welfare of the patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2194 (October 2002).

§8411. Appeals

A. The Health Standards Section shall give at least 30 days notice of the denial of renewal or revocation of license unless it determines that the health and/or safety of patients is in jeopardy. In the event that it is determined that the health and/or safety of patients is in jeopardy, the license may be revoked immediately with appeal rights granted after the facility ceases operation and patients are transferred to another facility. The facility may appeal within 30 days following the revocation.

B. Requests for an administrative reconsideration must be submitted in writing to HSS within 15 days of the receipt of the denial of renewal or revocation notice.

C. Requests for an administrative appeal must be submitted in writing to DHH, Office of the Secretary within 15 days of the receipt of the denial of renewal or revocation notice. Requests for administrative reconsideration do not affect the timeframes for requesting an administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2194 (October 2002).

Subchapter B. Facility Operations

§8423. Operational Procedures

A. Each facility shall establish facility-specific, written policy and implement such policy in these areas:

1. procedures to ensure the health, safety, and well-being of patients;
 2. The procedure to ensure sound patient care in conformity with current standards of practice;
 3. protocols to assure uniform and quality assessment, diagnosis, evaluation, and referral to the appropriate level of care;
 4. procedures to assure operational capability and compliance;
 5. procedures to assure that only qualified personnel are providing care within their respective scope of practice;
 6. procedures to assure that patient information is collected, maintained, and stored according to current standards of practice; and
 7. standards of conduct for all personnel in the facility.
- B. Continuous Quality Program (CQP). The facility shall:

1. have ongoing programs to assure that the overall function of the facility is in compliance with federal, state, and local laws, and is meeting the needs of the citizens of the area as well as attaining the goals and objectives developed from the mission statement established by the facility;

2. focus on improving patient outcomes and patient satisfaction;

3. have objective measures to allow tracking of performance over time to ensure that improvements are sustained;

4. develop and/or adopt quality indicators that are predictive of desired outcomes and can be measured, analyzed and tracked;

5. identify its own measure of performance for the activities that are identified as priorities in quality assessment and performance improvement strategy;

6. immediately correct problems that are identified through its quality assessment and improvement program that actually or potentially affect the health and safety of the patients;

7. develop and implement an annual internal evaluation procedure to collect necessary data for formulation of a plan. In addition, conduct quarterly meetings of a professional staff committee (at least 3 individuals) to select and assess continuous quality activities, to set goals for the quarter, to evaluate the activities of the previous quarter, and to immediately implement any changes that would protect the patients from potential harm or injury;

8. implement a quarterly utilization review of 5 percent of the active patient records (minimum of 10 records) by professional staff;

9. complete an annual documented review of policies, procedures, financial data, patient statistics, and survey data by the governing board/regional administrator; and

10. participate as requested with state and federal initiatives to assure quality care.

C. Operational Requirements. The facility shall:

1. be fully operational for the business of providing dialysis as indicated on the approved original application or notice of change;

2. be in compliance with R.S.40:2007, if the facility is operated within another health care facility;

3. have active patients at the time of any survey after the initial survey;

4. utilize staff to provide services based on the needs of their current patients;

5. have required staff present in the facility at all times whenever patients are undergoing dialysis;

6. develop, implement, and enforce policies and/or procedures that eliminate or greatly reduce the risk of patient care errors; and

7. develop procedures to communicate to staff and to respond immediately to market warnings, alerts, and recalls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2194(October 2002).

§8425. Facility Records

A. Record keeping shall be in accordance with accepted standards to assure the development and implementation of

facility specific policies and procedures to adhere to all licensing standards. Specific facility records shall contain:

1. personnel information including:

a. annual health screens in accordance with CDC/OPH guidelines and facility policy;

b. actual hours of work;

c. orientation/training/in-services;

d. disciplinary actions;

e. verification of professional credentials, licensing/certification and renewals; and

f. job descriptions/performance expectations;

2. operational information including:

a. organizational chart;

b. payment methods in accordance with the Wage and Hour Board;

c. proof of general and professional liability insurance in the amount of at least, \$500,000;

d. projected plan of operations based on the findings of the facility specific continuous improvement program; and

e. written agreements with other entities to assure adherence to licensing standards and continuity of care, e.g., transplant services, lab services, waste removal, hospital, etc.;

3. identification of a governing body composed of adults who have legal authority over the policies and activities of the facility as required by 42 CFR §405.2136. All private providers must comply with this requirement.

B. Required Facility Reports. The facility director shall report the following incidents either verbally or by facsimile to HSS within 24 hours of discovery. If reporting is verbal, it will be confirmed in writing within seven calendar days.

1. fire and/or natural disasters;

2. any substantial disruption of program operation;

3. any inappropriate treatment or service resulting in death or serious injury; and

4. serious violations of laws, rules, and professional and ethical codes of conduct, e.g. abuse, neglect, exploitation by facility personnel/volunteers that resulted in harm or the potential for harm to the patient(s). Patient to patient abuse shall also be reported to the agency.

C. The facility shall post a legible copy of the following documents in full view of patients, visitors, and employees:

1. patient bill of rights/responsibilities;

2. escape routes;

3. facility specific rules, responsibilities and grievance procedures;

4. current license and variances; and

5. current licensing survey findings.

D. The facility shall maintain the following operational records:

1. equipment maintenance;

2. water testing logs;

3. reprocessing logs;

4. fire and safety logs;

5. in-services/attendance records;

6. personnel records; and

7. disinfection logs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2195 (October 2002).

§8427. Health and Safety

A. Infection Control

1. The facility shall protect staff, patients, and visitors from potential and/or actual harm from infectious disease by utilizing the following policies and procedures.

a. Development and implementation of a universal precautions program that includes education and practice.

b. Development and implementation of a infection control program to report, evaluate, and maintain documentation pertaining to the spread of infectious disease, including data collection and analysis, corrective actions, and assignment of responsibility to designated medical staff person (including access infections).

c. The facility shall strictly adhere to all sanitation requirements.

2. The facility shall establish and maintain a clean environment by the implementation of the following housekeeping policies and procedures:

a. supplies and equipment shall be available to staff and/or patients;

b. consistent and constant monitoring and cleaning of all areas of the facility shall be practiced; and

3. the facility may contract for services necessary to maintain a clean environment.

B. Sanitation

1. Food and waste shall be stored, handled, and removed in a way that will not spread disease, cause odors, or provide a breeding place for pests.

2. If there is evidence of pests, the facility shall contract for pest control.

C. Environmental Safety

1. The entire facility (including grounds, buildings, furniture, appliances, and equipment) shall be structurally sound, in good repair, clean, and free from health and safety hazards.

2. The facility shall comply with the Americans with Disabilities Act (ADA).

3. The facility shall prohibit firearms and/or other weapons.

4. Poisonous, toxic and flammable materials shall be properly labeled, stored, and used safely.

5. The facility shall take all possible precautions to protect the staff, patients and visitors from accidents or unnecessary injuries or illnesses.

D. The facility shall respond effectively during a fire or other emergency. Every facility shall:

1. have emergency evacuation procedures that include provisions for the handicapped;

2. hold simulated fire drills on each shift at least quarterly to familiarize facility personnel with the signals and emergency actions required; patients shall not be moved during drills;

3. be able to evacuate the building in a timely manner whenever necessary;

4. conspicuously post exit diagrams throughout the facility;

5. post emergency numbers by all phones; and

6. have adequate first aid supplies that are visible and easy to access whenever necessary.

E. The facility shall have a written facility specific disaster plan. The staff shall be able to access and implement the plan when required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2196 (October 2002).

§8429. Physical Plant Requirements

A. For licensing, an ESRD treatment facility applicant shall have architectural plans and specifications reviewed by the DHH Division of Engineering and Architectural Services using the current edition of the *American Institute of Architects Guidelines for Construction for Hospital and Health Care Facilities*.

B. The Office of the State Fire Marshal shall determine fire safety review requirements based upon applicable regulations.

C. Required Inspections

1. The facility shall pass all required inspections and keep a current file of reports and other documentation needed to demonstrate compliance with applicable laws and regulations. The inspections must be signed, dated, and free of any outstanding violations/citations. The following inspections are required:

a. annual fire marshal inspection;

b. annual inspection by the Office of Public Health (local health unit);

c. annual inspection and maintenance of fire extinguishers by personnel licensed or certified to perform those duties; and

d. regular inspections of elevators, if applicable.

2. The following documentation shall be on file in the facility:

a. certificate of occupancy as required by the local authorities;

b. DHH approval of the water supply/system; and

c. documentation that any liquefied petroleum supply has been inspected and approved.

D. Exterior Space Requirements. The facility shall:

1. ensure that all structures on the grounds of the facility that are accessible to patients are maintained in good repair and are free from identified hazards to health or safety;

2. maintain the grounds of the facility in an acceptable manner and ensure that the grounds are free from any hazard to health or safety;

3. store garbage and rubbish securely in non-combustible, covered containers that are emptied on a regular basis;

4. separate trash collection receptacles and incinerators from patient activity areas and locate all containers so that they are not a nuisance to neighbors; and

5. store and dispose of all medical waste in accordance with local, state, and federal guidelines.

E. Interior Space Requirements

1. Bathrooms. Minimum facilities shall include:

a. adequate operational fixtures that meet *Louisiana State Plumbing Code*. All fixtures must be functional and have the appropriate drain and drain trap to prevent sewage gas escape back into the facility;

b. an adequate supply of hot water. Hot water temperature at the point of service to patients shall be between 105°F and 120°F;

c. toilets with seats;

- d. an adequate supply of toilet paper, towels, and soap;
- e. doors to allow for individual privacy;
- f. external emergency release mechanism;
- g. safe and adequate supply of cold running water; and

h. functional toilets, wash basins, and other plumbing or sanitary facilities which shall be maintained in good operating condition and kept free of any materials that might clog or otherwise impair their operation.

2. Administrative and Counseling Space

a. Administrative office(s) for records, secretarial work and bookkeeping shall be separate and secure from patient areas.

b. Space shall be designated to allow for private discussions and counseling sessions.

3. Doors and Windows. Outside doors, windows and other features of the structure necessary for the safety and comfort of patients shall be secured for safety within 24 hours after they are found to be in a state of disrepair. Total repair should be completed as soon as possible.

4. Storage. The facility shall:

a. ensure that there are sufficient and appropriate storage facilities; and

b. secure all potentially harmful materials.

F. Exits

1. Exit doors and routes shall be lighted and unobstructed at all times.

2. There shall be an illuminated AEXIT@sign over each exit. Where the exit is not visible, there shall be an illuminated "EXIT" sign with an arrow pointing the way.

3. Rooms for 50 or more people shall have exit doors that swing out.

4. No door may require a key for emergency exit.

5. At least one window shall be provided in every treatment area.

6. Every building shall have at least two exits that are well separated.

7. Every multiple-story building shall have at least two fire escapes (not ladders) on each story that are well separated. Fire escapes shall:

- a. be made of non-combustible material;
- b. have sturdy handrails or walls on both sides; and
- c. provide a safe route to the ground.

8. Stairs and ramps shall be permanent and have non-slip surfaces.

9. Exit routes higher than 30 inches (such as stairs, ramps, balconies, landings, and porches) shall have full-length side guards.

G Electrical Systems. All electrical equipment, wiring, switches, sockets and outlets shall be maintained in good order and safe operating condition. All rooms, corridors, stairways and exits within a facility shall be sufficiently illuminated.

1. The facility shall have an illuminating system that provides lighting levels to support tasks performed by staff and the independent functioning of patients without the need for additional lighting.

2. Lighting shall be provided outside the building and in parking lots.

3. Light bulbs shall have shades, wire guards or other shields.

4. Emergency lighting shall illuminate AEXIT@routes.

H. Ventilation

1. The facility shall not use open flame heating equipment, floor furnaces, unvented space heaters, or portable heating units.

2. Occupied parts of the building shall be air conditioned and the temperature should remain between 65EF and 85EF.

3. The entire facility shall be adequately ventilated with fresh air. Windows used for ventilation shall be screened.

4. The facility shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of patients and staff.

I. Plumbing. The plumbing systems shall be designed, installed, operated and maintained in a manner that ensures an adequate and safe supply of water for all required facility operations and to facilitate the complete and safe removal of all storm water and waste water.

J. Finishes and Surfaces

1. Lead-based paint or materials containing asbestos shall not be used.

2. Floor coverings must promote cleanliness, must not present unusual problems for the handicapped and have flame-spread and smoke development ratings appropriate to the use area (e.g. patient's room versus exit corridor).

3. All variances in floors shall be easily identified by markings, etc. to prevent falls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2196 (October 2002).

Subchapter C. Personnel

§8439. General Provisions

A. Administration

1. The administrative staff shall be qualified and adequate to assure adherence to all licensing standards.

2. Qualifications of all facility staff shall meet or exceed those required by federal regulations.

3. Facility compliance with licensing standards shall determine adequacy of available administrative oversight.

4. Facilities shall be organized so that administrative personnel do not perform any clinical duties and/or make clinical decisions, unless the individual is licensed or certified to make clinical decisions.

B. Referrals, Credentials, and Contract Services

1. Facility personnel shall report referral violations of laws, rules, and professional and ethical codes of conduct to HSS and to appropriate licensing boards when applicable. The facility shall maintain records and have written policies governing staff conduct and reporting procedures that comply with this requirement.

2. The facility administrator is responsible for assuring that all credentials are from accredited institutions, are legal, and have been verified to deter the fraudulent use of credentials.

3. The facility must have formal written agreements with outside professionals or other entities retained to provide contract services. Both parties shall document the annual review of each agreement.

C. Staffing Criteria. Each facility shall develop and implement staffing level criteria to assure compliance with all licensing standards and to provide quality care within the established parameters of current standards of practice.

1. Consideration for determination of adequate nursing staffing levels will include:

- a. acuity of patients;
- b. physical design of facility;
- c. equipment design and complexity; and
- d. additional pertinent information as needed.

2. A registered nurse or physician shall be present during and after treatment and until the last patient has left the facility.

3. Any experience used to qualify for any position must be counted by using one year of experience equals 12 months of full-time work.

4. A person may hold more than one position within the facility if that person is qualified to function in both capacities, and the required hours for each job are separate and apart for each position.

5. Social work staffing shall be based on the staffing guidelines developed by the Council of Nephrology Social Workers which addresses the following:

a. treatment setting;

b. number of patients seen or anticipated to be seen in a year;

c. their psychological risk (acuity); and

d. the number of mutually agreed upon social work functions, including, but not limited to:

- i. psycho-social evaluations;
- ii. casework counseling;
- iii. group work;
- iv. information and referral;
- v. facilitating community agency referral;
- vi. team care planning and collaboration;
- vii. transfer planning;
- viii. pre-admission planning;
- ix. discharge planning
- x. facilitating use of hospital and/or facility services
- xi. patient/family education;
- xii. financial assistance;
- xiii. staff consultation; and
- xiv. community health services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2197 (October 2002).

§8441. Training

A. Each employee shall complete appropriate orientation to the facility and to his/her work responsibilities prior to providing direct patient care/contact. The content of the basic orientation provided to all employees at the time of employment/annual review shall include:

1. policies/procedures and objectives of the facility;
2. duties and responsibilities of the employee;
3. organizational/reporting relationships;
4. ethics and confidentiality;
5. patient's rights;
6. standards of conduct required by the facility;
7. information on the disease process and expected

outcomes;

8. emergency procedures including the disaster plan and evacuation procedures;

9. principals and practices of maintaining a clean, healthy and safe environment;

10. specific information as appropriate to the employee's job duties;

11. universal precautions;

12. violent behavior in the workplace;

13. abuse/neglect and exploitation;

14. overview of ESRD licensing standards; and

15. basic emergency care of ill or injured persons until trained personnel can arrive.

B. In-service training is an educational offering that shall assist the direct care/contact workers in providing current treatment modalities, and serve as refresher for subjects covered in orientation. Documentation of attendance for at least three in-services per quarter is required. Additional educational programs are encouraged.

C. Patient Care Technician (PCT) or Dialysis Technician. Training and orientation shall reflect the American Nephrology Nurses Association (ANNA) standards of clinical practice, including but not limited to:

1. anatomy and physiology of the renal system;

2. principles of water treatment;

3. dialyzer reprocessing;

4. basics of nutrition in renal failure;

5. understanding of ethical issues impacting on nephrology practice;

6. communication and interpersonal skills;

7. standard precautions, as recommended by the Center for Disease Control;

8. concepts and principles of hemodialysis;

9. arteriovenous puncture for dialysis access techniques;

10. use of heparin in dialysis procedures;

11. use of isotonic saline in dialysis;

12. maintenance of the delivery system:

a. integrity of extra corporeal circuit;

b. pressure monitor readings;

c. anticoagulant delivery;

d. blood flow rate;

e. alarm limits and/or conditions;

13. observation and reports of complications to the registered nurse;

14. post-treatment access care guidelines;

15. disposal of supplies in compliance with standard precautions; and

16. agency policy regarding the cleaning of equipment and treatment area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2198 (October 2002).

§8443. Personnel Qualifications and Responsibilities

A. Chief Executive Officer or Administrator

1. Qualifications are as cited in the CFR and designated in writing by the governing body.

2. Responsibilities include:

a. enforcement of local, federal and state requirements;

b. overall management of the facility;

c. annual documented review and appropriate actions taken on all policies, procedures, facility rules, goals, grievances, budget, internal and external evaluations (including all survey findings);

d. implementation and enforcement of codes of conduct to ensure professional, ethical and legal operations; and

e. implementation and enforcement of facility practices that ensure that employees have the necessary administrative support to provide therapeutic milieu for patients (including adequate staff, supplies, and other support).

B. Clinical Nursing Supervisor

1. Qualifications

a. currently licensed as a registered nurse in the state of Louisiana;

b. eighteen months or more of clinical experience as a registered nurse; and

c. six months or more of clinical experience which must include: nursing care of a patient with permanent kidney failure or who is undergoing kidney transplantation, including training in and experience with the dialysis process.

2. Responsibilities include:

a. supervising the clinical nursing functions of the facility;

b. performing the liaison duties between others, including facility staff, physicians and patients;

c. supervising the training and performance of the technicians and non-medical staff in order to ensure safe care;

d. functioning as a patient advocate; and

e. accepting responsibility and accountability for the assessment, planning, intervention, teaching, supervision, and evaluation of care to ensure that the patient receives safe and effective dialysis treatment according to the prescribed treatment plan and in accordance with LAC 46:XLVII.3901-3913.

C. Charge Nurse

1. Qualifications

a. currently licensed as registered nurse in the state of Louisiana;

b. six months or more of clinical experience as a registered nurse; and

c. three months or more of the clinical experience must include nursing care of a patient with permanent kidney failure or who is undergoing kidney transplantation, including training in and experience with the dialysis process.

d. The charge nurse shall be onsite and available to staff and patients in the treatment area, but may leave the immediate treatment area for meals and breaks.

2. Responsibilities include:

a. accepting responsibility and accountability for the assessment, planning, intervention, teaching, supervision, and evaluation of care to ensure that the patient will receive safe and effective dialysis treatment according to the prescribed treatment plan and in accordance with LAC 46:XLVII.3901-3913;

b. performing initial verification and biannual validation of cannulating skills of dialysis technicians and LPN's;

c. providing supervision and assistance as needed to RN's, LPN's and dialysis technicians; and

d. being on site and available in the treatment area to provide patient care during all dialysis treatments, but may leave the immediate area for meals and breaks. However, during these periods of absence the facility must insure that all necessary care can be delivered by the licensed person on duty.

D. Registered Nurse

1. Qualifications. Possession of a current valid license or be an RN applicant with a temporary permit to practice in Louisiana.

2. Responsibilities include:

a. accepting responsibility and accountability for the assessment, planning, intervention, teaching, supervision, and evaluation of care to ensure that the patient will receive safe and effective dialysis treatment according to the prescribed treatment plan and in accordance with LAC 46:XLVII.3901-3913;

b. conducting admission nursing assessments with each visit prior to delegating any task other than collection of data (vital signs only);

c. reassessing patients as needed to determine a change in the patient's status or at the patient's request;

d. participating in the team review of a patient's progress;

e. recommending changes in treatment based on the patient's current needs;

f. providing oversight and direction to dialysis technicians and LPN's; and

g. participating in continuous quality improvement activities.

3. Registered nurses may perform the duties of the nursing positions cited above for which they are qualified and designated.

E. Dietitian/Nutritionist

1. Qualifications. Possession of a currently valid license with the Louisiana Board of Dietitians/Nutritionists.

2. Responsibilities include:

a. those duties defined in R.S. 37:3081-3094;

b. providing in-service and staff training, consultation to professionals and paraprofessionals, and direct supervision as needed to improve the overall quality of care being provided;

c. conducting individual and/or group didactic and counseling interaction with patients as needed to achieve compliance with dietary restrictions;

d. documenting direct communication with other dietitians who may be involved in the patient's care, such as dietitians at the nursing home, assisted living, etc;

e. providing continuous learning opportunities for patients and/or care givers, including regionally appropriate recipes when possible; and

f. providing adequate knowledge to staff to reinforce patient education.

F. Social Worker

1. Qualifications. Currently licensed by the Louisiana State Board of Social Work Examiners as a Licensed Clinical Social Worker.

2. Responsibilities include those duties defined in R.S. 37:2701-2723 including, but not limited to:

a. Assessment and evaluation of an individual's strengths, weaknesses, problems, and needs for the development of the treatment plan.

b. Case Management function in which services, agencies, resources, or people are brought together within a planned framework of action directed toward the achievement of established goals. It may involve liaison activities and collateral contracts with other facilities.

c. Patient Education function in which information is provided to individuals and groups concerning the disease process and treatment, positive lifestyle changes, and available services and resources. Facility orientation may be included with information given regarding rules governing patient conduct and infractions that can lead to disciplinary action or discharge from the facility, availability of services, costs, and patient's rights.

d. Counseling (Individual/Group) services to provide appropriate support to the patient and/or family to assist individuals, families, or groups in achieving objectives through:

- i. exploration of a problem and its ramifications;
- ii. examination of attitudes and feelings;
- iii. consideration of alternative solutions; and
- iv. decision making and problem solving.

e. Referral assisting patient and/or family to optimally utilize the available support systems and community resources.

f. Treatment Planning function in which all disciplines and the patient:

- i. identify and rank problems needing resolution;
- ii. establish agreed upon immediate objectives and long-term goals; and
- iii. decide on a treatment process, frequency, and the resources to be utilized.

G Medical Director. Every facility shall have a designated medical director.

1. Qualifications

a. the medical director shall have a current, valid license to practice medicine in Louisiana;

b. be board certified in Internal Medicine or Pediatrics, or board eligible, or board certified in Nephrology;

c. have completed an accredited Nephrology training program;

d. have at least 12 months of experience or training in the care of patients at ESRD facilities; and

Exception: In emergency situations, such as, isolated rural areas, natural disasters, or the death of the qualified director, DHH may approve the interim appointment (for a limited time period) of a licensed physician who does not meet the above criteria.

2. Responsibilities include:

a. providing services as required by the facility to meet the standards;

b. providing oversight to ensure that the facility's policies/procedures and staff conform with the current standards of medical practice;

c. performing liaison duties between others, including facility staff, physicians, and patients;

d. ensuring that each patient at the facility receives medical care and supervision appropriate to his/her needs; and

e. ensuring that each patient is under the care of a physician.

H. Physician Services.

1. Each patient shall be under the care of a physician on the medical staff.

2. At a minimum, each patient receiving dialysis in the facility shall be seen by a physician, physician's assistant, or advanced practice nurse once every two weeks; home patients shall be seen at least every three months. There shall be evidence of monthly assessment for new and recurrent problems and review of dialysis adequacy.

3. At a minimum, each patient, whether receiving dialysis in the facility or at home, shall be seen by a physician once every twelve months.

4. If advanced practice nurses or physicians assistants are utilized:

a. there shall be evidence of communication with the treating physician whenever the advanced practice registered nurse or physicians assistant changes treatment orders;

b. the advanced practice nurse or physicians assistant may not replace the physician in participating in patient care planning or in quality management activities; and

c. the treating physician shall be notified and direct the care of patient medical emergencies.

H. Patient Care Technician (PCT) or Dialysis Technician

1. Qualifications include basic general education (high school or equivalent) and dialysis training as specified in §8441.C.

2. Responsibilities include:

a. performing patient care duties only under the direct and on-site supervision of qualified registered nurses;

b. performing only those patient care duties that are approved by facility management and included in the policy and procedure manual; and

c. performing only those patient care duties for which they have been trained and are documented as competent to perform.

I. Reuse Technician

1. Qualifications. Basic general education (high school or equivalent), facility orientation program, and completion of education and training to include the following:

a. health and safety training, including universal precautions;

b. principles of reprocessing, including dangers to the patient;

c. procedures of reprocessing, including pre-cleaning, processing, storage, transporting, and delivery;

d. maintenance and safe use of equipment, supplies, and machines;

e. general principles of hemodialysis and in-depth information on dialyzer processing; and

f. competency certification on a biannual basis by a designated facility employee.

2. Responsibilities. The reuse technician is responsible for the transport, cleaning, processing, and storage of dialyzers to limit the possibility of cross contamination, and to avoid improper care of multiple use dialyzers.

3. Any technician or professional staff who performs reprocessing shall have documented training in the procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2198 (October 2002).

Subchapter D. Patient Care

§8455. Patient's Rights

A. Facilities are required to develop, post, and implement rules and policies that protect the rights of patients and encourage patient responsibility.

1. The facility shall have an operational/documented patient advice process in place that gives feedback to the administration of the facility.

B. Patient's Rights. Each facility shall develop and implement policies that protect the rights of their patients including, but not limited to, the right to:

1. be fully informed of rights, responsibilities and all rules governing conduct related to patient care and services;
2. be fully educated and supported concerning their illness;
3. adequate, safe and efficient dialysis treatment;
4. protection from unsafe and/or unskilled care by any person associated with the facility;
5. protection from unqualified persons providing services under the auspices of treatment;
6. consideration and respect toward the patient, family and visitors;
7. timely resolution of problems or grievances without threat or fear of staff intimidation or retaliation;
8. protection of personal property approved for use by the facility; and
9. protection from retaliation for the exercise of individual rights.

C. Grievance Procedure. The facility must have a grievance process and must indicate who the patient can contact to express a grievance. Records of all grievances, steps taken to investigate them, and results of interventions must be available to surveyors upon request. It is recommended that the facility appoint a grievance committee with patient representation to resolve major or serious grievances.

D. Abuse, Neglect, and Exploitation

1. The facility is responsible for taking necessary action to protect patients from an employee accused of abuse, neglect, or exploitation, for referring any licensed personnel to their respective professional boards, and/or contacting local authorities for investigation when indicated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2201 (October 2002).

§8457. Treatment Services

A. The facility must provide outpatient dialysis services as well as adequate lab, social, and dietetic services to meet the needs of ESRD patients. The facility must provide one or both of the following services.

1. Hemodialysis Ca method of dialysis in which blood from a patient's body is circulated through an external device or machine and then returned to the patient's bloodstream.

2. Peritoneal Dialysis Ca procedure that introduces dialysate into the abdominal cavity to remove waste products through the peritoneum (a membrane which surrounds the intestines and other organs in the abdominal cavity).

B. In addition, the following services may be provided by a facility.

3. Home Training C home visits, teaching, and professional guidance to teach patients to provide self-dialysis.

4. Home Support C provision of professional support to assist the patient who is performing self-dialysis.

B. Dialyzer Reprocessing. Reuse shall meet the requirements of 42 CFR. §405.2150. Additionally, the facility shall:

1. develop, implement, and enforce procedures that eliminate or reduce the risk of patient care errors, including but not limited to, a patient receiving another patient's dialyzer, or a dialyzer that has failed performance checks;
2. develop procedures to communicate with staff and to respond immediately to market warnings, alerts, and recalls;
3. develop and utilize education programs that meet the needs of the patient and/or family members to make informed reuse decisions; and
4. be responsible for all facets of reprocessing, even if the facility participates in a centralized reprocessing program.

C. Water treatment shall be in accordance with the American National Standard, Hemodialysis Systems published by the Association for the Advancement of Medical Instrumentation (AAMI Standards) and adopted by reference 42 CFR. §405.2140.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2201 (October 2002).

§8459. Treatment Requirements

A. Admission

1. Each facility shall develop and implement written criteria to apply when any patient is referred for dialysis treatment or seeks admission, to include:

- a. payment guidelines, and alternate resources;
 - b. exceptions to apply when the patient would have to travel great distances, or suffer undue hardship to be treated at another facility; and
 - c. consideration of the patient's health and welfare.
2. Each facility shall develop a process that includes:
- a. perpetual logging of applicants to assure that all patients are treated equally and offered equal access;
 - b. referral to appropriate facilities or outside resources;
 - c. contracts with those patients who have a history of problems at other facilities, such as disruptive, threatening and abusive behavior to staff or other patients; and
 - d. professional interaction with other facilities when a patient has financial or behavior problems that cannot be resolved.

B. Patient Care C Miscellaneous

1. Patients must be informed whenever there is an error or incident that exposes them to an infectious illness or the potential for death or serious illness.

2. Facility staff should inform patients of current changes in the dialysis field when those changes could positively or negatively affect the patient.

C. Discharge/Transfer

1. Each facility shall develop and implement written criteria to apply when a patient is discharged without consent to include:

- a. reason for discharge (such as, non-compliance or illegal behavior);
- b. progressive procedures to assist the patient in making improvements;
- c. assistance to aid the patient in finding a new facility; and
- e. evaluation of each situation to improve outcomes.

2. A written, patient specific discharge process plan shall be accessible that provides reasonable protection and continuity of services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2201 (October 2002).

§8461. Patient Records.

A. The facility is required to maintain a clinical record according to current professional standards for each patient.

1. This record shall:

- a. contain all pertinent past and current medical, psychological, social and other therapeutic information, including the treatment plan;
- b. be protected from unauthorized persons, loss, and destruction; and
- c. be a central location for all pertinent patient information and be easily accessible to staff providing care.

2. Patient records can be copied and/or transferred from one facility to another provided that the patient signs the authorization for transfer of the records and provided that confidentiality of information is strictly enforced.

3. Patient records shall be maintained at the facility where the patient is currently active and for six months after discharge. Records may then be transferred to a centralized location for maintenance in accordance with standard practice and state and federal laws.

4. Confidentiality. Records shall:

- a. be inaccessible to anyone not trained in confidentiality, unless they are granted access by legal authority such as surveyors, investigators, etc.; and
- b. not be shared with any other entity unless approved in writing by the patient, except in medical emergencies.

5. Record Keeping Responsibility. A person who meets or exceeds the federal requirements, shall be designated as responsible for the patient records.

6. Contents. Patient records shall accurately document all treatment provided and the patient's response in accordance with professional standards of practice. The minimum requirements are as follows:

- a. admission and referral information, including the plan/prescription for treatment;
- b. patient information/data - name, race, sex, birth date, address, telephone number, social security number, school/employer, and next of kin/emergency contact;
- c. medical limitations, such as major illnesses and allergies;
- d. physician's orders;
- e. psycho-social history/evaluation; and
- f. treatment plan. The plan is a written list of the patient's problems and needs based on admission information and updated as indicated by progress or lack of progress. Additionally, the plan shall:
 - i. contain long and short term goals;
 - ii. be reviewed and revised as required, or more frequently as indicated by patient needs;
 - iii. contain patient-specific, measurable goals that are clearly stated in behavioral terms;
 - iv. contain realistic and specific expected achievement dates;
 - v. indicate how the facility will provide strategies/activities to help the patient achieve the goals;
 - vi. be followed consistently by all staff members; and
 - vii. contain complete, pertinent information related to the mental, physical, and social needs of the patient.
- g. diagnostic laboratory and other pertinent information, when indicated;
- h. progress notes by all disciplines; and
- i. other pertinent information related to the individual patient as appropriate.

7. Computer data storage of pertinent medical information must:

- a. meet the above criteria;
- b. be easily retrievable and accessible when the patient is receiving dialysis; and
- c. be utilized by care givers during dialysis treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2117.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2202 (October 2002).

David W. Hood
Secretary

0210#062

RULE
Department of Labor
Office of Workforce Development

Customized Training Fund
(LAC 40:XVI.105)

In accordance with R.S. 49:905 et seq. that the Louisiana Department of Labor, pursuant to authority vested in the Department by R.S. 23:1514 and in accordance with applicable provisions of the Administrative Procedure Act, has amended rules governing the workforce development training account, LAC 40:XVI.105, to provide for the requirements for approval of applications requesting funds in excess of five percent of the available funds during a fiscal year.

Title 40
LABOR AND EMPLOYMENT
Part XVI. Customized Training

Chapter 1. Workforce Development Training Fund

§105. Criteria

A. - B. ...

C.1. No single employer or consortium shall receive training funds more than once in a 24-month time period. No single employer or consortium shall receive more than five percent of the total funds available to the program during a fiscal year. An employer with multiple operation sites and a single unemployment insurance tax identification number shall be limited to a single application which may encompass training at the various sites, as long as the amount awarded under the application does not exceed the maximum award amount. When an employer has more than one site and each site maintains a different unemployment insurance tax identification number, the employer may apply for a separate training award under each tax identification number.

2. An employer or consortium can request a grant award in excess of five percent of the total funds available to the program in a fiscal year. Such grant award may be approved at the discretion of the Secretary of Labor when the employer or consortium submits satisfactory documentation which allows for a determination that the training provided to employees of the employer or consortium will result in a substantial economic impact in the state. In addition, the employer or consortium's application must meet the following conditions.

a. The wages of individuals to be trained with the funds will be increased at the completion of the training.

b. The additional funds will be used to allow for a significant increase in the number of individuals to be trained.

c. The employer or consortium will provide a dollar-for-dollar match of the funds provided in the grant award to assist with the total cost of the training, any activities related to the grant award or any economic development activities that can be verified by statistical data from a recognized state or federal source.

D. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended LR 26:1629 (August 2000), LR 28:2203 (October 2002).

Dawn Romero Watson
Secretary of Labor

0210#036

RULE
Office of Public Safety and Corrections
Board of Private Security Examiners

Company Licensure Requirements; Application
Procedure; Security Officer Registration
Requirements; and Firearm Training
(LAC 46:LIX. 201, 203, 301, and 405)

Under the authority of the Private Security Regulatory and Licensing Law, R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the executive secretary has amended the Louisiana State Board of Private Security Examiners Regulations, LAC 46:LIX:201, 203, 301, and 405, as follows.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIX. Private Security Examiners

Chapter 2. Company Licensure

§201. Qualifications and Requirements for Company Licensure

A. - E. ...

1. two sets of classifiable fingerprints on FBI fingerprint cards with the appropriate processing fee of the applicant or qualifying agent and/or of each officer, partner or shareholder (except for shareholders of publicly traded corporations);

E.2 - L.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:752 (December 1987), amended LR 15:847 (October 1989), LR 18:190 (February 1992), LR 23:588 (May 1997), LR 26:1068 (May 2000), LR 28:96 (January 2002), LR 28:2203 (October 2002).

§203. Application Procedure

A. - A.7.e. ...

f. two sets of classifiable fingerprints on FBI fingerprint cards with the appropriate processing fee;

g. - j. ...

8. two classifiable sets of prints on FBI fingerprint cards with the appropriate processing fee for the applicant, or of the manager, of each officer, partner or shareholder (except for shareholders of publicly traded corporations);

A.9. - H. ...

I. Renewal Provisions

1. A \$200 annual renewal fee, along with two FBI fingerprint cards and the appropriate processing fee for each person required to submit FBI fingerprint cards with the original application or who has subsequently become associated with the applicant in a capacity which would

require submission of fingerprint cards for such person under these rules, must be submitted to the board 30 days prior to the expiration date of the license. If there have been any changes in the status of the company, then a new company application must also be submitted, along with a \$20 application fee.

J. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:752 (December 1987), amended LR 15:12 (January 1989), LR 15:847 (October 1989), LR 26:1070 (May 2000), LR 28:97 (January 2002), LR 28:2203 (October 2002).

Chapter 3. Security Officer Registration

§301. Qualifications and Requirements for Security Officer Registration

A. - D.2. ...

3. non-refundable application fee and fingerprint processing fee;

4. if a resident alien, copies of INS registration papers and completed Employment Eligibility Verification (Form I-9) together with identification documents submitted therewith;

5. if a U.S. citizen, copy of completed Employment Eligibility Verification (Form I-9) together with identification documents submitted therewith;

6. copy of photo I.D.; and

7. if applicant has worked less than 20 calendar days, documentation must nevertheless be submitted, but without the required fees if a termination form is included showing the dates worked.

E. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:753 (December 1987), amended LR 15:11 (January 1989), LR 13:846 (October 1989), LR 18:191 (February 1992), LR 23:588 (May 1997), LR 26:1072 (May 2000), LR 27:1241 (August 2001), LR 28:2204 (October 2002).

Chapter 4. Training

§405. Firearms Training

A. - E.3. ...

4. shotgun;

5. 40 caliber weapon, minimum 4-inch barrel.

F. - H.2.d. ...

I. Security officers are prohibited from carrying rifles, except when requested in writing the executive secretary on a case-by-case basis may authorize the carrying of a semiautomatic rifle in the event of a national security emergency or public safety necessity. Denial by the executive secretary is appealable to the board. Security officers shall be required to complete the training required in Section 405.J before they may carry a semiautomatic rifle when authorized by the executive secretary.

J. Semiautomatic Rifle Proficiency Course. The semiautomatic rifle proficiency course shall have the following requirements.

1. Training in use of a semiautomatic rifle is to be taught only if the security officer is required to carry a semiautomatic rifle in the performance of his duties.

2. Security officer shall qualify with a semiautomatic rifle by firing the 100-yard course of fire specified by the

National Rifle Association or a nationally recognized equivalent course of fire approved by the board. Qualifying score shall be an accumulated total of 80 percent of the maximum obtainable score.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:192 (February 1992), amended LR 23:588 (May 1997), LR 26:1073 (May 2000), LR 27:1241 (August 2001), LR 28:2204 (October 2002).

Wayne R. Rogillio
Executive Secretary

0210#025

RULE

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

**Wrap-Around Child Care Program
(LAC 67:III.Chapter 52)**

The Department of Social Services, Office of Family Support, has repealed Title 67, Part III, Chapter 52, the Wrap-Around Child Care Program.

The agency implemented this program effective June 1, 2000. Whereas, the program has had limited participation and has not served the public as originally intended, the agency does not anticipate extending or renewing contracts beyond the 01/02 State Fiscal Year. The repeal has formally terminated the program effective at publication of this final Rule.

Title 67

SOCIAL SERVICES

Subpart 12. Child Care Assistance

Chapter 52. Wrap-Around Child Care Program

§5201. Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), repealed LR 28:2204 (October 2002).

§5202. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR 27:1560 (September 2001), repealed LR 28:2204 (October 2002).

§5203. Conditions of Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR 27:1560 (September 2001), repealed LR 28:2204 (October 2002).

§5205. Income Limits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:1560 (September 2001), repealed LR 28:2204 (October 2002).

§5207. Rights and Responsibilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), repealed LR 28:2205 (October 2002).

§5209. Head Start Grantees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:1560 (September 2001), repealed LR 28:2205 (October 2002).

§5211. Payments Effective May 1, 2001

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:431 (March 2001), amended LR 27:1561 (September 2001), repealed LR 28:2205 (October 2002).

Ann S. Williamson
Assistant Secretary

0210#093

RULE

Department of Treasury

Credit Card Acceptance by State Agencies
(LAC 71:I.903 and 911)

Under the authority of R.S. 49:316.1, the Department of the Treasury has amended §903 and §911 of the Credit Card Acceptance in accordance with the Administrative Procedure Act, R.S. 950 et seq.

**Title 71
TREASURY**

Part I. Treasurer

Chapter 9. Credit Card Acceptance by State Agencies

§903. Definitions

* * *

State Charge Ca fee established by the treasurer in the form of a uniform dollar amount or percentage assessed for each card or device and for each method of conducting transactions to be accepted by state entities.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:736 (May 2001), amended LR 28:2205 (October 2002).

§911. State Charge

A. Treasury, from time to time, will negotiate with card providers for a fee for processing payment card transactions with state entities. Treasury will seek to achieve reasonable fees that reflect the economies of scale achieved by negotiation. The fees may be composed of a percentage

and/or a specific dollar amount as determined by treasury and the card providers.

B. The state charges shall encompass these various fees charged by card providers and include other applicable fees including fees by third party processors, or fees assessed by providers of Internet payment processing services. The state charges shall be in the form of a uniform dollar amount or percentage assessed for each card or device and for each method of conducting transactions to be accepted by state entities. The state charges will be revised from time to time and the treasurer shall notify state entities of the revised state charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001), amended LR 28:2205 (October 2002).

Ron J. Henson
First Assistant State Treasurer

0210#026

RULE

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

Coastwide Nutria Control Program (LAC 76:V.123)

The Wildlife and Fisheries Commission has adopted a Rule to establish a coastwide nutria control program.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§123. Coastwide Nutria Control Program

A. The Department of Wildlife and Fisheries does hereby establish regulations governing participation in the coastwide nutria control program. The administrative responsibility for this program shall rest with the department secretary; the assistant secretary, Office of Wildlife; and the Fur and Refuge Division.

1. The coastwide nutria control program objective is to provide economic incentive, by payment of \$4 per nutria tail to participants, to encourage the harvest of up to 400,000 nutria annually from coastal Louisiana. For the purpose of this program, coastal Louisiana is bounded on the north by Interstate 10 from the Louisiana-Texas line to Baton Rouge, Interstate 12 from Baton Rouge to Slidell, and Interstate 10 to the Louisiana-Mississippi line.

2. Participant Application Process

a. Participants must acquire a valid Louisiana trapping license.

b. Participants must submit a completed nutria control program participant application to the department or its contractor.

c. To be considered complete, the application must contain the following information: name, address, telephone number, social security number, and trapping license number of applicant; tax receipt and a description of property to be trapped/hunted (acres, parish, township, range, section); name, address, and telephone number of landowner (private or public); signature of participant; and signature of

landowner or designated representative indicating permission to hunt or trap nutria on the described property.

d. For applications determined to be complete and valid, the participant will be notified by mail that his/her registration is finalized and a nutria control program registration number will be issued.

e. The participant must indicate if an assistant will be delivering tails on his behalf to a collection center and the participant must provide the name of the assistant(s) on the application.

f. Applications submitted to the department or its contractor by October 1 shall be processed by the opening of trapping season. Applications submitted to the department or its contractor after October 1 shall be processed in the order received.

g. Applications listing only waterbodies, without signature of an adjacent landowner or designated representative, shall be considered incomplete.

h. Applications determined to be incomplete or invalid will be returned to the applicant with an explanation as to why registration could not be finalized.

3. Harvest of Nutria

a. Participants must possess a valid trapping license and a nutria control program registration number.

b. Only nutria harvested during the open trapping season, from coastal Louisiana and taken from property permitted can be included in this program.

c. Nutria may be taken by any legal method except that if taken with a shotgun, steel shot must be used.

d. Participants are required to remove carcasses from the trapping/hunting area or if carcasses are not sold whole, they must be placed in such a manner as to prohibit feeding on the carcasses by birds, including southern bald eagles. Carcasses may be buried, placed in heavy overhead vegetation or concealed by any other means necessary to prevent consumption by birds.

4. Collection of Nutria Tails for Payment

a. Collection stations will be established across coastal Louisiana by the department or its contractor.

b. Evidence of nutria harvested shall be in the form of delivering severed nutria tails to a collection station during a designated period. Collections will begin on or about November 20. Specific dates and times of collections will be established and advertised for each station.

c. Participant or a designated assistant must present the nutria control registration number and proper identification to the department contractor.

d. Participant or designated assistant shall present to the department contractor only fresh or well-preserved (iced, frozen, salted) nutria tails in a manner that allows counting of individual tails (e.g., tails cannot be frozen together in a block). Only whole tails, greater than 7 inches in length will be accepted.

e. Participant shall declare parish, section, township, and range in coastal Louisiana where animals were taken and indicate method of take and carcass use. Tails from animals taken from outside of the participants permitted property shall not qualify for payment in this program.

f. Participant shall sign the receipt/voucher provided by the department contractor to acknowledge

number of tails presented and accuracy of information provided.

5. Violation of any part of these regulations is a class 2 violation and conviction may result in disqualification from the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:2205 (October 2002).

Thomas M. Gattle, Jr.
Chairman

0210#040

RULE

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

Deer and Elk Importation (LAC 76:V.117)

The Wildlife and Fisheries Commission has amended the rules governing white-tailed deer importation.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§117. Deer and Elk Importation

A. Definitions

White-Tailed Deer Any animal of the species *Odocoileus virginianus*.

Mule Deer or Black-Tailed Deer Any animal of the species *Odocoileus hemionus*.

Elk or Red Deer Any animal of the species *Cervus elaphus*.

B. No person shall import, transport or cause to be imported or transported live white-tailed deer, mule deer, or black-tailed deer (hereinafter "deer"), into or through the state of Louisiana. No person shall import, transport or cause to be imported or transported, live elk or red deer (hereinafter "elk") into or through Louisiana in violation of any imposition of quarantine by the Louisiana Livestock Sanitary Board. Any person transporting deer or elk between licensed facilities within the state must notify the Department of Wildlife and Fisheries and provide information as required by the department prior to departure from the source facility and again upon arrival at the destination facility. A transport identification number will be issued upon providing the required information prior to departure. Transport of deer or elk between licensed facilities without a valid transport identification number is prohibited. Notification must be made to the Enforcement Division at 1-800-442-2511. All deer or elk imported or transported into or through this state in violation of the provisions of this ban shall be seized and disposed of in accordance with LWFC and Department of Wildlife and Fisheries Rules and Regulations.

C. No person shall receive or possess deer or elk imported or transported in violation of this Rule. Any person accepting delivery or taking possession of deer or elk from another person has a duty to review and maintain bills of

sale, bills of lading, invoices, and all other documents which indicate the source of the deer or elk.

D. This Rule shall be in effect until May 30, 2005.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6(10), (13) and (15), R.S. 56:20, R.S. 56:112, R.S. 56:116.1 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:1140 (June 1998), repromulgated LR 24:1325 (July 1998), amended LR 28:2206 (October 2002).

Thomas M. Gattle, Jr.
Chairman

0210#041

RULE

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

Disposal of Illegal Live Deer and Elk (LAC 76:V.121)

The Wildlife and Fisheries Commission has amended rules governing disposal of confiscated deer and elk.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§121. Disposal of Illegal Live Deer and Elk

A. Definitions

Elk or Red Deer Any animal of the species *Cervus elaphus*.

Mule Deer or Black-Tailed Deer Any animal of the species *Odocoileus hemionus*.

White-Tailed Deer Any animal of the species *Odocoileus virginianus*.

B. White-tailed deer, mule deer, black-tailed deer, elk, or red deer imported into Louisiana in violation of Louisiana Wildlife and Fisheries Commission (LWFC) rules or state statutes shall be euthanized by the Louisiana Department of Wildlife and Fisheries (LDWF), or its designee, in a manner conforming to the 2000 Report of the AVMA Panel on Euthanasia. At the discretion of the LDWF, white-tailed deer originating from within Louisiana and possessed in violation of LWFC rules or state statutes, may be euthanized in a manner conforming to the 2000 Report of the AVMA Panel on Euthanasia, or placed with a licensed game breeder in accordance with LDWF guidelines. Certainty of origin, confinement history, and age will be among the factors considered by LDWF in making a determination regarding disposition of white-tailed deer originating from within Louisiana. White-tailed deer placed with licensed game breeders shall remain in confinement for their entire lives and shall not be released into the wild.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6(10), (13) and (15), R.S. 56:20, R.S. 56:112, R.S. 56:116.1 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:2207 (October 2002).

Thomas M. Gattle, Jr.
Chairman

0210#042

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Horticulture Commission

Application for Examination
and Licensure or Permitting
(LAC 7:XXIX.107 and 119)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, hereby proposes to amend regulations regarding advertisement and solicitation for non-licensed landscape architects or retail florists.

The Rule change to §107 extends the time period for retail florists to complete passage of the retail florist exam and reduces the need for retail florists to retake parts of the exam. The Rule change to §119 limits the use of the word design or designer to licensed landscape architects or retail florists, in order to further delineate the distinction between the professions of landscape contractor and landscape architect.

These rules are enabled by R.S. 3:3801.

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticultural Commission

Chapter 1. Horticulture

§107. Application for Examination and Licensure or Permitting

A. Each applicant must complete the application form prescribed by the commission for the area in the practice of horticulture for which the license or permit is sought.

B. Retail Florist

1. - 2. ...

3. Both phases of the examination for licensure as a retail florist must be successfully completed within three years after successful completion of one phase. In any case where more than three years has elapsed since the applicant successfully completed one phase of the examination, the applicant must apply, and pay the fee required under §109.A.1, to retake the entire examination.

C.2. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807, and 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 18:249 (March 1992), LR 20:639 (June 1994), LR 23:854 (July 1997), LR 29:

§119. Prohibition

A. - E. ...

F. No licensee, permittee or person engaged in any profession or occupation regulated by the commission shall use the words "design" or "designer" or any form of these words, whether separately or in combination with other words in any advertisement, solicitation or title, or on any

estimate, contract or other document, except for those persons who are licensed as a landscape architect or as a retail florist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:186 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 29:

Family Impact Statement

The proposed amendments to rules LAC 7:XXIX.Chapter 1 regarding advertisement and solicitation for non-licensed landscape architects or retail florists regulations 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 children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rules through November 25, 2002, to Craig Roussel, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806. No preamble concerning the proposed rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Application for Examination and Licensure or Permitting

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Neither of these Rule changes will increase costs or savings to state or local governmental units. The Rule change extends the time period for retail florists to complete passage of the retail florist exam and reduces the need for retail florists to retake parts of the exam. The second change limits the use of the word design or designer to licensed landscape architects or retail florists, in order to further delineate the distinction between the professions of landscape contractor and landscape architect.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state and local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to the retail florist industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment in the public and private sectors.

Skip Rhorer Robert E. Hosse
 Assistant Commissioner General Government Section Director
 0210#063 Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
 CInstructional Program Standards (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). The change in the Rule changes the name of the Proficient achievement level to the Mastery achievement level for LEAP 21 and GEE 21. This change is required by the No Child Left Behind Act of 2001.

**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 27:694-695 (May 2001); LR 27:695-702 (May 2001); LR 27:815-820 (June 2001); LR 28:1936 (September 2002), LR 29:

**Instructional Program Standards
 Louisiana Educational Assessment Program**

1.009.03 Each school system shall participate in the Louisiana Educational Assessment Program.

Performance standards for <i>LEAP for the 21st Century</i> (LEAP 21) and Graduation Exit Examination for the 21 st Century (GEE 21) are equal to the rigor of the National Assessment of Educational Progress (NAEP) performance standards.	
Achievement Level Labels	
Label and Short Description	Policy Definition
Advanced	A student at this level has demonstrated superior performance beyond the mastery level.
Mastery (Exceeding the Standard)	A student at this level has demonstrated competency over challenging subject matter and is well prepared for the next level of schooling.
Basic (Meeting the Standard)	A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Approaching Basic (Approaching the Standard)	A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.
Unsatisfactory	A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling.
District-wide test results, but not scores or rankings of individual students, shall be reported to the local educational governing authority at least once a year at a regularly scheduled local educational governing authority meeting. A school system shall not conduct any program of specific preparation of the students for the assessment program by using the part icular test to be administered therein.	

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed rule affect the stability of the family? No
2. Will the proposed rule affect the authority and rights of parents regarding the education and supervision of their children? No
3. Will the proposed rule affect the functioning of the family? No
4. Will the proposed rule affect family earnings and family budget? No
5. Will the proposed rule affect the behavior and personal responsibility of children? No
6. Is the family or a local government able to perform the function as contained in the proposed rule? No

Interested persons may submit written comments until 4:30 p.m., December 9, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
 Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
 FOR ADMINISTRATIVE RULES**

RULE TITLE: Bulletin 741C Louisiana Handbook for School Administrators C Instructional Program Standards

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
 The current rule change added no additional costs (savings) to the state or local government units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 There is no effect on revenue collections at the state or local levels.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
 There should be no effect on costs and/or economic benefits to directly affected persons in nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There should be no impact on competition and employment.

Marilyn Langley
Deputy Superintendent
Management and Finance
0210#035

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of
School PersonnelC Denial of Certificate
for Criminal Offenses
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The proposed rule change includes language relative to specific criminal offenses that is consistent with the laws requiring background checks. The change adds language requiring a current FBI criminal background check and specifies the evidence to be presented for documentation of rehabilitation.

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, 828 (June 2001); LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002), LR 28:1727 (August 2002), LR 29:

Denial of Certificates for Criminal Offenses

I. An application for a Louisiana teaching certificate shall be denied if the individual applying for the certificate has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever. (See Attachment 1)

II. For the purposes of this policy:

The term "offense" or "crime" shall include those listed in R.S. 15.587.1(C) and any felony offense whatsoever.

The term "teaching certificate" or "certificate" shall include any license, permit, or certificate issued by the Certification and Higher Education section of the Department of Education.

The term "applicant" shall include any person applying for any permanent, ancillary, provisional or temporary certificate.

The term "convicted" or "conviction" shall include any proceedings in which the accused pleads guilty or no contest and those proceedings that are tried and result in a judgment of guilty.

The term "Department" refers to the Louisiana Department of Education.

The term "Board" refers to the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

III. Any conviction that results in a suspended sentence pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, shall be treated as a conviction for the purpose of denial.

Gubernatorial pardons, first offender pardons, and expungement may be used as evidence of rehabilitation, but shall not preclude the denial of a teaching certificate.

IV. When the Department is notified that any applicant has been convicted of a specific crime:

A. The applicant shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been denied and that a hearing will be conducted by a board committee to consider issuance of Louisiana certification.

B. If the applicant cannot be reached and/or if his/her employment status cannot be determined, denial of the certificate shall proceed as will all other steps in the process outlined in this policy.

C. An applicant may contact the office of the board and request a hearing prior to the date set for the denial consideration by the board. Such hearing will be limited to a determination of the individual's true identity and true conviction status. The applicant shall provide copies of any documents that verify his/her identity and refute the existence of a criminal conviction.

V. Upon official action by the board, any applicant whose certificate has been denied, shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the individual may apply to the board for issuance of his/her certificate.

VI. If the conviction upon which an applicant's certificate has been denied is reversed, vacated, or set aside such action may be communicated to the board through documentation from the court in which the conviction occurred.

VII. An applicant whose certification has been denied under the provisions of this part may apply for issuance only after the time restriction has been completed.

VIII. Time Restrictions on Applications for Reinstatement:

A. Certificate issuance will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286. (See Attachment 1)

B. Issuance of certificates shall not be considered for any final felony conviction until at least 3 years have elapsed from the date of the final conviction.

IX. Procedures for Issuance:

A. An applicant may apply to the board for issuance of his/her teaching certificate after the lapse of time indicated above and under the following conditions:

1. There have been no other arrests or convictions. The applicant must provide a current FBI criminal background check that is clean and clear.

2. There has been successful completion of all conditions and/or requirements of parole and/or probation. The applicant must provide relevant documentation, such as, copies of court records, sentencing recommendations, probation release forms. He/she must also provide written verification from the applicant' parole/probation officer that all requirements have been completed and/or met.

3. There is documented evidence of rehabilitation. The applicant is responsible for providing copies of every requested document. (a, b, and c are required items, d and e are recommended items):

a. Written approval for reinstatement from the local district attorney in which the conviction occurred;

b. Written approval for reinstatement from the local judge from the jurisdiction in which the conviction occurred;

c. Letter of support from local Superintendent;

d. Letter of support from a local community person (business owner, minister, priest, rabbi, city council person, etc.);

e. Other letters of support or written reports that verify the applicant's rehabilitation.

4. The applicant requests a hearing for issuance of certificate.

B. The applicant must:

1. Contact the office of the Board of Elementary and Secondary Education.

2. Provide each item identified above.

C. The board is not required to conduct an issuance hearing and may summarily deny a request for issuance.

D. If the board or its designees decide to conduct an issuance hearing, Board staff shall notify the applicant of a date, time, and place when a committee of the board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. The conviction itself will be given full faith and credit. Testimony will not be allowed as to the circumstances surrounding the conviction. The written documentation provided prior to the hearing will also be considered.

E. The committee of the board shall make a recommendation to the full board regarding whether the teaching certificate should be granted, or denied. board staff shall notify the applicant of the board's action.

X. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation.

The Board of Elementary and Secondary Education reserves the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for a teaching certificate.

Attachment 1

The following crimes are reported under R.S.15:587.1: R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 14:89.1, R.S. 14:92,

R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses; Those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the Federal Criminal Code having analogous elements of criminal and moral turpitude. (Federal Criminal Code provisions are in Title 18 of U.S.C.A.)

Specifically:

- *R.S. 14:30 First degree murder
- *R.S. 14:30.1 Second degree murder
- R.S. 14:31 Manslaughter
- *R.S. 14:41 Rape
- *R.S. 14:42 Aggravated rape
- *R.S. 14:42.1 Forcible rape
- *R.S. 14:43 Simple rape
- *R.S. 14:43.1 Sexual battery
- *R.S. 14:43.2 Aggravated sexual battery
- *R.S. 14:43.3 Oral sexual battery
- *R.S. 14:43.4 Aggravated oral sexual battery
- *R.S. 14:43.5 Intentional exposure to the AIDS virus
- *R.S. 14:44 Aggravated kidnapping
- *R.S. 14:44.1 Second degree kidnapping
- *R.S. 14:45 Simple kidnapping
- R.S. 14:74 Criminal neglect of family
- *R.S. 14:78 Incest
- *R.S. 14:79.1 Criminal abandonment
- *R.S. 14:80 Carnal knowledge of a juvenile
- *R.S. 14:81 Indecent behavior with a juvenile
- *R.S. 14:81.1 Pornography involving juveniles
- *R.S. 14:81.2 Molestation of a juvenile
- R.S. 14:82 Prostitution
- *R.S. 14:82.1 Prostitution; persons under seventeen; additional offenses
- R.S. 14:83 Soliciting for prostitutes
- R.S. 14:83.1 Inciting prostitution
- R.S. 14:83.2 Promoting prostitution
- R.S. 14:83.3 Prostitution by massage
- R.S. 14:83.4 Massage; sexual content prohibit
- R.S. 14:84 Pandering
- R.S. 14:85 Letting premises for prostitution
- R.S. 14:85.1 Letting premises for obscenity
- *R.S. 14:86 Enticing persons into prostitution
- *R.S. 14:89 Crime against nature
- *R.S. 14:89.1 Aggravated crime against nature
- R.S. 14:92 Contributing to the delinquency of juveniles
- *R.S. 14:93 Cruelty to juveniles
- *R.S. 14:93.2.1 Child desertion
- R.S. 14:93.3 Cruelty to the infirm
- R.S. 14:106 Obscenity
- R.S. 14:282 Operation of places of prostitution prohibited
- *R.S. 14:286 Sale of minor children
- R.S. 40:966(A) Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; distribution

- R.S. 40:967(A) Prohibited acts; Schedule II, penalties; Manufacture; distribution
- R.S. 40:968(A) Prohibited acts--Schedule III; penalties; Manufacturedistribution
- R.S. 40:969(A) Prohibited acts--Schedule IV; penalties; Manufacture; distribution
- R.S. 40:970(A) Prohibited acts--Schedule V; penalties; Manufacture; distribution

*Reinstatement will never be considered for crimes marked with an asterisk.

* * *

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed rule affect the stability of the family? No
2. Will the proposed rule affect the authority and rights or parents regarding the education and supervision of their children? No
3. Will the proposed rule affect the functioning of the family? No
4. Will the proposed rule affect family earnings and family budget? No
5. Will the proposed rule affect the behavior and personal responsibility of children? No
6. Is the family or a local government able to perform the function as contained in the proposed rule? No

Interested persons may submit written comments until 4:30 p.m., December 9, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Denial of Certificate for Criminal Offenses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy. The proposed rule change includes language relative to specific criminal offenses that is consistent with the laws requiring background checks. The change adds language requiring a current FBI criminal background check and specifies the evidence to be presented for documentation of rehabilitation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy specifies that any person who applies for a teaching certificate and has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever would be denied such certificate. The policy provides for due process and

specifies the procedures for consideration of possible certificate issuance after the time restriction has been completed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0210#023

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC New Certification Structure for Educational Leadership (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The proposed New Certification Structure for Educational Leadership will consolidate under one certification area the current certifications in Elementary Principal, Secondary Principal, Supervisor of Instruction, Supervisor of Child Welfare and Attendance, and Parish or City School Superintendent. This action will require that, as recommended by the Blue Ribbon Commission, all colleges and universities redesign their graduate programs in Educational Leadership. These newly redesigned programs are scheduled to be implemented July 1, 2004. It is expected that based on this implementation date that the first program completers will graduate from these programs in Summer 2006. Therefore, it will be necessary to gradually phase out the four certification areas (Elementary Principal, Secondary Principal, Supervisor of Instruction, Supervisor of Child Welfare and Attendance, and Parish or City School Superintendent) currently in place over time beginning July 1, 2006.

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, 828 (June 2001), LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002), LR 28:0000 (August 2002), LR 29:

Proposed New Certification Structure for Educational Leadership

Effective Date: July 1, 2003

Overarching Requirements	
<p>All graduate degree preparation programs, assessments, and continuing learning units shall be aligned with the following state and national standards:</p> <ul style="list-style-type: none"> • the <i>Standards for School Principals in Louisiana</i>; • the Interstate School Leaders Licensure Consortium (ISLLC) <i>Standards for School Leaders</i>; and • the Educational Leadership Constituent Council (ELCC) <i>Standards for Advanced Programs in Educational Leadership</i>, the standards used by the National Council for the Accreditation of Colleges of Teacher Evaluation (NCATE) for university program reviews. 	
Teacher Leader Endorsement (optional)	
<p>Teachers who hold a valid Type B or Level 2 or higher Louisiana teaching certificate may add a Teacher Leader Endorsement to their teaching certificate by completing a state-approved Teacher Leader Institute that:</p> <ul style="list-style-type: none"> ○ Requires, at minimum, the equivalent of six graduate hours (90 contact hours); ○ Includes a combination of face-to-face and field-based professional development activities which may include the use of a cohort approach; ○ Provides support from and monitoring by current outstanding administrators serving as mentors and/or facilitators; ○ Includes an electronic component (on-line and/or compressed video) to ensure each participant's access to key resources and to build a statewide network of qualified administrator candidates that could include the development of cohorts; and, ○ Requires the development and presentation of a culminating portfolio that provides evidence that knowledge gained and skills acquired are aligned with national and state leader standards. <p><u>Requirements for Renewal of the Teacher Leader Endorsement:</u></p> <p>Teacher Leader Endorsement requires completion of a minimum of 150 continuing learning units of professional development every five years that are consistent with the leader's Individual Professional Growth Plan (IPGP).</p>	
Certification Levels	
<p>All educational leaders will progress through two levels of educational leader certification. An additional level of certification (Superintendent) is required for employment as a local district superintendent.</p>	
<p style="text-align: center;">Educational Leader Certificate–Level 1</p> <p>All candidates for school and district educational leadership positions (e.g., assistant principal, principal, parish or city school supervisor of instruction, supervisor of child welfare and attendance, or comparable school or district leader positions) must meet the following requirements in order to receive an entry-level certificate in educational leadership.</p> <p>Candidates for Level 1 Educational Leader Certification shall meet the following criteria.</p> <ol style="list-style-type: none"> 1. Hold or be eligible to hold a valid Louisiana Type A or Level 3 Teaching Certificate. 2. Have completed a graduate degree preparation program in the area of educational leadership from or recognized by a regionally accredited institution of higher education. These programs must be aligned with: <ul style="list-style-type: none"> • the <i>Standards for School Principals in Louisiana</i>; • the Interstate School Leaders Licensure Consortium (ISLLC) <i>Standards for School Leaders</i>; and • the Educational Leadership Constituent Council (ELCC) <i>Standards for Advanced Programs in Educational Leadership</i>. 3. Earn a passing score on the <i>School Leaders Licensure Assessment (SLLA)</i> in accordance with state requirements. 4. Persons who have met the requirements of Items 1-3 above are eligible for a Level 1 Educational Leader Certificate. Upon employment as a school or district educational leader, an individual with Level 1 Educational Leader certificate must enroll in the two-year Educational Leader Induction Program under the direction of the Louisiana Department of Education. 5. Any individual, with Level 1 Educational Leader certificate, employed as a school or district educational leader shall have three years to complete the two-year Educational Leader Induction Program under the direction of the Louisiana Department of Education. Failure to fulfill this requirement within the three-year timeline will result in revocation of the Level 1 Educational Leader certificate. 	<p style="text-align: center;">Educational Leader–Level 1 (Alternative Path)</p> <p>Candidates for school and district educational leadership positions (e.g., assistant principal, principal, parish or city school supervisor of instruction, supervisor of child welfare and attendance, or comparable school or district leader positions) may meet the following requirements in order to receive an entry-level certificate in educational leadership as an alternative to the traditional Educational Leader Certificate Level 1.</p> <p>The alternative path to Level 1 Certification is for those persons who hold a Master's Degree in Education and are seeking to add an Educational Leader Certification.</p> <p><u>Candidates for the Alternative Path to Level 1 Educational Leader Certification shall meet the following criteria.</u></p> <ol style="list-style-type: none"> 1. Hold or be eligible to hold a valid Louisiana Type A or Level 3 Teaching Certificate. 2. Have previously completed a graduate degree program from a regionally accredited institution of higher education or a degree equivalent to a graduate degree recognized by the American Association of Collegiate Registrars and Admissions Officers (AACRAO), Office of International Education Services. 3. Earn a passing score on the <i>School Leaders Licensure Assessment (SLLA)</i> in accordance with state requirements. 4. Persons who have met the requirements of Items 1-3 above are eligible for a Level 1 Educational Leader Certificate. Upon employment as a school or district educational leader, an individual with Level 1 Educational Leader certificate must enroll in the two-year Educational Leader Induction Program under the direction of the Louisiana Department of Education. 5. Any individual, with Level 1 Educational Leader certificate, employed as a school or district educational leader shall have three years to complete the two-year Educational Leader Induction Program under the direction of the Louisiana Department of Education. Failure to fulfill this requirement within the three-year timeline will result in revocation of the Level 1 Educational Leader certificate.
Educational Leader Certificate Level 2	
<p>All candidates must meet the following requirements in order to receive a five-year renewable professional certificate in educational leadership.</p> <p><u>Candidates for initial Level 2 Educational Leader Certification shall meet the following criteria</u></p> <ol style="list-style-type: none"> 1. Hold a valid Level 1 Educational Leader Certificate. 2. Complete the two-year induction program under the guidance of a mentor trained in accordance with standards set by the Louisiana Department of Education and outlined in Bulletin 741, <i>Louisiana Handbook for School Administrators</i>. The induction period begins upon the individual's first full-time administrative appointment (whether permanent or acting) as an assistant principal, principal, parish or city school supervisor of instruction, supervisor of child welfare and attendance, or comparable school or district leader position; and, is to be completed within a three year period. 3. Earn a passing score on the ISLLC <i>School Leader Portfolio Assessment</i>, in accordance with state requirements. <p><u>Requirement for Renewal of the Level 2 Educational Leader Certificate.</u></p> <p>Level 2 Educational Leaders must complete a minimum of 150 continuing learning units of professional development over a five-year time period that are consistent with the leader's Individual Professional Growth Plan (IPGP) and includes updating the educational leader portfolio to renew the certificate.</p>	

Educational Leader Certificate C Level 3 (Superintendent)

All candidates must meet the following requirements in order to receive a five-year Level 3 Educational Leader Certificate to become a Superintendent. The five-year certification period is activated with the candidate's first full-time appointment as Superintendent.

Candidates for initial Level 3 (Superintendent) Educational Leader Certification must meet the following criteria

1. Hold a valid Louisiana Level 2 Educational Leader Certificate.
2. Have had 5 years of successful administrative or management experience in education at the level of principal or above.
3. Earn a passing score on the *School Superintendent Assessment (SSA)* in keeping with state requirements.

Requirement for Renewal of the Level 3 Educational Leader Certificate

Level 3 Educational Leaders must complete a minimum of 150 continuing learning units of professional development over a five-year time period that are consistent with the leader's Individual Professional Growth Plan (IPGP) and includes updating the educational leader portfolio to renew the certificate.

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed rule effect the stability of the family? No
2. Will the proposed rule effect the authority and rights of parents regarding the education and supervision of their children? No
3. Will the proposed rule effect the functioning of the family? No
4. Will the proposed rule effect family earnings and family budget? No
5. Will the proposed rule effect the behavior and personal responsibility of children? No
6. Is the family or a local government able to perform the function as contained in the proposed rule? No

Interested persons may submit written comments until 4:30 p.m., December 9, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746C Louisiana Standards for State Certification of School PersonnelC New Certification Structure for Educational Leadership

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation 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. The registration and test fees for the assessments required by the new certification structure are collected by the private testing company, Educational Testing Service, that owns and administers these assessments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individuals seeking the Level 1 Educational Leader Certification would have to pay a \$35 registration fee and a \$400 test fee for the School Leaders Licensure Assessment which is required for initial certification in the new structure.

Individuals seeking to move from Level 2 to Level 3 of the Education Leader Certification would have to pay a \$35 registration fee and a \$225 test fee for the School Superintendent Assessment which is required for Level 3 certification in the new structure.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is not estimated effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0210#033

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The proposed rule change includes language relative to specific criminal offenses which is consistent with the laws requiring background checks. In addition, the change outlines specific procedures for reinstatement of certificates, the required evidence of rehabilitation, and graduated time lines for convictions rendered at various times in the past.

**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, 828 (June 2001), LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002), LR 28:1727 (August 2002), LR 29:

Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses

I. A Louisiana teaching certificate shall be suspended and revoked if the individual holding the certificate has been convicted of any offense listed in R.S. 15:587.1.C or any felony offense whatsoever. (See Attachment 1)

II. For the purposes of this policy:

The term "offense" or "crime" shall include those listed in R.S. 15.587.1.C and any felony offense whatsoever.

The term "teaching certificate" or "certificate" shall include any license, permit, or certificate issued by the Certification and Higher Education section of the Department of Education.

The term "teacher" shall include any person holding any permanent, ancillary, or temporary teaching certificate.

The term "applicant" shall include any person applying for any permanent, ancillary, provisional or temporary certificate.

The term "convicted" or "conviction" shall include any proceedings in which the accused pleads guilty or no contest and those proceedings that are tried and result in a judgment of guilty.

The term "Department" refers to the Louisiana Department of Education.

The term "Board" refers to the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

III. Any conviction that results in a suspended sentence pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, shall be treated as a conviction for the purposes of suspension and/or revocation.

Gubernatorial pardons, first offender pardons, and expungement may be used as evidence of rehabilitation, but shall not preclude suspension and/or revocation of a teaching certificate.

IV. When the Department is notified that any teacher has been convicted of a specific crime:

A. Department staff shall attempt to contact the teacher to inform him/her that the Department has information regarding a criminal conviction and is proceeding under this policy to suspend the certificate.

B. The teacher shall have 10 working days from the date of notification to provide verification that he/she has not been convicted of a criminal offense. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

C. If the Department determines that there is evidence that a teacher has been convicted of a criminal offense, that teacher's certificate shall be suspended. The Board, the teacher, and the employing school system shall be notified that the teacher's certificate has been suspended pending official Board action.

D. The teacher shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been suspended and that a hearing will be conducted by the Board to consider revocation. Such hearing will be limited to a determination of the individual's true identity and true conviction status. The teacher shall provide copies of any documents that verify his/her identity and refute the existence of a criminal conviction.

E. If the teacher cannot be reached and/or if his/her employment status cannot be determined, suspension of the certificate shall proceed as will all other steps in the process outlined in this policy.

V. Upon official action by the Board, any teacher whose certificate has been revoked, shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the individual may apply to the Board for reinstatement of his/her certificate.

VI. If the conviction upon which a teacher's certificate has been suspended and/or revoked is reversed, vacated, or set aside, such action may be communicated to the Board through documentation from the court in which the conviction occurred. The Board may receive such information and order immediate reinstatement of the teacher's certificate.

VII. Time Restrictions on Applications for Reinstatement:

A. Reinstatement will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286. (See Attachment 1)

B. Reinstatements of certificates shall not be considered for any final felony conviction until at least 3 years have elapsed from the date of the final conviction.

C. For other final convictions rendered 4 to 6 years prior to revocation, reinstatement will not be considered for at least 2 years from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

D. For other final convictions rendered 7 to 9 years prior to revocation, reinstatement will not be considered for at least 1 year from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

E. For other final convictions rendered more than 9 years prior, a teacher may apply immediately for reinstatement.

VIII. Procedures for Reinstatement:

A. An applicant may apply to the Board for reinstatement of his/her teaching certificate after the lapse of time indicated above and under the following conditions:

1. There have been no other arrests or convictions. The applicant must provide a current FBI criminal history background check that is clean and clear.

2. There has been successful completion of all conditions/requirements of parole and/or probation. The applicant must provide relevant documentation, such as, copies of court records, sentencing recommendations, and probation release forms. He/she must also provide written verification from the applicant's parole/probation officer that all requirements have been completed and/or met.

3. There is documented evidence of rehabilitation. The applicant is responsible for providing copies of every requested document (a, b, & c are required items, d & e are recommended items):

a. Written approval for reinstatement from the local district attorney in which the conviction occurred;

b. Written approval for reinstatement from the local judge from the jurisdiction in which the conviction occurred;

c. Letter of support from the local Superintendent;

d. Letter of support from a local community person (business owner, minister, priest, rabbi, city council person, etc.);

e. Other letters of support or written reports that verify the applicant's rehabilitation.

4. The applicant requests a reinstatement hearing.

B. The applicant must:

1. Contact the office of the Board of Elementary and Secondary Education.

2. Provide each item identified above.

C. The Board is not required to conduct a reinstatement hearing and may summarily deny a request for reinstatement.

D. If the Board or its designees decide to conduct a reinstatement hearing, Board staff shall notify the applicant of a date, time, and place when a committee of the Board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. The conviction itself will be given full faith and credit. Testimony will not be allowed as to the circumstances surrounding the conviction. The written documentation provided prior to the hearing will also be considered.

E. The committee of the Board shall make a recommendation to the full Board regarding whether the applicant's teaching certificate should be reinstated, suspended for an additional period of time, or remain revoked. Board staff shall notify the applicant of the Board's action.

IX. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation.

The Board of Elementary and Secondary Education reserves the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for reinstatement of a teaching certificate.

Attachment 1

The following crimes are reported under R.S.15:587.1: R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 4:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses; Those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the Federal Criminal Code having analogous elements of criminal and moral turpitude. (Federal Criminal Code provisions are in Title 18 of U.S.C.A.)

Specifically:

- *R.S. 14:30 First degree murder
- *R.S. 14:30.1 Second degree murder
- R.S. 14:31 Manslaughter

- *R.S. 14:41 Rape
 - *R.S. 14:42 Aggravated rape
 - *R.S. 14:42.1 Forcible rape
 - *R.S. 14:43 Simple rape
 - *R.S. 14:43.1 Sexual battery
 - *R.S. 14:43.2 Aggravated sexual battery
 - *R.S. 14:43.3 Oral sexual battery
 - *R.S. 14:43.4 Aggravated oral sexual battery
 - *R.S. 14:43.5 Intentional exposure to the AIDS virus
 - *R.S. 14:44 Aggravated kidnaping
 - *R.S. 14:44.1 Second degree kidnaping
 - *R.S. 14:45 Simple kidnaping
 - R.S. 14:74 Criminal neglect of family
 - *R.S. 14:78 Incest
 - *R.S. 14:79.1 Criminal abandonment
 - *R.S. 14:80 Carnal knowledge of a juvenile
 - *R.S. 14:81 Indecent behavior with a juvenile
 - *R.S. 14:81.1 Pornography involving juveniles
 - *R.S. 14:81.2 Molestation of a juvenile
 - R.S. 14:82 Prostitution
 - *R.S. 14:82.1 Prostitution; persons under 17; additional offenses
 - R.S. 14:83 Soliciting for prostitutes
 - R.S. 14:83.1 Inciting prostitution
 - R.S. 14:83.2 Promoting prostitution
 - R.S. 14:83.3 Prostitution by massage
 - R.S. 14:83.4 Massage; sexual content prohibited
 - R.S. 14:84 Pandering
 - R.S. 14:85 Letting premises for prostitution
 - R.S. 14:85.1 Letting premises for obscenity
 - *R.S. 14:86 Enticing persons into prostitution
 - *R.S. 14:89 Crime against nature
 - *R.S. 14:89.1 Aggravated crime against nature
 - R.S. 14:92 Contributing to the delinquency of juveniles
 - *R.S. 14:93 Cruelty to juveniles
 - *R.S. 14:93.2.1 Child desertion
 - R.S. 14:93.3 Cruelty to the infirm
 - R.S. 14:106 Obscenity
 - R.S. 14:282 Operation of places of prostitution prohibited
 - *R.S. 14:286 Sale of minor children
 - R.S. 40:966(A) Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; distribution
 - R.S. 40:967(A) Prohibited acts; Schedule II, penalties; Manufacture; distribution
 - R.S. 40:968(A) Prohibited acts; Schedule III; penalties; Manufacture; distribution
 - R.S. 40:969(A) Prohibited acts; Schedule IV; penalties; Manufacture; distribution
 - R.S. 40:970(A) Prohibited acts; Schedule V; penalties; Manufacture; distribution
- *Reinstatement will never be considered for crimes marked with an asterisk.

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted,

amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed rule affect the stability of the family? No

2. Will the proposed rule affect the authority and rights of parents regarding the education and supervision of their children? No

3. Will the proposed rule affect the functioning of the family? No

4. Will the proposed rule affect family earnings and family budget? No

5. Will the proposed rule affect the behavior and personal responsibility of children? No

6. Is the family or a local government able to perform the function as contained in the proposed rule? No

Interested persons may submit written comments until 4:30 p.m., December 9, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy. The proposed rule change includes language relative to specific criminal offenses that is consistent with the laws requiring background checks. In addition, the change outlines specific procedures for reinstatement of certificates, the required evidence of rehabilitation, and graduated time lines for convictions rendered at various times in the past.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy requires that any person who holds a teaching certificate and has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever would be required to follow the prescribed procedures for consideration of certificate reinstatement, if reinstatement is possible, after suspension and revocation of the certificate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management & Finance
0210#024

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566C Guidelines for Pupil Progression
(LAC 28:XXXIX.503, 505, and 1301)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1566, *Guidelines for Pupil Progression*, referenced in LAC 28:I.907.A. The rule changes eliminate the waiver for students with disabilities participating in on-level testing and change the name of out-of-level testing to LEAP Alternative Assessment-B (LAA-B). The criteria for placement in LAA-B remains the same as required for out-of-level testing. The rule changes one of the accountability labels from "Proficient" to "Mastery" in order to meet the mandates of the federal No Child Left Behind legislation.

Title 28

EDUCATION

Part XXXIX. Bulletin 1566C Guidelines for Pupil

Progression

Chapter 5. Place Policies; State Requirements

§503. Regular Placement

A. - A.1.b.ii.(a)(iii). ...

(iv). Waiver for students with disabilities eligible under the Individuals with Disabilities Education Act (IDEA). LEAP Alternate Assessment (LAA and LAA-B) Students with disabilities who participate in the LEAP Alternate Assessment (LAA) or LEAP Alternate Assessment B (LAA-B) shall have promotion decisions determined by the SBLC.

A.1.b.ii.(a)(v). - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:

§505. Progression—Students Participating in LEAP Alternate Assessment (LAA) or LEAP Alternate Assessment B (LAA-B)

A. Students with disabilities who participate in the LEAP alternate assessment (LAA) or LEAP Alternate Assessment (LAA-B) shall have promotion decisions determined by the School Building Level Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 26:1433 (July 2000), LR 27:188 (February 2001), LR 27:1683 (October 2001), LR 29:

Chapter 13. Appendix B

§1301. LEAP for the 21st Century, High Stakes Testing Policy

A. - A.3.b. ...

c. Students with disabilities who participate in LEAP Alternate Assessment (LAA) or LEAP Alternate Assessment B (LAA-B), are not eligible to attend the LEAP 21 summer remediation programs.

3.d. - 6.a. ...

i. The local school system (LEA) may override the State policy for students scoring at the Unsatisfactory level in English language arts or mathematics if the student scores at the Mastery or Advanced level in the other provided that:

(a). - (c). ...

b. Waiver for Students with Disabilities Eligible under the Individuals with Disabilities Education Act (IDEA)

i. LEAP Alternate Assessment (LAA and LAA-B)

(a). Students with disabilities who participate in the LEAP Alternate Assessment (LAA) or LEAP Alternate Assessment B (LAA-B) shall have promotion decisions determined by the SBLC.

A.6.b.i.(a).(i). - B.3.b. ...

c. Students with disabilities who participate in LEAP Alternate Assessment (LAA) or LEAP Alternate Assessment B (LAA-B) are not eligible to attend the LEAP 21 summer remediation programs.

d. LEAs are encouraged to offer remediation services to students who score at the *Approaching Basic* level.

B.4. - B.8.a. ...

i. The local school system (LEA) may override the State policy for students scoring at the *Unsatisfactory* level in English or mathematics if the student scores at the *Mastery* or *Advanced* level in the other provided that

ii. - iv. ...

b. Waiver for Students with Disabilities Eligible under the Individuals with Disabilities Education Act (IDEA)

i. ...

(a) LEAP Alternate Assessment (LAA and LAA-B)

(i). Students with disabilities who participate in the LEAP Alternate Assessment (LAA) or Alternate Assessment B (LAA-B) shall have promotion decisions determined by the SBLC.

8.b.i.(b). - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:1008 (July 2001), amended LR 27:1683 (October 2001), LR 28:1189 (June 2002), LR 29:

Interested persons may submit comments until 4:30 p.m., December 9, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1566C Guidelines for Pupil Progression

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.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

School systems personnel, students with disabilities and the general public will be affected by the policies in Bulletin 1566 because of better accountability and a more informed public.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0210#022

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1794C State Textbook Adoption Policy
and Procedure Manual
(LAC 28:XXXIII.305, 311, 503, 507, and 701)

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 1794, *State Textbook Adoption Policy and Procedure Manual*, referenced in LAC 28:1.919.A and LAC Part XXXIII. Bulletin 1794 is being revised to provide clarity regarding the state textbook adoption process. New and revised sections address the issues of local adoption, free items provided by publishers, contact and interaction between publisher representatives and local school employees, and publisher participation in the state textbook caravan.

Title 28

EDUCATION

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

§ 305. Textbooks and Materials of Instruction

A. - C. ...

1. Each school district shall make a formal adoption of textbooks within six months from the date of state-level approval by the State Board of Elementary and Secondary Education (SBESE). (Refer to Chapter 5, Local School System Responsibilities)

2. ...

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

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:992 (May 2000), LR 29:

§311. Invitation Circular Letter

A. - G. ...

H. Any items designated as "free" by publishers must also be submitted on the appropriate "LT Submission" form(s). Publishers may modify their free offerings by providing a written explanation and a detailed listing of items to be added to their original submission to the Department of Education within 60 days of the original due date. Any additions or offers of free materials or services made to local school systems verbally or in writing that are not included on forms submitted to the Department will be considered a violation and may cause the publisher to be disqualified.

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

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:995 (May 2000); LR 29:

§503. Formal Adoption (see also Bulletin 741, 1.070.03)

A. School systems shall make a formal adoption of textbooks according to the state adoption cycle within six months from the date of formal approval by the State Board of Elementary and Secondary Education (SBESE).

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

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:998; LR 29:

§507. Local Adoption Procedures

A. - E.3 ...

4. Prior to the completion of the State Textbook Caravan, any publisher initiated communication with local schools and school systems must be coordinated through the Parish/City Textbook Supervisor or the appropriate Curriculum Supervisor. Publishers may not initiate direct contacts with principals, teachers, or schools until after the completion of the State Textbook Caravan.

F. - F.6. ...

7. The "piloting" of new materials in any school or school system prior to official review by the State Textbook Adoption Committee and final approval by the SBESE is prohibited. Publishers are not to offer school-wide copies or classroom sets of any item or material on a trial or pilot basis.

G. - G.2. ...

3. Local school system officials shall not solicit or accept any free material, item, or service other than those included on official bid submission forms and officially received by the Department of Education. (See Section 311.)

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

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:998 (May 2000), LR 29:

§701. Requirements for Publishers' Participation in State Textbook Adoption

A. - H. ...

I. Publishers shall not contact teachers, principals, or other school system employees for the purpose of providing meals, materials, or any other free items in conjunction with a preview or overview of new materials, at any time during the school year in which an adoption cycle begins or ends. Such awareness sessions or any similar activities are strictly prohibited.

J. Publishers who have materials recommended by the State Committee and approved by the SBESE shall participate in the State Textbook Caravan.

K. Publishers shall not offer or provide any free material, item, or service other than those included on official bid submission forms and properly forwarded to the Department of Education. (See Section 311.)

L. The "piloting" of new materials in any school or school system prior to official review by the State Textbook Adoption Committee and final approval by the SBESE is prohibited. Publishers are not to offer school-wide copies or classroom sets of any item or material on a trial or pilot basis.

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

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1002, LR 29:

Interested persons may submit written comments until 4:30 p.m., December 9, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1794C State Textbook Adoption Policy and Procedure Manual

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation cost for this rule change is \$1,350.00 (for printing and postage).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change should have no effect on state or local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated cost or economic benefit to any person or non-governmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0210#034

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Naturally Dystrophic Waters Performance-Based Standards (LAC 33:IX.1105 and 1109)(WQ046)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1105 and 1109 (WQ046).

The Rule is intended to modify the process by which waters of the state are characterized as naturally dystrophic and to make consistent the process by which site-specific water quality standards are set for naturally dystrophic waters. EPA has encouraged the department to use performance-based standards as described in the preamble noticed in the *Federal Register* on April 27, 2000 (Volume 65, Number 82), *EPA Review and Approval of State and Tribal Water Quality Standards* (40 CFR Part 131). The department is now proposing to adopt performance-based standards to characterize and set water quality standards for naturally dystrophic waters of the state.

This action proposes to replace the language in LAC 33:IX.1109.C.3.a to cite the scientific methodology that the department will use to characterize and set criteria for naturally dystrophic waters. The methodology that is referenced in the proposed Rule change will be included in the Water Quality Management Plan/Continuing Planning Process, Volume 9, *Water Quality Standards Documentation and Implementation*, and is subject to the public review process. The Water Quality Management Plan/Continuing Planning Process, Volume 9, *Water Quality Standards Documentation and Implementation* is being created and publicly noticed in conjunction with this rulemaking. (A copy of the proposed Volume 9 can be obtained with the proposed Rule.) The language in LAC 33:IX.1109.C.3.b is proposed to be deleted. EPA will have the opportunity to ensure that technical issues are adequately addressed when the state adopts the performance-based standards. The state will no longer need to obtain separate approval from EPA for criteria derived through an approved performance-based approach.

The language from the current rule regarding wastewater discharge (LAC 33:IX.1109.C.3.c-d) that is proposed to be deleted in this action will be modified and moved to the Water Quality Management Plan/Continuing Planning Process, Volume 3, Section 2, *Permitting Guidance Document for Implementing the Louisiana Surface Water Quality Standards, Application of Numerical Standards and Use Attainability*. This document is available at <http://www.deq.state.la.us/permits/permitguide-wqmp.pdf>. This change to the Water Quality Management Plan/Continuing Planning Process is also being publicly noticed in conjunction with this rulemaking.

LAC 33:IX.1109.C contains excepted use categories of water bodies, including naturally dystrophic waters. EPA has encouraged the department to adopt criteria associated with the excepted use categories. The department has been

gathering data on a site-specific basis to support appropriate criteria changes on naturally dystrophic waters that protect the contact recreation and fish and wildlife propagation uses on these waters. The department now has enough data from site-specific Use Attainability Analyses conducted in accordance with state and federal regulations to support the adoption of an updated and consistent scientific methodology by which to set appropriate criteria for naturally dystrophic waters. Adoption of this methodology will streamline the time-consuming Use Attainability Analysis process the department currently uses to adjust criteria and continue to protect the contact recreation and fish and wildlife propagation uses on these waters as required by the Clean Water Act. The basis and rationale for the proposed rule and Water Quality Management Plan/Continuing Planning Process revisions are to streamline the procedure to evaluate naturally dystrophic waters while maintaining scientific validity.

This proposed Rule meets an exception listed in R.S. 30:2019(D).2 and R.S. 49:953(G)3; therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Chapter 11. Surface Water Quality Standards

§1105. Definitions

* * *

Naturally Dystrophic Waters—waters which are stained with organic material and which are low in dissolved oxygen because of natural conditions.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 26:2545 (November 2000), LR 29:

§1109. Policy

Water quality standards policies concerned with the protection and enhancement of water quality in the state are discussed in this Section. Policy statements on antidegradation, water use, water body exception categories, compliance schedules and variances, short-term activity authorization, errors, severability, revisions to standards, and sample collection and analytical procedures are described.

A. - C.2.d. ...

3. Naturally Dystrophic Waters. *Naturally dystrophic waters* are defined in LAC 33:IX.1105. Water bodies shall be designated as *naturally dystrophic waters* and assigned appropriate water quality criteria according to the procedure in the department's current Water Quality Management Plan/Continuing Planning Process.

D. - I.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:746 (October 1984), amended LR 15:738 (September 1989), LR 17:264

(March 1991), LR 17:966 (October 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2546 (November 2000), LR 29:

A public hearing on this proposed Rule and the Water Quality Management Plan/Continuing Planning Process revisions will be held on November 25, 2002, 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 regulation and Water Quality Management Plan/Continuing Planning Process revisions. Persons commenting should reference this proposed regulation by WQ046. Such comments must be received no later than December 2, 2002, 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 WQ046.

This proposed regulation and the proposed Water Quality Management Plan/Continuing Planning Process, Volume 9, *Water Quality Standards Documentation and Implementation* are 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: Naturally Dystrophic Waters
Performance-Based Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No effect of this proposed Rule on state or local governmental expenditures is expected.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No costs and/or economic benefits to directly affected persons or nongovernmental groups are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated.

James H. Brent, Ph.D.
Assistant Secretary
0210#084

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Radiographer Trainee Requirements
(LAC 33:XV.503, 575, 578, 579, and 590)(RP031)**

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 Radiation Protection regulations, LAC 33:XV.503, 575, 578, 579, and 590 (Log #RP031).

The proposed Rule revises requirements for radiographer trainees, removes the term radiographer assistant, and adds a new requirement for reciprocity of radiographers. Persons who currently hold radiographer trainee positions will no longer be required to move up to the next level of licensed radiographer in order to retain their job as a permanent radiographer trainee. Trainees will continue to work under the supervision of a licensed radiographer instructor. By establishing a permanent trainee series for industrial radiographers, industrial radiography companies will be allowed to retain experienced employees at the trainee level who do not desire to move up to the next level of licensed radiographer or who are unable to qualify as a licensed radiographer. The proposed Rule recognizes the importance of retaining experienced employees at the trainee level that benefits both the employee and the employer while providing no less protection of public health and the environment. Retaining experienced trainees, rather than continually hiring new trainees, saves in hiring and training costs for the employer and is beneficial to protection of public health and the environment. The basis and rationale for this Rule are to establish a permanent trainee level in the industrial radiographer field.

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 XV. Radiation Protection

**Chapter 5. Radiation Safety Requirements for
Industrial Radiographic Operations**

§503. Definitions

A. As used in this Chapter, the following definitions apply.

* * *

Radiographer Assistant Crepealed.

Radiographer Trainee Any individual who has satisfied the conditions of LAC 33:XV.575.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2581 (November 2000), LR 26:2772 (December 2000), LR 27:1231 (August 2001), LR 29:

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§575. Training and Testing

A. No licensee or registrant shall permit any individual to act as a radiographer, as defined in this Chapter, until such individual completes the following requirements.

1. The individual shall be instructed by a licensed instructor for at least 40 hours in the subjects outlined in Appendix A of this Chapter. The course of instruction must be approved by the department prior to the time of instruction by submitting documentation of instructor licensure and course description.

a. The department must be notified by the licensee at least two weeks prior to presentation of the course.

b. The department must be notified of the cancellation of the course at least 24 hours prior to its scheduled time of presentation.

2. The individual shall complete on-the-job training supervised by one or more radiographer instructors.

a. The instructor shall be authorized on the license or registration certificate.

b. The on-the-job training shall include at least:

i. 200 hours of active participation in radioactive materials industrial radiography operations for an individual to perform industrial radiography utilizing radioactive materials; and/or

ii. 120 hours of active participation in x-ray industrial radiography operations for an individual to perform industrial radiography utilizing x-rays.

c. The hours of on-the-job training do not include safety meetings or classroom training or the use of a cabinet x-ray unit.

d. The current Form DRC-20, available from the department or the departmental website, www.deq.state.la.us, must be submitted to the Office of Environmental Services, Permits Division documenting the on-the-job training.

3. The individual shall receive copies of and instruction in the regulations contained in this Chapter and the applicable sections of LAC 33:XV.Chapters 4 and 10, appropriate license, and the licensee's or registrant's operating and emergency procedures.

4. The individual shall demonstrate competence in accordance with Paragraphs A.5 and 6 of this Section to use the sources of radiation, radiographic exposure devices, related handling tools, and radiation survey instruments that may be employed in his assignment.

5. The individual shall successfully complete a company-specific written examination and field test

covering the subjects listed in Paragraphs A.3 and 4 of this Section.

6. The individual shall successfully complete, within the last five years, a radiation safety examination administered by the department, another agreement state, the U.S. Nuclear Regulatory Commission, or the American Society of Non-Destructive Testing (ASNT). The examination must be successfully completed at least once every five years.

7. The individual shall have in his or her possession a valid radiographer I.D. card issued by the department, another agreement state, the U.S. Nuclear Regulatory Commission, or the American Society of Non-Destructive Testing (ASNT).

B. No licensee or registrant shall permit any individual to act as a radiographer trainee, as defined in this Chapter, until such individual completes the following requirements.

1. The requirements of Paragraph A.1 of this Section shall be met.

2. The individual shall complete on-the-job training supervised by one or more radiographer instructors.

a. The instructor shall be authorized on the license or registration certificate.

b. The on-the-job training, as part of a three-person crew composed of an instructor, a radiographer, and the radiographer trainee applicant, shall include at least:

i. 40 hours of active participation in radioactive materials industrial radiography operations for an individual to perform industrial radiography utilizing radioactive materials; and/or

ii. 40 hours of active participation in x-ray industrial radiography operations for an individual to perform industrial radiography utilizing x-rays.

c. The hours of on-the-job training do not include safety meetings or classroom training or the use of a cabinet x-ray unit.

3. The individual shall receive copies of and instruction in the regulations contained in this Chapter and the applicable sections of LAC 33:XV.Chapters 4 and 10, appropriate license, and the licensee's or registrant's operating and emergency procedures.

4. The individual shall demonstrate competence to use the sources of radiation, radiographic exposure devices, related handling tools, and radiation survey instruments that may be employed in his assignment.

5. The individual shall successfully complete a company-specific written examination and field test covering the subjects listed in Paragraphs B.3 and 4 of this Section.

6. The current Form DRC-20, available from the department or the departmental website, www.deq.state.la.us, must be submitted to the Office of Environmental Services, Permits Division documenting the on-the-job training, instruction in the subjects outlined in Appendix A in this Chapter, and successful completion of a company-specific written examination.

7. The individual shall have in his or her possession, a valid radiographer trainee I.D. card issued by the department or equivalent certification recognized by another agreement state or the U.S. Nuclear Regulatory Commission.

8. Each radiographer trainee I.D. card is valid for a five-year period, unless revoked or suspended in accordance with LAC 33:XV.579.

C. Each licensee or registrant shall maintain, for inspection by the department, until disposition is authorized by the department, the following records for each radiographer and radiographer trainee.

1. Records of Training and Certification. The records must include radiographer certification documents and verification of certification status, copies of written tests, dates and results of oral tests and field examinations, and the names of individuals conducting and receiving the oral and field examinations.

2. Records of Annual Refresher Safety Training and Quarterly Inspections of Job Performance. The records must list the topics discussed during the refresher safety training, the dates the annual refresher safety training was conducted, and names of the instructors and attendees. For inspections of job performance, the records must also include a list showing the items checked and any noncompliance observed by the radiation safety officer or designee.

D. Each licensee or registrant shall conduct a program of internal audits to ensure that the Radiation Protection Regulations (LAC 33:XV), Louisiana radioactive material license conditions, and the licensee's or registrant's operating and emergency procedures are followed by each radiographer and radiographer trainee. Each radiographer and radiographer trainee shall be audited at quarterly intervals. Records of internal audits shall be maintained for review by the department for two consecutive years from the date of the audit.

E. The licensee or registrant shall provide annual refresher safety training to all radiographers and radiographer trainees at intervals not to exceed 12 months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 20:999 (September 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001), LR 28:1951 (September 2002), LR 29:

§578. Reciprocity

A. - A.1. ...

2. the requirements and procedures for certification in the state of jurisdiction issuing the certification afford the same or comparable certification standards as those afforded by LAC 33:XV.575;

3. the applicant presents the certification to the Office of Environmental Services, Permits Division prior to entry into Louisiana; and

4. no escalated enforcement action is pending with the Nuclear Regulatory Commission or in any other state.

B. ...

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 26:2583 (November 2000), LR 29:

§579. Identification (I.D.) Cards for Radiographers or Radiographer Trainees

A. Issuance

1. An I.D. card shall be issued to each person who successfully completes the requirements of LAC 33:XV.575.A or B.

2. A radiographer I.D. card shall contain the radiographer's photograph. The department will take the photograph at the time the examination is administered. The radiographer trainee I.D. card does not require a photograph.

3. An I.D. card remains the property of the state of Louisiana and may be revoked or suspended under the provisions of this Section.

A.4. - B. ...

C. Renewal of a Radiographer I.D. Card

1. Applications for examination to renew an I.D. card shall be filed in accordance with LAC 33:XV.575.A.

2. The examination for renewal of an I.D. card shall be administered in accordance with LAC 33:XV.575.

3. A renewal I.D. card shall be issued in accordance with this Section.

D. Renewal of a Radiographer Trainee I.D. Card

1. Applications for a renewal radiographer trainee I.D. card shall be filed in accordance with LAC 33:XV.575.B.

2. A renewal I.D. card shall be issued in accordance with this Section.

E. Revocation or Suspension of an I.D. Card

1. Any radiographer or radiographer trainee who violates these rules may be required to show cause at a formal hearing why his or her I.D. card should not be revoked or suspended in accordance with these regulations.

2. When a department order has been issued for an industrial radiographer or radiographer trainee to cease and desist from the use of sources of radiation or the department revokes or suspends his or her I.D. card, the industrial radiographer or radiographer trainee shall surrender the I.D. card to the department until the order is changed or the suspension expires.

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:

Subchapter C. Precautionary Procedures in Radiographic Operations

§590. Specific Requirements for Radiographic Personnel Performing Industrial Radiography

A. - C. ...

D. No individual other than a radiographer or a radiographer trainee who is under the personal supervision of a radiographer instructor shall manipulate controls or operate equipment used in industrial radiographic operations. The radiographer trainee shall also be under the personal supervision of a radiographer instructor when using radiographic exposure devices, associated equipment, or a sealed source or while conducting radiation surveys required by LAC 33:XV.587 to determine that the sealed source has returned to its shielded position or the radiation machine is off after an exposure. The personal supervision must include:

1. the radiographer instructor's physical presence at the site where the sources of radiation are being used;
2. the availability of the radiographer instructor to give immediate assistance if required; and
3. the radiographer instructor's direct observation of the trainee's performance of the operations referred to in this Section.

E. ...

1. has met the requirements of LAC 33:XV.575.A;

E.2. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended LR 23:1139 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 27:1237 (August 2001), LR 28:1952 (September 2002), LR 29:

A public hearing will be held on November 25, 2002, 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 RP031. Such comments must be received no later than December 2, 2002, 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 email 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 RP031.

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: Radiographer Trainee Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Radiographer trainees will be positively impacted since they will no longer be required to become licensed radiographers within a specified period of time in order to retain their jobs as radiographer trainees. Industrial radiography companies will also be impacted since establishing a permanent trainee series for industrial radiographers will allow them to retain experienced employees at the apprentice level who do not desire to move up to the next level of licensed radiographer or who are unable to qualify as a licensed radiographer. The estimated cost to industrial radiography companies to replace and train an employee as a radiographer trainee is estimated to be approximately \$1,600. The proposed regulation also requires that radiographer trainees who lose their department-issued card pay a small fee for a replacement card.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

All companies and persons in the industry will be equally impacted. Persons who currently hold radiographer trainee positions will no longer be required to move up to the next level of licensed radiographer in order to retain their job as a radiographer trainee. Trainees will continue to work under the supervision of a licensed radiographer instructor.

James H. Brent, Ph.D.
Assistant Secretary
0210#083

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Board of Architectural Examiners

Architects (LAC 46:I.Chapters 1-21)

Under the authority of the Architects Licensing Law, R.S. 37:141 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana State Board of Architectural Examiners has initiated procedures to amend its rules contained in LAC 46:I.Chapters 1-21.

The amendments are primarily housekeeping revisions of existing board rules intended to bring the rules up to date. The amendments restructure and renumber the existing board rules, while repealing other sections. By virtue of these amendments, the following sections of the existing board rules are being renumbered: §§401-415 become §§501-515; §501 becomes §701; §507 becomes §703; §511 becomes §705; §§701-703 become §§901-903; §§901-905 become §§1101-1105; §§1101-1123 become §§1301-1321; §§1301-1335 become §§1501-1533; §§1501-1505 become §§1701-1705; §§1701-1703 become §§1901-1903; §§1901-1919 become §§2101-2119, and §§2101-2103 become §§2301-2303. The following sections of the existing board rules are being repealed: §503, §505, §509, §703.B and C, §705 and §1333. The proposed amendments have no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part I. Architects

Chapter 1. General Provisions

§101. Authority

A. Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:950 et. seq., the Board of Architectural Examiners adopted the following.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 10:737 (October 1984), repromulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§103. Rule Making Process

A. The Louisiana State Board of Architectural Examiners operates pursuant to these rules, adopted under the authority of R.S. 1950, Title 37, Chapter 3 as amended.

B. For purposes of these rules, the term *architect* means a person who is technically and legally qualified to practice architecture in Louisiana including a professional architectural corporation certified by the board pursuant to the provisions of R.S. 12:1086 et seq., an architectural-engineering corporation certified by the board pursuant to the provisions of R.S. 12:1171 et seq., and a limited liability company certified by the board pursuant to the provisions of R.S. 12:1301 et seq. The term "board" means the Louisiana State Board of Architectural Examiners.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 9:333 (September 1978), amended LR 10:737 (October 1984), amended by the Department of Economic Development, Board of Architectural Examiners, LR 20:995 (September 1994), repromulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

Chapter 3. Organization

§301. Executive Director

A. The name and address of the person designated by the board upon whom service of process may be served in judicial procedures against the board is the executive director at the address of the official place of business of the board.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 9:333 (September 1978), amended LR 10:737 (October 1984), repromulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§303. Officers

A. The board shall elect a president and a secretary, each to hold office until their successors shall have been elected. The term of office shall be for one year beginning the first day of January the ensuing year.

B. The president shall preside at all meetings; appoint all committees; sign all certificates of registration issued; sign or authorize by signature stamp all checks with the executive director; and perform all other duties pertaining to his office.

C. The secretary shall, with the assistance of such executive and clerical help as may be required:

a. be the official custodian of the records of the board and of the seal of the board and see that the seal of the board is affixed to all appropriate documents;

b. sign, with the chairman, certificates of licensure; and

c. sign the minutes of the board meetings after the minutes have been approved by the board.

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

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:333 (September 1978), amended LR 10:737 (October 1984), amended by the Office of the Governor, Board of Architectural Examiners LR 29:

§305. Other Personnel

A. The board may employ such executive, stenographic, and office assistance, including an executive director, as is necessary, and shall rent office space as necessary to house the staff and records.

B. The board shall employ an executive director who shall have possession on behalf of the secretary of all the official records of the board and who may, under the supervision of the board, perform such administrative and ministerial duties as the board authorizes.

C. In discharging its responsibilities, the board may engage private counsel, or, as prescribed in law, utilize the services of the attorney general. The board may also employ such accountants, auditors, investigators, and professionals as it deems necessary.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 9:333 (September 1978), amended LR 10:738 (October 1984), amended by the Office of the Governor, Board of Architectural Examiners LR 29:

§307. Meetings

A. There shall be at least four regular meetings each year. If the executive director or the president decide additional meetings are necessary, a special meeting may be called by due notification of all members of the board. A special meeting of the board shall be called by the president upon the request of any two members by giving at least a ten-day written notice to each member of the time and place of such meeting.

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

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:333 (September 1978), amended LR 10:738 (October 1984), repromulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§309. Minutes

A. The minutes of all meetings shall be prepared by the executive director and signed by the secretary and the president at the next regular meeting. As soon as the minutes are prepared, the executive director shall mail them to the membership for their comments.

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

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:333

(September 1978), repromulgated LR 10:737 (October 1984), amended by the Office of the Governor, Board of Architectural Examiners LR 29:

§311. Conduct of Meetings

A. Unless required otherwise, by law or by these rules, *Robert's Rules of Order* shall be used in the conduct of business by the board.

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

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:333 (September 1978), repromulgated LR 10:736 (October 1984), repromulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§313. Quorum

A. Four members of the board constitute a quorum.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 9:333 (September 1978), amended LR 10:738 (October 1984), amended by the Office of the Governor, Board of Architectural Examiners LR 29:

§315. Official Records

A. Among other official records required by law, or by rules of other agencies in support of law, there shall be kept in the board offices accurate and current records including, but not limited to:

1. minutes of all meetings of the board;
2. the name and registration number of all persons to whom certificates of registration are issued, the last known address of all registrants, and all current renewals effected through annual registrations;
3. an individual file for each registrant containing the original application, relevant verification and evaluation data, examination dates, grades, and date of original registration;
4. alleged violations and any revocation, rescission and suspension of licenses; and
5. a system of record keeping correctly and currently indicating funds budgeted, spent, and remaining, as well as projections of appropriate requests for consideration in budget development.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 9:333 (September 1978), amended LR 10:738 (October 1984), amended by the Office of the Governor, Board of Architectural Examiners LR 29:

§317. National Council of Architectural Registration Boards

A. The board shall maintain membership in the National Council of Architectural Registration Boards (NCARB) and its regional conference. Up-to-date information on the examinations and policies adopted from time to time by NCARB shall be reported to the board regularly.

B. The board will cooperate with NCARB in furnishing transcripts of records and rendering assistance in establishing uniform standards of professional qualification throughout the jurisdiction of NCARB.

C. Effective February 24, 1989, out of the funds of the board each board member shall be compensated at a rate of \$75 for each day in attending board meetings and hearings,

attending NCARB regional and national meetings, issuing certificates and licenses, necessary travel, and discharging other duties, responsibilities, and powers of the board. In addition, out of said funds each board member, the executive director, and the board attorney shall be reimbursed reasonable and necessary travel, meals, lodging, clerical, and other incidental expenses incurred while performing the duties, responsibilities, and powers of the boards, including but not limited to performing the aforesaid specific activities.

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

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:333 (September 1978), amended LR 10:738 (October 1984), LR 12:760 (November 1986), amended by the Department of Economic Development, Board of Architectural Examiners, LR 15:732 (September 1989), amended by the Office of the Governor, Board of Architectural Examiners LR 29:

Chapter 5. Election of Nominees to Fill Vacancy

§501. Vacancy

A. This chapter concerns the election of the three nominees to be submitted to the governor for the filling of a vacancy on the board of one or more of the five architectural members to be appointed by the governor pursuant to R.S. 37:142.B. This rule shall be applicable whether the vacancy occurs as a result of withdrawal, disability, death, completion of the term of appointment, or any other reason. This rule shall not be applicable to the board members selected by the governor pursuant to R.S. 37:142.C or D.

B. If a vacancy occurs, or is about to occur, the executive director shall publish notice thereof in the official journal of the state for a period of not less than ten calendar days. The published notice need not appear more than three times during the ten day period. The published notice shall identify the district where the vacancy has occurred and state that any licensed architect domiciled in that district desiring to fill that vacancy shall send a letter by certified mail to the director of the board indicating his or her intent to be a candidate, which letter shall be accompanied by a curriculum vitae and shall certify that, if elected, the architect will serve. The deadline for receipt of the certified letter shall be at least 20 calendar days subsequent to the publication of the last notice appearing in the official journal of the state. Confirmation of receipt shall be the sole responsibility of the candidate.

C. The board shall also provide notice of any vacancy to anyone who has requested same by certified mail within 90 days of the occurrence thereof. However, any failure to provide such notice shall not effect the results of any election conducted to fill the vacancy.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§503. Waiver of Election

A. If three or fewer eligible architects from any district seek nomination, no election shall be held in that district, and the names of those three or fewer candidates shall be submitted to the governor without any further board action.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§505. Ballots

A. If an election is necessary, an official ballot and an official return envelope shall be mailed to each licensed architect residing in Louisiana. The ballot shall contain the names of the candidates printed in alphabetical order for each district, the date for the return of the ballots, and any other information or instructions the board believes may be helpful in the election process. Biographical information may be attached to the ballot.

B. If the ballot mailed by board is lost, misplaced or not received, an architect desiring to vote may request from the board a substitute or replacement ballot. This substitute or replacement ballot may be used in the election, provided the requirements of §507.C are satisfied.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§507. Voting

A. All licensed architects residing in Louisiana shall have the right to vote in the election of nominees to fill the vacancy for any district. If nominees are being elected for more than one district, a licensed architect may choose to vote in one or more but less than all district elections, and no ballot shall be voided for that reason. However, any ballot containing more than three votes or fewer than three votes for candidates in any one district will be voided in its entirety. No write-in candidates will be allowed, and any ballot containing a vote for a write-in candidate will be voided in its entirety.

B. Ballots shall be returned in the official return envelopes provided by the board to the board office in Baton Rouge. The voting architect shall sign and provide his or her license number in the upper left-hand corner of the return envelope.

C. The ballot shall not be valid unless the signature and license number appear on the return envelope, and the return envelope is received by the board office on or before the deadline. Ballots returned in an envelope other than the official return envelope provided by the board shall not be voided for that reason, provided the signature and license number of the voting architect appear on the return envelope, and the return envelope is received by the board office on or before the deadline.

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

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§509. Tabulation

A. Within 14 calendar days of the deadline for receipt of ballots, tellers appointed by the president, including at least one board member, shall meet at the board office for the purpose of tabulating the ballots. Following a determination that each return envelope contains the required signature and license number, and was timely received, the tellers shall

open and count all ballots properly prepared. The executive director will notify the governor and the candidates of the results.

B. Alternatively, when in the discretion of the president the manual tabulating of the ballots by tellers in accordance with the preceding paragraph would be burdensome, or for some other reason should be performed by an outside person, the president may refer the entire tabulating of the ballots, or any part thereof, to an accounting firm, data processing company, or other such qualified person in addition to one board member. The outside person may use such clerical or other assistance, including whatever assistance from the board staff, as he or she deems necessary. The outside person shall:

1. determine that each return envelope contains the required signature and license number, and was timely received;

2. count all ballots properly prepared; and

3. certify the number of votes received by each candidate to the board president and the executive director, who shall notify the governor and the candidates of the results.

C. The three candidates receiving the highest number of votes in each district shall have their name submitted to the governor as nominees.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§511. Tie

A. In the event the three candidates receiving the highest number of votes cannot be determined because of a tie, a run-off election will be held. The only candidates in the run-off election will be those candidates who received the same number of votes so that the outcome of the election cannot be fully determined.

B. If a run-off election is necessary, an official ballot and an official return envelope will be mailed to each licensed architect residing in Louisiana approximately two weeks after it has been determined that such an election is necessary.

C. The official ballot shall contain the information set forth in §505.A, except only the names of and the information for those candidates in the run-off election shall be included.

D. The rules for voting, for determining the person or persons elected as nominees, and for tabulating votes set forth elsewhere in this rule shall be applicable.

E. In the event the run-off election does not decide the three candidates receiving the highest number of votes, the procedure set forth herein shall be repeated.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§513. Vacancy of Person Elected as Nominee

A. If a vacancy occurs with respect to a person elected as a nominee, that vacancy shall be filled in the following manner: The executive director shall give notice of the vacancy to all of the other candidates in that district and to anyone who has requested notice of any such vacancy in writing by certified mail within 90 days of the election; however, any failure to provide such notice shall not effect

any election conducted subsequently held to fill the vacancy. The executive director shall also publish notice of the vacancy in the official journal of the state for a period of not less than 10 calendar days. The published notice need not appear more than three times during the 10 day period. The published notice shall identify the district where the vacancy has occurred and state that any licensed architect domiciled in that district desiring to fill that vacancy shall advise the board in writing before the deadline determined by the president, and may contain other information. If more than one person seeks election as the nominee, the board will call another election to fill that vacancy.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§515. Election Contest

A. The executive director will notify the candidates of the results of the election by U.S. Mail. The 10 calendar days for contesting an election shall commence three work days (excluding Saturdays, Sundays, and legal holidays) after the results of the election are deposited in the mail by the executive director.

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

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

Chapter 7. Applications for Examination

§701. Making Application for Architectural Registration Examination

A. A person desiring to take the Architectural Registration Examination ("ARE") should contact the National Council of Architectural Registration Boards ("NCARB").

B. The applicant has full, complete, and sole responsibility for furnishing to NCARB all necessary information and paying to NCARB all required fees.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§703. Training Credits for Applicants Not Holding a Professional Degree

A. Experience used to meet the educational equivalency requirements set forth in R.S. 37:146(D)(2) can not be used

to satisfy the practical architectural work experience requirements set forth in R.S. 37:146(D)(3). Although training credits can be earned prior to satisfactory completion of the educational equivalency requirements set forth in R.S. 37:146(D)(2) at such times permitted by NCARB in its Circular of Information No. 1, experience used in earning such credits can not also be used to satisfy the training requirements of R.S. 37:146(D)(3).

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§705. Modifications to Examination Administration to Accommodate Physical Handicaps

A. Requests for modification to the examination administration to accommodate physical handicaps must be made in writing to the board. Such a request must be accompanied by a physician's report and/or a report by a diagnostic specialist, along with supporting data, confirming to the board's satisfaction the nature and extent of the handicap. After receipt of the request from the applicant, the board may require that the applicant supply further information and/or that the applicant appear personally before the board. It shall be the responsibility of the applicant to timely supply all further information as the board may require. The board, along with the National Council of Architectural Registration Boards (NCARB), shall determine what, if any, modifications will be made.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

Chapter 9. The Examination

§901. Examinations Required

A. The Architectural Registration Examinations ("ARE") prepared by the NCARB is adopted by this board as the examinations required to obtain registration.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§903. Review of Examination and Answers of the Candidate; Reversing Grades

A. A candidate will not be permitted to review his/her examination or answers thereto.

B. The board will not reverse the grade received by a candidate from NCARB.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

Chapter 11. Registration Procedure

§1101. Registration Information

A. To obtain information regarding registration to practice architecture in Louisiana an individual, a corporation which satisfies the requirements of the Professional Architectural Corporations Law, an architectural-engineering corporation which satisfies the requirements of the Architectural-Engineering Corporation Law, and a limited liability company which satisfies the requirements of the Limited Liability Company Law shall write the board indicating whether the applicant seeks to be registered as an architect, a professional architectural corporation, an architectural-engineering corporation, or a

limited liability company. The applicant will then receive instructions on the procedure to follow. Upon passing all divisions of the examination, an in-state candidate shall be charged a fee of \$75 and an out of state candidate shall be charged a fee of \$150 for the issuance of his or her initial license.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1103. Individuals Registered in Other States

A. The exclusive means for an individual registered in another state(s) seeking to be registered in Louisiana is the submission to the board of an NCARB (Blue Cover) certificate.

B. Upon finding the NCARB (Blue Cover) certificate in order and upon payment of the registration fee of \$300, the board will register said individual and issue a license to said individual to practice architecture in this state.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1105. Certificates

A. Upon granting registration and issuance of a license to practice architecture, a copy of the licensing law and the rules of the board shall be forwarded to the registrant.

B. Only individuals, professional architectural corporations, architectural-engineering corporations, and limited liability companies who have met the statutory registration requirements through established board rules shall receive certificates of registration.

C. Each holder of a certificate shall maintain the certificate in his principal office or place of business in this state.

D. A replacement certificate will be issued to a registrant to replace one lost or destroyed, provided the current annual registration renewal is in effect, the registrant makes proper request and submits an acceptable explanation of the loss or destruction of the original certificate, and the registrant pays a fee to be set by the board.

E. A registrant retired from practice who has either practiced architecture for 30 years or more or who is 65 years of age or older may request emeritus status. Only a registrant who is fully and completely retired from the practice of architecture may request emeritus status. Any registrant who is presently receiving or who anticipates receiving in the future any salary, income, fees or other compensation (other than retirement income) from an architectural client, architectural firm, architect, design professional, or any other person for the practice of architecture is ineligible for emeritus status. The annual renewal fee for an approved emeritus registrant is \$5. Revocation and reinstatement rules apply to an emeritus registrant, just as they do to any other registrant.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

Chapter 13. Administration

§1301. Renewal Procedure

A. A license for individual architects shall expire and become invalid on December 31 of each year. Licenses for

professional architectural corporations, architectural-engineering corporations, and limited liability companies shall expire and become invalid on June 30 of each year. An individual architect, professional architectural corporation, architectural-engineering corporation, and limited liability company who desires to continue his or its license in force shall be required annually to renew same.

B. It is the responsibility of the individual architect, professional architectural corporation, architectural-engineering corporation, and limited liability company to obtain, complete, and timely return a renewal form and fee to the board office, which forms are available upon request from said office.

C. Prior to December 1 of each year the board shall mail to all individual architects currently licensed a renewal form. An individual architect who desires to continue his license in force shall complete said form and return same with the renewal fee prior to December 31. The license renewal fee for an individual architect domiciled in Louisiana shall be \$75, the license renewal fee for an individual domiciled outside Louisiana shall be \$150. Upon payment of the renewal fee the executive director shall issue a renewal license or registration.

D. Prior to June 1 of each year the board shall mail to all professional architectural corporations, architectural-engineering corporations, and limited liability companies currently licensed a renewal form. A professional architectural corporation, an architectural-engineering corporation, and a limited liability company which desires to continue its license in force shall complete said form and return same with the renewal fee prior to June 30. The fee shall be \$50. Upon payment of the renewal fee, the executive director shall issue a renewal license.

E. The failure to renew a license timely shall not deprive the architect of the right to renew thereafter. An individual architect domiciled in Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$75. An individual architect domiciled outside Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$150. The delinquent fee shall be in addition to the renewal fee set forth in the 1301.C.

F. The failure to renew its license in proper time shall not deprive a professional architectural corporation, an architectural-engineering corporation, or a limited liability company of the right to renew hereafter. A professional architectural corporation, an architectural-engineering corporation, or a limited liability company who transmits its renewal form and fee to the board subsequent to June 30 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$50. This delinquent fee shall be in addition to the renewal fee set forth in 1301.D.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1303. Architect's Seal or Stamp

A. The seal or stamp of the architect shall contain the name of the architect, the architect's license number, and the words "Registered Architect, State of Louisiana."

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1305. Placing of Seal or Stamp

A. An architect shall affix his or her seal or stamp to all construction document drawings requiring the services of an architect which were prepared by the architect or under the architect's responsible supervision. Construction document drawings prepared by a consulting electrical, mechanical, structural, or other engineer shall be sealed or stamped only by the consulting engineer.

B. An architect shall clearly identify the specification sections prepared by that architect or under that architect's responsible supervision and distinguish such sections from those prepared by consulting engineers. An architect shall affix his or her seal or stamp either to:

1. each specification section, page, or sheet prepared by or under the responsible supervision of the architect, or
2. the appropriate portion of any Seals/Stamp Page in the specification document which identifies the specification sections prepared by the architect or under his or her responsible supervision and those sections prepared by consulting engineers. Consulting engineers shall affix their seal or stamp either to each specification section, page, or sheet prepared by that consultant, or to that portion of any Seals/Stamp Page which identifies the specification sections prepared by that consultant.

C. If a public or governmental agency requires further certification by the architect (such as that the title or index page of the specifications be certified by the architect), the architect's further certification shall include a description of exactly what drawings and what portions or sections of the specifications were prepared by or under the architect's responsible supervision, and what drawings and what portions or sections of the specifications were prepared by others. In addition, the architect shall include a certification from any consulting engineers as to what drawings and what portions or sections of the specifications were prepared by or under the responsible supervision of the consulting engineers.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1307. Architect or Professional Engineer

A. It is recognized that in certain fields of practice there is a broad overlap between the work of architects and engineers. This is particularly true in the field of buildings and similar structures. It is recognized that an architect, who has complied with all of the current laws of Louisiana relating to the practice of architecture has a right to engage in activities properly classifiable as professional engineering insofar as it is necessarily incidental to his work as an architect. Likewise, it is recognized that the professional engineer, who has complied with all of the current laws of Louisiana, and is properly registered in that branch of engineering for which he may be qualified, has a right to engage in activities classifiable as architectural insofar as is necessarily incidental to his work as an engineer. Furthermore, the architect or the professional engineer, as the case may be, shall assume all responsibility for

compliance with all laws or ordinances relating to the designs of projects with which he may be engaged.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1309. Calculating Gross Floor Area Under La. R.S. 37:155(4) Where Building Contains Mixed Occupancy Classifications

A. When a building contains more than one of the occupancy classifications set forth in R.S. 37:155(4)(f), the gross floor area shall be calculated by performing the following calculations.

1. Divide the gross floor area of each of the occupancy classifications by the corresponding threshold of each, as established in R.S. 37:155(4)(f). Round off the resultants to four decimal points.
2. Add the results of each of the above calculations.
3. If the total exceeds 1.0000, the building shall be determined to exceed the gross floor areas established in La. R.S. 37:155(4)(f).
 - a. For example, calculating the gross floor area of a building containing 3,126 square feet of storage occupancy and 2,000 square feet of business occupancy shall be performed as follows:

$$\begin{aligned}
 &3,126 \text{ actual storage sq. ft.} &= &0.5002 \\
 &\text{divided by } 6,250 \text{ threshold} && \\
 &2,000 \text{ actual business sq. ft.} &= &0.5000 \\
 &\text{divided by } 4,000 \text{ threshold} && \\
 &\text{Total} &= &1.0002
 \end{aligned}$$

b. In this example, the threshold square footage of this mixed occupancy building would be exceeded and, therefore, would not be exempt under R.S. 37:155(4).

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1311. Interpretation of R.S. 37:155(4)(c)

A. As set forth in R.S. 37:155(4)(c), renovations or alterations of any size building which do not affect the structural integrity or life safety, exclusive of building finishes and furnishings, are exempted from the Licensing Law, R.S.37:141 et seq. Renovations or alterations which exceed \$125,000 are exempted from the Licensing Law only if the applicant documents to the satisfaction of the state fire marshal that the project does not affect structural integrity or life safety.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1313. Interpretation of R.S. 37:152(B)

A.1. Specifications, drawings, or other related documents will be deemed to have been prepared either by the architect or under the architect's responsible supervision only when:

- a. the client requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the architect, or the architect's employee as long as the employee works in the architect's office;

b. the architect personally controls the preparation of the plans, specifications, drawings, reports or other documents and has input into their preparation prior to their completion;

c. if the plans, specifications, drawings, reports, or other such documents are prepared outside the architect's office, the architect shall maintain evidence of the architect's responsible control including correspondence, time records, check prints, telephone logs, site visit logs, research done for the project, calculations, changes, and written agreements with any persons preparing the documents outside of the architect's offices accepting professional responsibility for such work;

d. the architect reviews the final plans, specifications, drawings, reports or other documents; and

e. the architect has the authority to, and does, make necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents.

2. If an architect fails to maintain written documentation of the items set forth above, when such are applicable, then the architect shall be considered to be in violation of R.S. 37:152, and the architect shall be subject to the disciplinary penalties provided in R.S. 37:153. This written documentation should be maintained for the prescriptive period applicable to claims against the architect which may arise from his or her involvement in the project.

B.1. Nothing precludes the use of prototypical documents provided the architect:

a. has written permission to revise and adapt the prototypical documents from the person who either sealed the prototypical documents or is the legal owner of the prototypical documents;

b. reviewed the prototypical documents and made necessary revisions to bring the design documents into compliance with applicable codes, regulations, and job specific requirements;

c. independently performed and maintains on file necessary calculations;

d. after reviewing, analyzing, and making revisions and/or additions, issued the documents with his/her title block and seal (by applying his/her seal, the architect assumes professional responsibility as the architect of record); and

e. maintained design control over the use of site adapted documents just as if they were his/her original design.

2. The term *prototypical documents* shall mean model documents of buildings that are intended to be built in several locations with substantially few changes and/or additions except those required to adapt the documents to each particular site; that are generic in nature, that are not designed or premised upon the laws, rules or regulations of any particular state, parish, or municipal building code; that do not account for localized weather, topography, soil, subsistence, local building codes, or other such conditions or requirements; and that are not intended to be used as the actual documents to be employed in the construction of a building, but rather as a sample or a model to provide instruction or guidance. The term *legal owner* shall mean the person who provides the architect with a letter that he or she is the owner of the documents and has the written permission to allow the use thereof.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1315. Continuing Education

A. Purpose and Scope. These rules provide for a continuing education program to insure that all architects remain informed of those technical and professional subjects necessary to safeguard life, health, and promote the public welfare. These rules shall apply to all architects practicing architecture in this state.

B. Exemptions. Exempt from participating in the continuing education program required by these rules are:

1. A newly registered architect during his or her initial year of registration.

2. An emeritus status architect as defined by board rule §1105.E.

3. A civilian who serves on active duty in the Armed Forces of the United States for a period of time exceeding ninety (90) consecutive days during the annual report period.

4. An architect who demonstrates to the satisfaction of the board that meeting these requirements would work an undue hardship by reason of disability, sickness, or other clearly mitigating circumstances.

C. Definitions

*AIA*The American Institute of Architects.

*AIA/CES*the continuing education system developed by *AIA* to record professional learning as a mandatory requirement for membership in the *AIA*.

*ARE*the Architect Registration Examination prepared by the National Council of Architectural Registration Boards.

*Board*the Louisiana State Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, Louisiana 70809, Telephone: 225-925-4802, Telecopier: 225-925-4804, website: <http://www.lastbdarchs.com>.

*CEH*a continuing education hour. One CEH is equivalent to 50 minutes of actual contact time.

*HSW*the health, safety and welfare of the public.

Individually Planned Educational Activities Educational activities in which the teaching methodology primarily consists of the architect himself/herself addressing *HSW* subjects which are not systemically presented by others, including authoring a published *HSW* paper, article or book and successfully completing college or university sponsored *HSW* courses.

*NCARB*the National Council of Architectural Registration Boards.

*Non-Resident Architect*Can architect registered by the board and residing outside Louisiana.

*Resident Architect*Can architect residing in this state.

*Sponsor*Can individual, organization, association, institution or other entity which offers an educational activity for the purpose of fulfilling the continuing education requirements of these rules.

Structured Educational Activities Educational activities in which the teaching methodology consists primarily of the systematic presentation of *HSW* subjects by qualified individuals or organizations, including *HSW* monographs, course of *HSW* study taught in person or by correspondence, organized *HSW* lectures, *HSW* presentations or workshops, and other means to which identifiable technical and

professional HSW subjects are presented in a planned manner.

D. Requirements

1. Beginning with license renewals effective January 1, 1999, all architects must show compliance with the educational requirements of these rules as a condition for renewing registration.

2. Resident architects shall complete a minimum of 12 continuing education hours (CEH) in HSW each calendar year, beginning with 1998. The 12 CEH must be obtained in either Structured Educational Activities or Individually Planned Educational Activities, as defined herein. Of the 12 required CEH, a minimum of eight CEH must be obtained in Structured Educational Activities. No more than four CEH may be obtained in Individually Planned Educational Activities. The requirement must be satisfied during the period which begins January 1 and ends December 31 of the calendar year immediately preceding the license renewal year.

3. Non-resident architects shall complete either:

a. the mandated requirements for continuing education of a jurisdiction in which that architect is registered to practice architecture, provided that a minimum of eight hours of CEH are obtained in HSW educational activities and also provided the other jurisdiction accepts satisfaction of Louisiana continuing education requirements as meeting its own, or

b. the requirements set forth herein for resident architects.

4. To satisfy the continuing education requirements for the year 1998 only, an architect may use hours obtained during calendar years 1997 and 1998.

5. If an architect is being re-registered after having been unregistered then, in addition to all other requirements, the architect must have acquired that number of total CEH that would have been required if registration had been regularly renewed.

E. Acceptable Educational Activities

1. Credit will be allowed only for continuing education activities in areas which:

a. directly safeguard the public's health, safety, and welfare, and

b. provide individual participant documentation from a person other than the participant for record keeping and reporting.

2. Only subject matters on the ARE current at the time of the activity are acceptable. An official list of approved topics to accomplish the purpose of these rules is published on the board's website. The board's current list is also available upon written request from the board.

3. Acceptable continuing educational activities in HSW include the following:

a. attending HSW professional or technical seminars, lectures, presentations, courses, or workshops offered by a professional or technical organization (AIA, National Fire Protection Association, Concrete Standards Institute, NCARB, etc), insurer, or manufacturer;

b. successfully completing HSW tutorials, short courses, correspondence courses, televised courses, or video-taped courses offered by a provider mentioned in the preceding paragraph;

c. successfully completing HSW monographs or other self-study courses such as those sponsored by NCARB or a similar organization which tests the architect's performance;

d. making professional or technical HSW presentations at meetings, conventions or conferences;

e. teaching or instructing HSW courses;

f. authoring a published HSW paper, article or book; and

g. successfully completing college or university sponsored HSW courses.

4. Continuing educational activities need not take place in Louisiana, but may be acquired at any location.

5. All continuing education activities shall:

a. have a clear purpose and objective;

b. be well organized and provide evidence of pre-planning;

c. be presented by persons who are well qualified by education or experience in the field being taught;

d. provide individual participant documentation from a person other than the participant for record keeping and reporting; and

e. shall not focus upon the sale of any specific product or service offered by a particular manufacturer or provider.

F. Number of Continuing Education Hours Earned

1. Continuing education credits shall be measured in CEH and shall be computed as follows.

a. Attending seminars, lectures, presentations, workshops, or courses shall constitute one CEH for each contact hour of attendance.

b. Successfully completing tutorials, short courses, correspondence courses, televised or video-taped courses, monographs and other self-study courses shall constitute the CEH recommended by the program sponsor.

c. Teaching or instructing a qualified seminar, lecture, presentation, or workshop shall constitute two CEH for each contact hour spent in the actual presentation. Teaching credit shall be valid for teaching a seminar or course in its initial presentation only. Teaching credit shall not apply to full-time faculty at a college, university or other educational institution.

d. Authoring a published paper, article or book shall be equivalent of 8 CEH.

e. Successfully completing one or more college or university semester or quarter hours shall satisfy the continuing education hours for the year in which the course was completed.

2. Any program in HSW contained in the record of an approved professional registry will be accepted by the board as fulfilling the continuing education requirements of these rules. The board approves the AIA as a professional registry, and contact hours listed in HSW in the AIA/CES Transcript of Continuing Education Activities will be accepted by the board for both resident and non-resident architects.

3. If the architect exceeds the continuing education requirement in any renewal period (January 1 through December 31), the architect may carry over a maximum of 12 qualifying CEH to the subsequent renewal period.

G Reporting, record keeping and auditing

1. Each architect shall complete the language on the renewal application pertaining to that architect's continuing education activities during the calendar year immediately preceding the license renewal period. Any untrue or false statement or the use thereof with respect to course attendance or any other aspect of continuing educational activity is fraud or misrepresentation and will subject the architect and/or program sponsor to license revocation or other disciplinary action.

2. To verify attendance each attendee shall obtain an attendance certificate from the program sponsor. Additional evidence may include but is not limited to attendance receipts, canceled checks, and sponsor's list of attendees (signed by a responsible person in charge of the activity). A log showing the activity claimed, sponsoring organization, location, duration, etc. should be supported by other evidence. Evidence of compliance shall be retained by the architect for two years after the end of the period for which renewal was requested.

3. A number of renewal applications will be randomly selected by the board for audit for verification of compliance with these requirements. Upon request by the board, evidence of compliance shall be submitted to substantiate compliance of the requirements of these rules. The board may request further information concerning the evidence submitted or the claimed educational activity. The board has final authority with respect to accepting or rejecting continuing education activities for credit.

4. The board may disallow claimed credit. If so, unless the board finds that the architect willfully disregarded these requirements, the architect shall have a period up to six months after notification of disallowance to substantiate the original claim or earn other CEH which fulfill the minimum requirements (and such CEH shall not again be used for the next renewal).

H. Pre-Approval of Programs

1. Upon written request, the board will review a continuing education program prior to its presentation provided all of the necessary information to do so is submitted in accordance with these rules. If the program satisfies the requirements of these rules, the board will pre-approve same.

2. A person seeking to obtain pre-approval of a continuing education program shall submit the following information:

a. program sponsor(s): name(s), address(es), and phone number(s);

b. program description: name, detailed description, length of instructional periods, and total hours for which credit is sought;

c. approved Seminar Topic: division(s) and topic(s) from the current list of Approved Seminar Topics;

d. program instructor(s)/leader(s): name(s) of instructor(s)/ leader(s) and credential(s);

e. time and place: date and location of program; and
f. certification of attendance: sponsor's method for providing evidence of attendance to attendees.

3. Such information shall be submitted at least 30 calendar days in advance of the program so that the board may analyze and respond.

4. The sponsor of a pre-approved program may announce or indicate as follows:

"This course has been approved by the Louisiana State Board of Architectural Examiners for a maximum of _____ CEH."

I. Non-Compliance

1. Failure to fulfill the continuing education requirements shall result in non-renewal of that architect's certificate of registration and loss of the right to practice architecture.

2. If the board finds that the architect willfully disregarded these requirements, the board may subject the architect to all of the disciplinary actions allowed by law, including license revocation.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1317. Interpretation of R.S. 37:155(A)(3)

A. Registered architects of other states will be deemed to be associated with a registered architect of this state on a specific project within the meaning of R.S. 37:155(A)(3) only when:

1. a written agreement is signed by both the out-of-state and the in-state architects describing the association prior to executing the work;

2. the in-state architect reviews all documents prepared by the out-of-state architect and makes necessary revisions to bring the design documents into compliance with applicable codes, regulations, and requirements;

3. the in-state architect independently performs or contracts with an engineer or engineers licensed in Louisiana to perform necessary calculations, and maintains such calculations on file;

4. after reviewing, analyzing and making revisions and/or additions, the in-state architect issues the documents with his/her title block and seal (by applying his/her seal the architect assumes professional responsibility as the architect of record); and

5. the in-state architect maintains control over the use of the design documents just as if they were his/her original design.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1319. Interpretation of R.S. 37:141(B)(3); Design/Build

A. A partnership or corporation offering a combination of architectural services together with construction services may offer to render architectural services only if:

1. an architect registered in this state or otherwise permitted to offer architectural services participates substantially in all material aspects of the offering;

2. there is written disclosure at the time of the offering that such architect is engaged by and contractually responsible to such partnership or corporation;

3. such partnership or corporation agrees that such architect will have responsible control of the architectural work and that such architect's services will not be terminated prior to the completion of the project without the consent of the person engaging the partnership or corporation; and

4. the rendering of architectural services by such architect will conform to the provisions of the architectural registration law and the Rules adopted thereunder.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1321. Interpretation of R.S. 37:145; Architectural Engineers

A. A registered professional engineer who has a degree entitled Architectural Engineering from a public or private college or university accredited by the Accreditation Board for Engineering and Technology to offer such a degree may use the title "Architectural Engineer." A corporation, partnership, limited liability company, or group may include the title "Architectural Engineer" in its firm name, provided an owner, partner, or principal of that firm is a registered professional engineer who has such a degree from a public or private college or university so accredited.

B. This interpretation limits the use of the words "Architectural Engineer" to the descriptive title only. Nothing contained herein shall be construed to authorize or allow such an individual or firm to practice architecture in this state.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

Chapter 15. Titles, Firm Names, and Assumed Names

§1501. Misleading and Confusing Names Prohibited

A. The statutory authorization for architects to offer to the public the practice of architecture and the rendering of architectural services is not an authorization to hold out as an architect any person who is not registered by the board. An architect shall not practice architecture under an assumed, fictitious or corporate name that is misleading as to the identity, responsibility, or status of those practicing thereunder or is otherwise false, fraudulent, misleading, or confusing. For example, a firm whose name contains only the real name or names of individuals who are not licensed to practice architecture is considered misleading if it holds itself out as practicing architecture or renders architectural services, even if said firm employs a licensed architect or architects.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1503. Architect's Responsibility

A. As a licensed professional, it is the responsibility of the architect to select and use a name which is neither misleading nor confusing. In case of doubt, an architect should first consult the board.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1505. Use of Term "Architect", "Architecture", or "Architectural"

A. Except as set forth in §1509, whenever the term "architect", "architecture", or "architectural" is used in a firm name, or whenever a firm includes its name in any listing of architects or of firms rendering architectural services, the name of a licensed architect followed by the title "architect" must be included either as a part of the firm title itself or a licensed architect must be identified in the listing, publication, announcement, letterhead or sign.

Allowed	Not Allowed
Smith & Jones, Architecture & Planning John Smith, Architect	Smith & Jones Architecture & Planning (unless Smith & Jones are both engaged in the active practice of architecture)
Smith & Jones, Architecture & Engineering John Smith, Architect	Smith & Jones Architecture & Engineering (unless Smith and Jones are both licensed architects engaged in the active practice of architecture)
Design Professionals Architecture & Planning John Smith, Architect	Design Professionals Architecture & Planning
Heritage Architectural Services John Smith, Architect	Heritage Architectural Services
John Smith, Architect, and Associates	

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1507. Use of the Plural Term "Architects"

A. Except as set forth in §1509, if the firm title indicates that the firm contains two or more architects, the names of at least two licensed architects followed by the title "architect" must be included either as a part of the firm title itself or at least two licensed architects must be identified in the listing, publication, announcement, letterhead, or sign.

Allowed	Not Allowed
Communications Architects John Smith, Architect Jack Jones, Architect	Communications Architects
Smith & Jones, Architectural Services John Smith, Architect	

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1509. Firm Name Which Includes Names of Licensed Architects Only

A. A firm name which includes only the name or names of licensed architects engaged in the active practice of

architecture is not required to include the name of a licensed architect followed by the title "architect" as a part of the firm title in any listing, publication, announcement, letterhead, or sign.

Allowed	Not Allowed
John Smith & Associates, Architects (if John Smith is a licensed architect engaged in the active practice of architecture)	John Smith & Associates, Architects (unless John Smith is a licensed architect engaged in the active practice of architecture)
Smith & Jones, Architects (if Smith & Jones are both licensed architects engaged in the active practice of architecture)	Smith & Jones, Architects (if Jones is deceased, retired, or not licensed by the board)

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1511. Use of "AIA"

A. The use of "AIA", in and of itself, is not an acceptable substitution for the required title "architect" on every listing, publication, announcement, letterhead, business card, and sign used by an individual practicing architecture in connection with his practice.

Allowed	Not Allowed
John Smith, Architect John Smith, Architect, AIA	John Smith, AIA

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1513. Use of the Term "Associate"

A. An architect may only use the word "associate" in the firm title to describe a full time officer or employee of the firm. The plural form may be used only when justified by the number of associates who are full time firm employees. An architectural firm using the plural form, but which loses an associate or associates so that it is no longer able to do so, is not required to change its name for a period of two years from the departure of the associate. Identification of the associates in the firm title, listing, publication, letterhead, or announcement is not required.

Allowed	Not Allowed
John Smith & Associates, Architecture & Planning John Smith, Architect	John Smith & Associates Architects (if the firm employees only one associate as defined herein)
John Smith & Associates, Architect John Smith, Architect	

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1515. Sole Proprietorship, Partnership, Group, Association, or Limited Liability Company

A. The firm name of any form of individual, partnership, corporate, limited liability company, group, or associate

practice must comply with all of the rules set forth in this Chapter.

Allowed	Not Allowed
John Smith, Architect	John Smith
John Smith, AIA, Architect	John Smith, AIA
John Smith, Architect, AIA	
John Smith & Associates John Smith, Architect	
Smith & Jones, Architect & Engineer John Smith, Architect	Smith & Jones, Architects & Engineers (if Smith & Jones are not licensed architects engaged in the active practice of architecture)
Smith & Jones, Architects & Engineer (if Smith and Jones are both licensed architects engaged in the active practice of architecture)	Smith & Jones, Architects (if either Smith or Jones are not licensed architects engaged in the active practice of architecture)

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1517. Professional Architectural Corporations

The corporate name of a professional architectural corporation registered with this board must comply with R.S. 12:1088.

Allowed	Not Allowed
Smith & Jones, A Professional Architectural Corporation	Smith & Jones, Inc.
Smith & Jones, Architects, A Professional Architectural Corporation	Smith & Jones, A Professional Interior Architectural Corporation
Heritage Architects, A Professional Architectural Corporation	

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1519. Architectural-Engineering Corporation

A. The corporate name of an architectural-engineering corporation registered with this board must comply with R.S. 12:1172.

Allowed	Not Allowed
Smith & Jones, An Architectural-Engineering Corporation	Smith & Jones
Smith & Jones, Inc.	
Heritage Architects, Ltd.	

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1521. Fictitious Name

A. For the purpose of these rules, a fictitious name is any name other than the real name or names of an individual. Any individual, partnership, corporation, limited liability company, group, or association may practice architecture under a fictitious name provided the name complies with all of the rules of this Chapter.

Allowed	Not Allowed
Heritage Architecture John Smith, Architect	Heritage Architecture
Architecture Design John Smith, Architect	Architectural Design
Architecture Design Consultants John Smith, Architect Jack Jones, Architect	Architectural Design Consultants John Smith, Architect
Heritage Architects, A Professional Corporation John Smith, Architect	

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1523. Practicing in a Firm with Other Professionals

A. An architect who practices in a firm with one or more engineers, land surveyors, landscape architects, interior designers, or other professionals in an allied profession is permitted to use in the firm title a phrase describing the professions involved such as "Architect and Engineer", "Architects, Engineers, and Surveyors", etc. provided:

1. the title does not hold out to the public as an architect any person who is not registered by the board;
2. the name of any allied professional in the firm title is practicing in accordance with the applicable statutes and regulations that govern the practice of that allied profession; and
3. the title complies with all the rules of this Chapter.

Allowed	Not Allowed
Smith & Jones, Architect & Engineer	Smith & Jones, Architect & Engineer
John Smith, Architect Smith & Jones, Architects & Engineers	
John Smith, Architect Jack Jones, Architect	

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1525. Deceased or Retired Member Predecessor Firms

A. An architect may include in the firm name the real name or names of one or more living, deceased, or retired members of the firm, or the name of a predecessor firm in a continuing line of succession. If a firm chooses to include in

any listing of architects a deceased or retired member, a deceased or retired member should be so identified.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1527. Unlicensed Persons

A. Unlicensed persons cannot use the term "architect", "architectural", "architecture" or anything confusingly similar to indicate that such person practices or offers to practice architecture, or is rendering architectural services. A person who has obtained a degree in architecture may not use the title "graduate architect."

Allowed	Not Allowed
Designer	Architectural Designer
Draftsman	Architectural Draftsman
Building Designer Products	Architectural Building Designer

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1529. Intern Architect

- A.1. A person who:
- a. has completed the education requirements set forth in NCARB Circular of Information No. 1;
 - b. is participating in or who has successfully completed the Intern Development Program ("IDP"); and
 - c. is employed by a firm which is lawfully engaged in the practice of architecture in this state may use the title "intern architect" but only in connection with that person's employment with such firm.

2. The title may not be used to advertise or offer to the public that such person is performing or offering to perform architectural services, and accordingly such person may not include himself in any listing of architects or in any listing of persons performing architectural services. Such person may use a business card identifying himself as an "intern architect", provided such business card also includes the name of the architectural firm employing such person.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1531. Business Cards

A. The business card of an architect should comply with all of these rules including that the user thereof is identified as an "architect."

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1533. Limited Liability Company

A. The name of a limited liability company registered with the board must comply with R.S.12:1306 and include the words "Limited Liability Company": the abbreviation "L.L.C."; or the abbreviation "L.C."

Allowed	Not Allowed
Smith & Jones, Architects, A Limited Liability Company	Smith & Jones, Architects (if the entity is a limited liability company)
Smith & Jones, Architects, L.L.C.	
Smith & Jones, Architects, L.C	

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

Chapter 17. Professional Architectural Corporations, Architectural-Engineering Corporations, and Limited Liability Companies

§1701. Professional Architectural Corporations

A. The practice of architecture by professional architectural corporations is only permissible when lawfully constituted under the laws pertaining to professional architectural corporations, R.S. 12:1086, et seq.

B. No person, firm, partnership, corporation, or group of persons shall solicit, offer, execute, or perform architectural services in this state as a professional architectural corporation without first receiving a certificate from the board authorizing the corporation to do so.

C. Any person seeking to be certified to practice architecture as a professional or professional corporation shall request in writing an application to do so from the office of the board. The request shall state the name of the proposed corporation. The applicant is required to complete said application fully and return same to the executive director. Upon receipt of such application and the fee, the board shall either approve said application and certify the applicant as a professional architectural corporation or disapprove said application advising the applicant of the reasons therefor.

D. Architectural services rendered on behalf of a professional architectural corporation must be performed by or under the direct supervision of a natural person duly licensed to practice architecture in this state.

E. The architects licensed in this state who perform such architectural services or directly supervise such services are responsible to this board for all acts and conduct of such corporation.

F. It will be the responsibility of all architects named in an application to be certified as a professional architectural corporation to advise the board of any organizational change that would relate to the authority granted under this rule. Failure to do so could result in disciplinary action leading to suspension, revocation, or rescission of the registrant's license.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1703. Architectural-Engineering Corporations

A. The practice of architecture by architectural-engineering corporations is only permissible when lawfully constituted under the laws pertaining to architectural-engineering corporations, R.S. 12:1171 et seq.

B. No person, firm, partnership, corporation, or group of persons shall solicit, offer, execute, or perform architectural

services in this state as an architectural-engineering corporation without first receiving a certificate from the board authorizing the corporation to do so.

C. Any person seeking to be certified to practice architecture as an architectural-engineering corporation shall request in writing an application to do so from the office of the board. The request shall state the name of the proposed corporation. The applicant is required to complete said application fully and return same to the executive director. Upon receipt of such application and the fee, the board shall either approve said application and certify the applicant as an architectural-engineering corporation or disapprove said application advising the applicant of the reasons therefor.

D. Architectural services rendered on behalf of an architectural-engineering corporation must be performed by or under the direct supervision of a natural person duly licensed to practice architecture in this state.

E. The architects licensed in this state who perform such architectural services or directly supervise such services are responsible to this board for all acts and conduct of such corporation.

F. It will be the responsibility of all architects named in an application to be certified as an architectural-engineering corporation to advise the board of any organizational change that would relate to the authority granted under this rule. Failure to do so could result in disciplinary action leading to suspension, revocation, or rescission of the registrants' license.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1705. Limited Liability Companies

A. The practice of architecture by limited liability companies is only permissible when lawfully constituted under the laws pertaining to limited liability companies, R.S. 12:1301 et seq.

B. No person, firm, partnership, corporation, or group of persons shall solicit, offer, execute, or perform architectural services in this state as a limited liability company without first receiving a certificate from the board authorizing the limited liability company to do so.

C. A limited liability company soliciting, offering, contracting to perform, or performing the practice of architecture shall be subject to the discipline of the board and to its authority to adopt rules and regulations governing the practice of architecture.

D. Any person seeking to be certified to practice architecture as a limited liability company shall request in writing an application to do so from the office of the board. The request shall state the name of the proposed limited liability company. The applicant is required to complete said application fully and return same to the executive director. Upon receipt of such application and the fee, the board shall either approve said application and certify the limited liability company as authorized to practice architecture or disapprove said application advising the applicant of the reasons therefor.

E. Only a person who is presently licensed by the board pursuant to the provisions of R.S. 37:141 through R.S. 37:158, who is in compliance with said provisions, who is a full-time active employee of the limited liability company, and whose primary occupation is with that limited liability

company may be designated as a supervising professional architect.

F. By designating an architect as a supervising professional architect, the limited liability company authorizes that architect to appear for and act on behalf of the limited liability company in connection with the execution and performance of all contracts to provide architectural services.

G. In the event that such registered supervising professional architect ceases being a full-time active employee of the limited liability company or no longer employed by the limited liability company on a primary basis, the authority of the limited liability company to practice architecture is suspended until such time as the limited liability company designates another supervising professional architect pursuant to §1705.E above.

H. The designated supervising professional architect is responsible to this board for all acts and conduct of such limited liability company.

I. It will be the responsibility of all architects named in an application to be certified as a limited liability company to advise the board of any organizational change that would relate to the authority granted under this rule. Failure to do so could result in disciplinary action leading to suspension, revocation, or rescission of the registrants' license.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

Chapter 19. Rules of Conduct: Violations

§1901. Rules of Conduct

NOTE: Commentaries provided by the NCARB Professional Conduct Committee, except the numbering has been changed to conform to the format required by the *Louisiana Register*.

A. Competence

1. In practicing architecture, an architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in the same locality.

COMMENTARY Although many of the existing state board rules of conduct fail to mention standards of competence, it is clear that the public expects that incompetence will be disciplined and, where appropriate, will result in revocation of the license. §1901.A.1 sets forth the common law standard which has existed in this country for a hundred years or more in judging the performance of architects. While some few courts have stated that an architect, like the manufacturer of goods, impliedly warrants that his design is fit for its intended use, this rule specifically rejects the minority standard in favor of the standard applied in the vast majority of jurisdictions that the architect need be careful but need not always be right. In an age of national television, national universities, a national registration exam, and the like, the reference to the skill and knowledge applied in the same locality may be less significant than it was in the past when there was a wide disparity across the face of the United States in the degree of skill and knowledge which an architect was expected to bring to his or her work. Nonetheless, the courts have still recognized this portion of the standard, and it is true that what may be expected of an architect in a complex urban setting may vary from what is expected in a more simple, rural situation.

2. In designing a project, an architect shall take into account all applicable state and municipal building laws and regulations. While an architect may rely on the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, an architect

shall not knowingly design a project in violation of such laws and regulations.

COMMENTARY It should be noted that the rule is limited to applicable state and municipal building laws and regulations. Every major project being built in the United States is subject to a multitude of laws in addition to the applicable building laws and regulations. As to these other laws, it may be negligent of the architect to have failed to take them into account, but the rule does not make the architect specifically responsible for such other laws. Even the building laws and regulations are of sufficient complexity that the architect may be required to seek the interpretation of other professionals. The rule permits the architect to rely on the advice of such other professionals.

3. An architect shall undertake to perform professional services only when he or she, together with those whom the architect may engage as consultants, are qualified by education, training, and experience in the specific technical areas involved.

COMMENTARY While an architect is licensed to undertake any project which falls within the definition of the practice of architecture, as a professional, the architect must understand and be limited by the limitations of his or her own capacity and knowledge. Where an architect lacks experience, the rule supposes that he or she will retain consultants who can appropriately supplement his or her own capacity. If an architect undertakes to do a project where he or she lacks knowledge and where he or she does not seek such supplementing consultants, the architect has violated the rule.

4. No person shall be permitted to practice architecture if, in the board's judgment, such person's professional competence is substantially impaired by physical or mental disabilities.

COMMENTARY Here the state registration board is given the opportunity to revoke or suspend a license when the board has suitable evidence that the license holder's professional competence is impaired by physical or mental disabilities. Thus, the board need not wait until a building fails in order to revoke the license of an architect whose addiction to alcohol, for example, makes it impossible for that person to perform professional services with necessary care.

B. Conflict of Interest

1. An architect shall not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed to and agreed to (such disclosure and agreement to be in writing) by all interested parties.

COMMENTARY This rule recognizes that in some circumstances an architect may receive compensation from more than one party involved in a project but that such bifurcated loyalty is unacceptable unless all parties have understood it and accepted it.

2. If an architect has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services, the architect shall fully disclose in writing to his or her client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, the architect will either terminate such association or interest or offer to give up the commission or employment.

COMMENTARY Like §1901.B.1, this rule is directed at conflicts of interest. It requires disclosure by the architect of any interest which would affect the architect's performance.

3. An architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.

COMMENTARY This rule appears in most of the existing state standards. It is absolute and does not provide for waiver by agreement.

4. When acting as the interpreter of building contract documents and the judge of contract performance, an architect shall render decisions impartially, favoring neither party to the contract.

COMMENTARY This rule applies only when the architect is acting as the interpreter of building contract documents and the judge of contract performance. The rule recognizes that that is not an inevitable role and that there may be circumstances (for example, where the architect has an interest in the owning entity) in which the architect may appropriately decline to act in those two roles. In general, however, the rule governs the customary construction industry relationship where the architect, though paid by the owner and owing the owner his or her loyalty, is nonetheless required, in fulfilling his or her role in the typical construction industry documents, to act with impartiality.

C. Full Disclosure

1. An architect, making public statements on architectural questions, shall disclose when he or she is being compensated for making such statement or when he or she has an economic interest in the issue.

COMMENTARY Architects frequently and appropriately make statements on questions affecting the environment in the architect's community. As citizens and as members of a profession acutely concerned with environmental change, they doubtless have an obligation to be heard on such questions. Many architects may, however, be representing the interests of potential developers when making statements on such issues. It is consistent with the probity which the public expects from members of the architectural profession that they not be allowed under the circumstances described in the rule to disguise the fact that they are not speaking on the particular issue as an independent professional but as a professional engaged to act on behalf of a client.

2. An architect shall accurately represent to a prospective or existing client or employer his or her qualifications, capabilities, experience, and the scope of his or her responsibility in connection with work for which he or she is claiming credit.

COMMENTARY Many important projects require a team of architects to do the work. Regrettably, there has been some conflict in recent years when individual members of that team have claimed greater credit for the project than was appropriate to their work done. It should be noted that a young architect who develops his or her experience working under a more senior architect has every right to claim credit for the work which he or she did. On the other hand, the public must be protected from believing that the younger architect's role was greater than was the fact.

3. The architect shall not falsify or permit misrepresentation of his or her associate's academic or professional qualifications. The architect shall not misrepresent or exaggerate his or her degree of responsibility in or for the subject matter or prior assignments. Brochures or other presentations incidental to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates joint ventures, or his/her or their past accomplishments with the intent and purpose of enhancing his/her qualifications or his/her work.

4.a. If, in the course of his or her work on a project, an architect becomes aware of a decision taken by his or her employer or client, against the architect's advice, which violates applicable state or municipal building laws and regulations and which will, in the architect's judgment, materially affect adversely the safety to the public of the finished project, the architect shall,

i. report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations;

ii. refuse to consent to the decision; and

iii. in circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding his objection, terminate his services with reference to the project unless the architect is able to cause the matter to be resolved by other means.

b. In the case of a termination in accordance with §1901.C.4.a.iii, the architect shall have no liability to his or her client or employer on account of such termination.

COMMENTARY This rule holds the architect to the same standard of independence which has been applied to lawyers and accountants. In the circumstances described, the architect is compelled to report the matter to a public official even though to do so may substantially harm the architect's client. Note that the circumstances are a violation of building laws which adversely affect the safety to the public of the finished project. While a proposed technical violation of building laws (e.g., a violation which does not affect the public safety) will cause a responsible architect to take action to oppose its implementation, the Committee specifically does not make such a proposed violation trigger the provisions of this rule. The rule specifically intends to exclude safety problems during the course of construction which are traditionally the obligation of the contractor. There is no intent here to create a liability for the architect in this area. §1901.C.4.a.iii gives the architect the obligation to terminate his or her services if he or she has clearly lost professional control. The standard is that the architect reasonably believes that other such decisions will be taken notwithstanding his or her objection. The rule goes on to provide that the architect shall not be liable for a termination made pursuant to §1901.C.4.a.iii. Such an exemption from contract liability is necessary if the architect is to be free to refuse to participate on a project in which such decisions are being made.

5. An architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with his or her application for registration or renewal.

COMMENTARY The registration board which grants registration or renews registration on the basis of a misrepresentation by the applicant must have the power to revoke that registration.

6. An architect shall not assist the application for registration of a person known by the architect to be unqualified in respect to education, training, experience, or character.

7. An architect possessing knowledge of a violation of these rules by another architect shall report such knowledge to the board.

COMMENTARY This rule has its analogue in the Code of Professional Responsibility for lawyers. Its thrust is consistent with the special responsibility which the public expects from architects.

D. Compliance with Laws

1. An architect shall not, in the conduct of his or her architectural practice, knowingly violate any state or federal criminal law.

COMMENTARY This rule is concerned with the violation of a state or federal criminal law while in the conduct of the registrant's professional practice. Thus, it does not cover criminal conduct entirely unrelated to the registrant's architectural practice. It is intended, however, that rule §1901.E.4 will cover reprehensible conduct on the part of the architect not embraced by rule §1901.D.1. At present, there are several ways in which member boards have dealt with this sort of rule. Some have disregarded the requirement that the conduct be related to professional practice and have provided

for discipline whenever the architect engages in a crime involved "moral turpitude."

The Committee declined the use of that phrase as its meaning is by no means clear or uniformly understood. Some member boards discipline for felony crimes and not for misdemeanor crimes. While the distinction between the two was once the distinction between serious crimes and technical crimes, that distinction has been blurred in recent years. Accordingly, the committee specifies crimes in the course of the architect's professional practice, and, under §1901.E.4, gives to the member board discretion to deal with other reprehensible conduct. Note that the rule is concerned only with violations of state or federal criminal law. The Committee specifically decided against the inclusion of violations of the laws of other nations. Not only is it extremely difficult for a member board to obtain suitable evidence of the interpretation of foreign laws, it is not unusual for such laws to be at odds with the laws, or, at least, the policy of the United States of America. For example, the failure to follow the dictates of the "anti-Israel boycott" laws found in most Arab jurisdictions is a crime under the laws of most of those jurisdictions; while the anti-Israel boycott is contrary to the policy of the government of the United States and following its dictates is illegal under the laws of the United States.

2. An architect shall neither offer nor make any payment or gift to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the architect is interested.

COMMENTARY Section 1901.D.2 tracks a typical bribe statute. It is covered by the general language of §1901.D.1, but it was the Committee's view that §1901.D.2 should be explicitly set out in the rules of conduct. Note that all of the rules under this section look to the conduct of the architect and not to whether or not the architect has actually been convicted under a criminal law. An architect who bribes a public official is subject to discipline by the state registration board, whether or not the architect has been convicted under the state criminal procedure.

3. An architect shall comply with the registration laws and regulations governing his or her professional practice in any United States jurisdiction.

COMMENTARY Here, again, for the reasons set out under §1901.D.1, the Committee chose to limit this rule to United States jurisdictions.

E. Professional Conduct

1. Any office offering architectural services shall have an architect resident and regularly employed in that office.

2.a. An architect shall not sign or seal drawings, specifications, reports or other professional work which was not prepared by or under the responsible supervision of the architect; except that:

i. he or she may sign or seal those portions of the professional work that were prepared by or under the responsible supervision of persons who are registered under the architecture registration laws of this jurisdiction if the architect has reviewed in whole or in part such portions and has either coordinated their preparation or integrated them into his or her work, and

ii. he or she may sign or seal portions of the professional work that are not required by the architects' registration law to be prepared by or under the responsible supervision of an architect if the architect has reviewed and adopted in whole or in part such portions and has integrated them into his or her work.

b. "Responsible supervision" shall be that amount of supervision over and detailed professional knowledge of the content of technical submissions during their preparation as is ordinarily exercised by architects applying the required professional standard of care. Reviewing, or reviewing and

correcting, technical submissions after they have been prepared by others does not constitute the exercise of responsible supervision because the reviewer has neither supervision over nor detailed knowledge of the content of such submissions throughout their preparation. Any registered architect signing or sealing technical submissions not prepared by that architect but prepared under the architect's responsible supervision by persons not regularly employed in the office where the architect is resident shall maintain and make available to the board upon request for the prescriptive period applicable to claims against the architect which may arise from his or her involvement in the project adequate and complete records demonstrating the nature and extent of the architect's supervision over and detailed knowledge of such technical submissions throughout their preparation.

COMMENTARY This provision reflects current practice by which the architect's final construction documents may comprise the work of other architects as well as that of the architect who signs and seals professional submissions. The architect is permitted to apply his or her seal to work over which the architect has both control and detailed professional knowledge, and also to work prepared under the direct supervision of another architect whom he or she employs when the architect has both coordinated and reviewed the work.

3. An architect shall neither offer nor make any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the architect is interested.

COMMENTARY This provision refers to "private bribes" (which are ordinarily not criminal in nature) and the unseemly conduct of using gifts to obtain work. Note that the rule realistically excludes reasonable entertainment and hospitality and other gifts of nominal value.

4. An architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

COMMENTARY Violations of this rule may involve criminal conduct not covered by §1901.D.1 (crimes committed "in the conduct of his or her architectural practice"). The Committee believes that a state board must, in any disciplinary matter, be able to point to a specific rule which has been violated. An architect who is continuously involved in nighttime burglaries (no connection to his daytime professional practice) is not covered by §1901.D.1 (crimes committed "in the conduct of his or her architectural practice"). The Committee believes that serious misconduct, even though not related to professional practice, may well be grounds for discipline. To that end, the Committee recommends Rule §1901.E.4. Many persons who have reviewed and commented on the draft rules were troubled by the sententious character of rule §1901.E.4. The committee has, however, found that lawyers commenting on the rules had little trouble with the standard set in §1901.E.4; it applies to conduct which would be characterized as wicked, as opposed to minor breaches of the law. While each board must "flesh out" the rule, the Committee assumes that murder, rape, arson, burglary, extortion, grand larceny, and the like, would be conduct subject to the rule, while disorderly conduct, traffic violations, tax violations, and the like, would not be considered subject to this rule.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§1903. Violations

A. Complaints alleging violation of law or rules and regulations, the enforcement of which is a responsibility of this board, should be addressed to the board office and

should be in writing and in the form of a sworn affidavit. The board, upon its own motion, may file a complaint against any architect.

B. Complaints shall be preliminarily investigated by the executive director, with the assistance of counsel and the president, who shall either dismiss the charges, so notifying the complainant, or refer the matter to the board for hearing. The board may also refer alleged violations to the appropriate district attorney and/or file suit pursuant to the provisions of R.S. 37:156.

C. The board may obtain the services of a reporter to make a record of the hearing. The respondent may contact the executive director to determine whether a reporter will be provided by the board.

D. Hearings before the board shall be in accordance with R.S. 37:141 et seq. and the Administrative Procedure Act, R.S. 49:951 et seq.

E. In all cases the board's executive director stands instructed to support and cooperate with counsel and the courts in any manner possible, and to keep the board advised of relevant matters as the case develops.

F. In the board office there shall be maintained a current file of all complaints alleging violations, reflecting all information and action pertinent thereto.

G. Upon its own motion, the board may reopen any such case on record and direct a reinvestigation of the respondent's actions subsequent to resolution of the original complaint.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

Chapter 21. Architects Selection Board

§2101. Districts

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

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§2103. Nominations

A. For terms commencing September 15 of each year, the board will accept nominations for election to the Architects Selection Board on the following basis: any resident architect holding a current Louisiana license desiring nomination must deliver a written nomination on a current form and/or reproduction obtained from board office to the board office in Baton Rouge, signed by not less than 10 resident architects other than the nominee holding a current Louisiana license, between May 1 and May 31 at 5:00 p.m. preceding the election. The nomination shall state the parish in which the nominee resides and the district for which election is sought. Nominations received on or before such deadline shall be considered timely delivered. Confirmation of receipt is the sole responsibility of the nominee.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§2105. Waiver of Election

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§2107. Ballots

A. If an election is necessary, an official ballot and an official return envelope will be mailed to each resident architect in Louisiana in good standing approximately three weeks after the closing date for nominations. On the ballot shall be printed the names of the candidates for each district in alphabetical order, the date for the return of the ballots, and any other information the board believes helpful in the election process. Attachments to the ballot may include biographical information of the candidates and instructions.

B. If the ballot mailed by board is lost, misplaced or not received, an architect desiring to vote may request from the board a substitute or replacement ballot. This substitute or replacement ballot may be used in the election, provided the requirements of §2109.C are satisfied.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§2109. Voting

A. Only resident architects in good standing in Louisiana shall have the right to vote. A resident architect may vote in one or more but less than all district elections, and no ballot shall be voided for that reason.

B. Ballots shall be returned in the official return envelopes provided by the board to the board office in Baton Rouge. The voting architect shall sign and provide his or her license number in the upper left-hand corner of the return envelope.

C.1. The ballot shall not be valid unless

a. the signature and license number appear on the return envelope; and

b. the return envelope is received by the board office on or before the deadline.

2. No write-in candidates will be allowed, and any ballot containing a vote for a write-in candidate will be voided. Any ballot containing more than one vote for candidates in one district will be entirely voided. Ballots returned in an envelope other than the official return envelope provided by the board shall not be voided for that reason, provided

a. the signature and license number of the voting architect appear on the return envelope; and

b. the return envelope is received by the board office on or before the deadline.

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

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§2111. Plurality

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§2113. Tabulation

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

B. Alternatively, when in the discretion of the president the manual tabulating of the ballots by tellers in accordance with the preceding paragraph would be burdensome, or for some other reason should be performed by an outside person, the president may refer the entire tabulating of the ballots, or any part thereof, to an accounting firm, data processing company, or other such qualified person in addition to one board member. The outside person may use such clerical or other assistance, including whatever assistance from the board staff, as he or she deems necessary. The outside person shall

1. determine that each return envelope contains the required signature and license number, and was timely received;

2. count all ballots properly prepared; and

3. certify the number of votes received by each candidate to the board president and the executive director, who shall notify the candidates of the results.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§2115. Tie

A. In the event no candidate receives a plurality, a run-off election between those candidates who received the highest number of votes will be held.

B. If a run-off election is necessary, an official ballot and an official return envelope will be mailed to each resident architect in Louisiana in good standing approximately two weeks after it has been determined that such an election is necessary.

C. The official ballot shall contain the information set forth in §2107, except only the names and information for those candidates in the run-off election shall be included.

D. The rules for voting, for determining the person elected, and for tabulating votes set forth in §2109, §2111, and §2113 shall be applicable.

E. In the event no candidate in the run-off election receives a plurality, the procedure set forth herein shall be repeated until one candidate receives a plurality.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§2117. Vacancies

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§2119. Election Contest

A. The executive director will notify the candidates of the results of the election by U.S. Mail. The 10 calendar days for contesting an election shall commence three work days (excluding Saturdays, Sundays, and legal holidays) after the results of the election are deposited in the mail by the executive director.

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

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

Chapter 23. Application of Rules

§2301. Severability

A. If any provision or item of the rules of the board or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of the rules

of the board which can be given effect without the invalid provisions, items or applications, and to this end the provisions of the rules of the board are hereby declared severable.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

§2303. Adoption and Amendment of Rules

A. These rules may be amended pursuant to the Administrative Procedure Act, R.S. 49:951 et seq.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, Louisiana 70809.

Mary "Teeny" Simmons
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Architects

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of the new rule has no effect on costs in comparison to current practice. However, the effect of the proposed rule on costs in comparison to the existing rule is unknown. The proposed rule adds an executive director and board attorney as eligible persons for reimbursement of expenditures related to their official board duties which would likely increase costs to the board. On the other hand, this proposal will now allow "reasonable and necessary" expenses to eligible persons rather than "actual" expenses. This clarification may result in a reduction in costs to the board. Therefore, the net effect of these changes is unknown. In addition, the board will no longer oversee the Architectural Registration Examination (A.R.E.) process which will result in a decrease in workload during the period in which this exam was administered.

Although the changes to the existing rules will result in varying increases and decreases in costs, no net significant change is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule clarifies the eligibility of "emeritus" architects and potentially could have a minor positive impact on revenues to the board. The renewal fee will increase from \$5 to \$75 annually for architects no longer eligible under this proposed rule to be considered an "emeritus" architect.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no cost or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with this proposed rule.

Paul H. Spaht
Attorney
0210#045

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Community Supports and Services

Targeted Case Management Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services proposes to amend the following rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is amended in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopted a Rule governing the provision of case management services to targeted populations and certain home and community based services waiver groups (*Louisiana Register*, Volume 25, Number 7). The primary objective of these case management services is attainment of the personal outcomes identified in the recipient's comprehensive plan of care.

The current 1999 Rule provides general provisions governing the services for all the covered population groups, including requirements for providers, personnel, and case management agencies. The bureau proposes to amend the July 20, 1999 Rule by adopting requirements related to a nurse consultant on-site, and by amending the criteria related to the agency quality improvement plan and self-evaluation.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, and autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services amends the July 20, 1999 Rule to adopt the following requirements governing the provision of case management services to targeted population groups and certain home and community based services waiver groups.

II. Standards of Participation

A. - B.5. ...

6. All enrolled providers of optional targeted and waiver case management must submit to the Bureau of Community Supports and Services an agency quality improvement plan (QAP) for approval within 90 days of enrollment. Six months following approval of the QAP and annually thereafter, the agency must submit an agency self-evaluation using the requirements contained in the *Medicaid Case Management Services Provider Manual*.

B.7 - C.2. ...

III. Standards for Payment

A. - A.2. ...

3. Each enrolled case management agency shall employ or contract with a licensed registered nurse to serve as a consultant.

a. Each case management agency must have a written job description and consultation plan that describes how the nurse consultant will participate in the comprehensive plan of care (CPOC) development for

medically complex individuals and others as indicated by the high risk indicators.

b. The nurse consultant shall provide consultation to the case management agency staff on health-related issues as well as education and training for case managers and case manager supervisors.

c. The nurse consultant shall be available on-site at the case management agency location at least four hours per week.

B. - B.2.d. ...

3. Education and Experience of Nurse Consultant. The nurse consultant must meet the following educational qualifications:

a. be a licensed registered nurse with a bachelor's degree in nursing. No substitutions for the bachelor's degree in nursing is allowed; and

b. have one year of paid experience as a registered nurse in a public health or human service field providing direct recipient services or case management.

B.4. - C.3. ...

Interested persons may submit written comments to Barbara Dodge at the Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 25, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Targeted Case Management Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated programmatic implementation costs to the state as a result of this proposed Rule. It is anticipated that \$162 (\$81 SGF and \$81 FED) will be expended in SFY 2002-03 for the states administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed Rule will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule proposes to amend the staffing requirements for Medicaid enrolled case management agencies to include a licensed registered nurse, and also proposes to amend the criteria related to the agency quality improvement plan and self-evaluation. It is anticipated that the implementation of this proposed Rule will cost case management providers (approximately 38) about \$125 per week to employ or contract with a licensed registered nurse to serve as a consultant for at least 4 hours per week.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed Rule may increase competition to hire qualified licensed registered nurses and may increase employment opportunities of licensed registered nurses.

Ben A. Bearden
Director
0210#056

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Abortion Facility Licensure
(LAC 48:I.Chapter 44)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule as authorized by R.S. 40:2175.1 et seq. This proposed Rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in order to implement the provisions of the Louisiana Outpatient Abortion Facility Licensing Law, as established in Act 391 of the 2001 Regular Session of the Louisiana Legislature, which provides the Department of Health and Hospitals with the authority to promulgate rules governing the licensing and regulation of outpatient abortion facilities.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 48

PUBLIC HEALTHC GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 44. Abortion Facilities

§4401. Definitions

Abortion Any surgical procedure performed after pregnancy has been medically verified with the intent to cause the termination of the pregnancy other than for the purpose of producing a live birth, removing an ectopic pregnancy, or to remove a dead fetus caused by a spontaneous abortion.

Department Department of Health and Hospitals, (DHH).

Existing Outpatient Abortion Facility Any outpatient abortion facility, as defined in this §4401, in operation at the time that the licensing standards governing outpatient abortion facilities are promulgated and published.

First Trimester the time period from six to fourteen weeks after the first day of the last menstrual period.

General Anesthesia Any drug, element, or other material which, when administered, results in a controlled state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including a loss of ability to

independently maintain an airway and respond purposefully to physical stimuli or verbal command.

Gestational Age—the duration of a pregnancy as estimated from the first day of a woman's last menstrual period (LMP) or fertilization date plus two weeks.

Licensee—the person, partnership, corporation, association, organization or professional entity on whom rests the ultimate responsibility and authority for the conduct of the outpatient abortion facility.

Licensing Agency—the Louisiana Department of Health and Hospitals.

Local Anesthesia—those anesthetizing agents administered by needle and affecting a very small localized area.

Medical Director—a physician licensed to practice medicine in Louisiana who is responsible for the direction of the medical services, nursing services, and health-related services provided to patients at an outpatient abortion facility.

Outpatient Abortion Facility—any outpatient facility, other than a hospital as defined in R.S. 40:2102 or an ambulatory surgical center as defined in R.S. 40:2133, in which any second trimester or five or more first trimester abortions per month are performed.

Patient—the woman receiving services from an outpatient abortion facility.

Products of Conception—placenta, amniotic sac or membrane, embryo, or fetal elements that result from a human pregnancy.

Second Trimester—the time period from 14 to 23 weeks after the first day of the last menstrual period.

Secretary—the secretary of the Louisiana Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

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

§4403. Licensing Requirements

A. An outpatient abortion facility may not be established or operated in this state without an appropriate license issued by the licensing agency.

B. Initial License Application

1. Initial applicants and existing outpatient abortion facilities shall submit a set of architectural plans and specifications to the Office of State Fire Marshal and Division of Engineering and Architectural Services of the department for review and approval.

2. When an architectural requirement on an existing outpatient abortion facility would impose a hardship, financial or otherwise, but would not adversely affect the health and safety of any patient, the existing outpatient abortion facility may submit a request for exception (waiver) to the department, with supporting documentation. The issuance of a waiver by the department does not apply to the Office of State Fire Marshal requirements for approval, which must be addressed exclusively with the office of State Fire Marshal.

3. An application for license shall be completed and returned to the Health Standards Section by the applicant on forms supplied by the department.

a. Existing outpatient abortion facilities must secure and return a completed licensing application packet to the department within six months from promulgation and

publication of the outpatient abortion facility licensing standards.

b. Existing outpatient abortion facilities shall be allowed to continue to operate without a license until such time as their initial application is acted upon by the department and until any and all appeals processes associated with that initial license have been completed, or the time within which any appeal process may be undertaken and completed has expired, whichever is later.

4. The application must be accompanied with a non-refundable licensing fee set in accordance with R.S. 40:2006.

5. The department will respond to the applicant within 45 days of submitting the completed application.

6. Announced on-site inspections will be performed and the facility must be in substantial compliance with the requirements of the following offices prior to the issuance of an initial license:

- a. Office of State Fire Marshal;
- b. Office of Public Health;
- c. DHH Health Standards Section.

C. Renewal Application

1. Application for license renewal shall be completed and returned to the Health Standards Section prior to the expiration date of the current license on forms supplied by the department. Application must be accompanied by annual renewal fee set in accordance with R.S. 40:2006.

2. Inspection and approval by the State Fire Marshal and Office of Public Health are required annually.

3. The licensing agency may perform an unannounced on-site inspection upon annual renewal. If the outpatient abortion facility continues to meet the requirements established in R.S. 40:2175.1 et seq., and the licensing standards adopted in pursuance thereof, a license shall be issued which is valid for one year.

D. Other on-site inspections may be performed to investigate complaints in accordance with R.S. 40:2009.13 - 2009.20 and perform follow-up surveys as deemed necessary to ensure compliance with these licensing standards.

E. Issuance of License

1. Following receipt of the application and the licensing fee, the department shall issue a license if, after an on-site inspection, it finds that the outpatient abortion facility is in full compliance with the requirements established in accordance with R.S. 40:2175.1 et seq., and the licensing standards adopted in pursuance thereof.

2. A provisional license may be issued in cases where additional time is needed for the outpatient abortion facility to comply fully with the requirements established in accordance with R.S. 40:2175.1 et seq., and the licensing standards adopted in pursuance thereof. The licensing agency may issue a provisional license to an outpatient abortion facility for a period not to exceed six months only if the failure to comply is not detrimental to the health or safety of the women seeking treatment in the outpatient abortion facility. The deficiencies which preclude the outpatient abortion facility from being in full compliance must be cited at the time the provisional license is issued.

3. A license issued to an outpatient abortion facility is valid for only one location.

4. A license issued to an outpatient abortion facility shall be valid for one year from the date of issuance, unless revoked prior to that date.

5. A license issued to an outpatient abortion facility is not transferable or assignable.

6. A license issued to an outpatient abortion facility shall be posted in a conspicuous place on the licensed premises.

F. Denial, Suspension or Revocation of License

The procedure for denial, suspension and revocation of a license and appeals resulting from these actions will be the same as provided in the licensing regulations for hospitals, and as contained in Louisiana R.S. 40:2110.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

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

§4405. Governing Authority

A. The abortion facility must have a governing body which meets at least annually. The governing body is the ultimate authority of the facility, and as such, it shall approve and adopt all bylaws, rules, policies, and procedures formulated in accordance with these licensing standards. All bylaws, rules, policies, and procedures formulated in accordance with these licensing standards shall be in writing, revised as necessary, and reviewed annually. If, due to type of ownership or other reasons, it is not possible or practical to establish a governing body, as such, then documents shall reveal the person(s) who are legally responsible for the conduct of the facility and are also responsible for carrying out the functions and obligations contained herein pertaining to the governing body.

B. The responsibilities of the governing authority shall include, but not be limited to:

1. organization and administration of the facility;
2. acting upon recommendations from the medical staff relative to medical staff appointments;
3. designation of an administrator who has the responsibility to carry out the day-to-day operations of the facility;
4. designation of a medical director who has responsibility for the direction of medical services, nursing services, and health-related services provided to patients;
5. maintenance of the physical plant;
6. ensuring that the facility is equipped and staffed to meet the needs of the patients in the facility; and
7. establishing a system for periodic evaluation of its operation (quality assurance).

C. The governing body shall establish formal lines of communication with the medical staff through a liaison committee or other acceptable methods. This committee will address problems and programs of mutual concern regarding topics including, but not limited to, patient care, cost containment and improved practice.

D. Minutes of meetings of the governing body shall be maintained to adequately reflect the discharging of its duties and responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

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

§4407. Administration

A. The administrator is the person who has been designated to carry out the day-to-day operations of the facility which include, but are not limited to the following functions:

1. employing qualified staff to provide the medical and clinical services to meet the needs of the patients being served;
2. assigning duties and functions to each employee commensurate with his/her licensure, certification, and experience and competence;
3. retaining a readily accessible written protocol for managing medical emergencies and the transfer of patients requiring further emergency care to a hospital. The facility shall ensure that the physicians who practice at the facility have admitting privileges or have a written agreement with a physician(s) who has admitting privileges at a local hospital to facilitate emergency care;
4. developing disaster plans for both internal and external occurrences. Annual drills shall be held in accordance with the plan. Documentation of these drills shall be recorded;
5. ensuring that a CPR-certified staff member who is currently trained in the use of emergency equipment is on the premises at all times when abortion services are being performed in the facility.

B. Personnel Files

1. Personnel folders shall be maintained on each employee. Contents shall include:
 - a. application;
 - b. current license(when required);
 - c. health screening reports;
 - d. documentation of areas covered in orientation;
- and
- e. other pertinent information as deemed necessary by the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

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

§4409. Personnel

A. Medical Staff

1. The medical staff of the facility shall consist of at least one physician who is licensed to practice medicine in Louisiana and is responsible to the governing body of the facility for the quality of all medical care provided to patients in the facility and for the ethical and professional practices of its members.

2. The medical staff shall formulate and adopt bylaws, rules, and policies for the proper conduct of its activities and recommend to the governing body physicians who are considered eligible for membership on the medical staff. Such bylaws, rules, and policies must be in writing and must be approved by the governing body.

3. All applications for membership to the medical staff shall be reviewed by the medical staff and recommendations for appropriate action shall be made to the governing body. The governing body's bylaws shall establish time frames for response to the recommendations of the medical staff.

4. An abortion shall be performed only by a physician who is licensed to practice in Louisiana.

5. A physician must be either present in the facility or immediately available by telecommunications to the staff when there is a patient in the facility.

6. A physician must remain in the facility until all patients are assessed to be stable.

B. Nursing Personnel

1. The nursing services shall be provided under the direction of a qualified registered nurse or medical director.

2. There shall be a plan of administrative authority with delineation of responsibilities and duties for each category of nursing personnel.

3. The number of nursing personnel on duty shall be sufficient to meet the needs of the patient(s) in the facility, as determined by the governing body, medical director, or registered nurse.

4. All nurses employed by the facility to practice professional nursing shall have a current and valid Louisiana nursing license as a registered nurse (RN) or licensed practical nurse (LPN), as appropriate.

5. Nursing care policies and procedures shall be in writing and be consistent with accepted nursing standards. Policies shall be developed for all nursing service procedures provided at the facility. The procedures shall be periodically reviewed and revised as necessary.

6. A formalized program of in-service training shall be developed for all categories of nursing personnel. Training related to required job skills shall be provided to nursing personnel.

C. General Staffing

1. When a patient is in the facility for an abortion, there shall be at least two staff members present, one of which must be either a licensed physician, RN, or LPN.

2. All employees shall be provided orientation and training with the facility's policies, philosophy, job responsibilities of all staff and emergency procedures.

D. Health Screenings

1. Facility must have policies governing health screening on personnel in accordance with federal, state and local health laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

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

§4411. Pre-Operative Procedures

A. Verification of Pregnancy. The presence of an intrauterine pregnancy shall be verified by one of the following:

1. urine or serum pregnancy test performed on-site;
2. detection of fetal heart tones; or
3. ultrasonography.

B. Duration of Pregnancy. Gestational age shall be estimated by the following methods pre-operatively:

1. date of last menstrual period, if known; and
2. pelvic examination; or
3. ultrasonography.

C. The following laboratory tests shall be performed and documented within 30 days prior to the performance of abortion:

1. hematocrit or hemoglobin determination; and
2. Rh Factor status.

D. Information and Informed Consent. Prior to an abortion:

1. a written informed consent shall be obtained in accordance with R.S. 40:1299.35.6(B). In order to ensure informed consent, a physician or other healthcare worker shall inform the patient of the material medical risks, benefits, and alternatives to the abortion procedure;

2. the clinical record shall reflect informed consent for general anesthesia, if it is to be administered, as well as an indication of the patient's history of negative or positive response (for example, allergic reactions) to medications or any anesthesia to be given;

3. the patient shall be made aware of the importance of her post-operative care and follow-up to ensure that the procedure was properly completed and no long-term sequelae have ensued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

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

§4413. Post-Operative Care and Procedures

A. The patient's recovery shall be supervised by a licensed physician or nurse trained in post-operative care. A patient in the post-operative or recovery room shall not be left unattended.

B. The patient shall be given written post-operative instructions for follow-up care. A contact for post-operative care from the facility shall be available to the patient on a 24-hour basis.

C. A licensed physician or nurse shall assess the patient to be awake, alert and medically stable before she is discharged in accordance with policies established by the medical director.

D. Upon completion of an abortion procedure, the physician shall immediately perform a gross examination of the uterine contents and shall document the findings in the patient's chart. If no products of conception are visible, a high-risk protocol for continuing pregnancy or ectopic pregnancy shall be followed.

E. Products of conception shall be disposed in compliance with Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA) and other state and local standards covering the treatment of medical waste.

F. Rh immunoglobulin administration shall be offered to Rh-negative women and documented. If Rh immunoglobulin is not administered in the facility, one of the following is required:

1. informed waiver signed by a patient who refuses RH immunoglobulin; or
2. documentation of other arrangements for administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

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

§4415. Patient Records and Reports

A. Retention of Patient Records

1. An abortion facility shall establish and maintain a medical record on each patient. The facility shall maintain the record to assure that the care and services provided to each patient is completely and accurately documented, and that records are readily available and systematically

organized to facilitate the compilation and retrieval of information.

2. Patient records shall be under the custody of the facility for a period of 10 years from the date of discharge. If the patient is a child, then the record shall be maintained for at least seven years after the child's eighteenth birthday. Patient records shall be maintained on the premises for at least five years and shall not be removed except under court orders or subpoenas. Any patient record maintained off-site after the fifth year shall be provided to the department for review no later than 24 hours from the time the department requests the medical record.

B. Content of Medical Record

1. The following minimum data shall be kept on all patients:
 - a. identification data;
 - b. date of procedure;
 - c. medical and social history;
 - d. physical examination;
 - e. chief complaint or diagnosis;
 - f. clinical laboratory reports (when appropriate);
 - g. pathology report (when appropriate);
 - h. physician's orders;
 - i. radiological report (when appropriate);
 - j. consultation reports (when appropriate);
 - k. medical and surgical treatment;
 - l. progress notes, discharge notes, and summary;
 - m. nurses' records of care given including medication administration records;
 - n. authorizations, consents or releases;
 - o. operative report;
 - p. anesthesia report including post-anesthesia report; and
 - q. special procedures reports.

2. Signatures. Clinical entries shall be signed by the physician as appropriate, i.e., attending physician, consulting physician, anesthesiologist, pathologist, etc. Nursing notes and observations shall be signed by the nurse.

3. Nurses' Notes. All pertinent observations, treatments and medications given shall be entered in the nurses' notes. All other notes relative to specific instructions from the physician shall be recorded.

4. Completion of the medical record shall be the responsibility of the attending physician.

C. Nothing in this '4415 is intended to preclude the use of automated or centralized computer systems or any other techniques for the storing of medical records, provided the regulations stated herein are met.

D. Other Reports

1. Abortion facility shall maintain a daily patient roster of all patients receiving abortion services. This daily patient roster shall be retained for a period of 10 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

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

§4417. Physical Environment

A. The facility shall have a safe and sanitary environment that is properly constructed, equipped and maintained to protect the health and safety of patients and staff at all times.

1. Abortions shall be performed in a segregated procedure room, removed from general traffic lines with a minimum of 120 square feet, exclusive of vestibule, toilets or closets.

2. There shall be a hand washing fixture within each procedure room.

3. The facility shall have a separate recovery room or area with a minimum clear area of 2 feet, 6 inches around the three sides of each stretcher or lounge chair for work and circulation.

4. The following equipment and supplies shall be maintained to provide emergency medical care for problems that may arise and be immediately available to the procedure and recovery room(s):

- a. surgical or gynecologic table;
 - b. surgical instruments for the performance of abortion;
 - c. emergency drugs;
 - d. oxygen;
 - e. intravenous fluids; and
 - f. sterile dressing supplies.
5. The following equipment shall also be available:
- a. cardiac monitor;
 - b. equipment for cardiopulmonary resuscitation;
 - c. defibrillator;
 - d. aspirator;
 - e. endotracheal equipment
 - f. laryngoscopes; and
 - g. tracheotomy set.

6. All openings to the outside shall be maintained to protect against the entrance of insects and animals.

7. A nurse's station with a countertop, space for supplies, provisions for charting and a communication system shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

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

§4419. Infection Control

A. The facility shall have policies and procedures that address:

1. decontamination;
2. disinfection;
3. sterilization; and
4. storage of sterile supplies.

B. The facility shall make adequate provisions for furnishing properly sterilized supplies, equipment, utensils and solutions.

1. It is expected that some disposable goods shall be utilized; but when sterilizers and autoclaves are used, they shall be of the proper type and necessary capacity to adequately meet the needs of the facility.

2. Procedures for the proper use of equipment and standard procedures for the processing of various materials and supplies shall be in writing and readily available to personnel responsible for sterilizing procedures.

3. Acceptable techniques for handling sterilized and contaminated supplies and equipment shall be established to avoid contamination.

4. Medically necessary surgical instruments used to enter the uterine cavity shall be sterilized for each abortion procedure.

C. There shall be a separate sink for cleaning instruments and disposal of liquid waste.

D. Each facility shall develop, implement, and enforce written policies and procedures for the handling, processing, storing and transporting of clean and dirty laundry.

1. If the facility provides an in-house laundry, the areas shall be designed in accordance with acceptable hospital laundry design in that a soiled laundry area will be provided and separated from the clean laundry area. Dirty and/or contaminated laundry shall not be stored or transported through the clean laundry area.

2. For an in-house laundry, special cleaning and decontaminating processes shall be used for contaminated linens.

E. The facility shall provide housekeeping services which shall assure a safe and clean environment.

1. Housekeeping procedures shall be in writing and followed.

2. Housekeeping supplies shall be provided to adequately maintain the facility.

F. All garbage and waste materials shall be collected, stored and disposed of in a manner designed to prevent the transmission of contagious diseases, and to control flies, insects, and animals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

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

§4421. Pharmaceutical Services

A. The facility shall provide pharmacy services and these services shall be commensurate with the needs of the patients and in conformity with state and federal laws.

B. There shall be policies and procedures for the storage, distribution, and handling and administration of drugs and biologicals in the facility.

C. The facility shall provide facilities for proper storage, safeguarding and distribution of drugs.

1. Drug cabinets must be constructed and organized to assure proper handling and safeguard against access by unauthorized personnel.

2. Storage areas shall have proper controls for ventilation, lighting and temperature.

3. Locked areas shall be designed to conform with state and federal laws.

D. In accordance with all applicable laws, records shall be kept on:

1. all ordering, purchasing, dispensing; and distribution of drugs; and

2. the disposal of unused drugs.

E. Records for prescription drugs dispensed to each patient shall contain the:

1. full name of the patient;
2. name of the prescribing physician;
3. name and strength of the drug;
4. quantity dispensed; and
5. date of issue.

F. Provision shall be made for emergency pharmaceutical service.

G. All outpatient abortion facilities shall have a "site-specific" Louisiana Controlled Dangerous Substance License and United States Drug Enforcement Administration Controlled Substance Registration for the facility in accordance with the Louisiana Uniform Controlled Dangerous Substance Act and Title 21 of the *United States Code*.

H. Drugs and biologicals shall be administered in compliance with an order from a physician who is licensed to practice medicine in Louisiana. Such orders shall be in writing and signed by the prescribing physician.

I. There shall be a supply of drugs for stabilizing and/or treating medical and surgical complications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

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

§4423. Anesthesia Services

A. The facility shall have policies and procedures pertaining to the administration of general and local anesthesia that are approved by the medical director.

B. Local anesthesia and nitrous oxide shall be administered by the treating physician or by qualified personnel (RNs or LPNs) under the orders and supervision of the treating physician, as allowed by law. The term "local anesthesia" means those anesthetizing agents administered by needle and affecting a very small localized area.

C. General anesthesia, if used, shall be given by an anesthesiologist, certified registered nurse-anesthetist (CRNA), or a physician trained in the administration of general anesthesia.

D. The physician who will perform the abortion shall be present in the facility before anesthesia is administered.

E. A physician shall be present in the facility during the post anesthesia recovery period until the patient is fully reacted and stable.

F. When there is a general anesthesia patient present in the facility, personnel trained in the use of all emergency equipment required shall be present on the premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Monday, November 25, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Abortion Facility Licensure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no estimated costs to the state as a result of implementation of this proposed rule. It is anticipated that \$1,566 (\$783 SGF and \$783 FED) will be expended in SFY 2002-03 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase self generated funds by approximately \$3,770 for SFY 2002-03, \$7,800 for SFY 2003-04 and SFY 2004-05 as a result of the collection of annual fees from the licensing of outpatient abortion facilities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that implementation of this proposed rule will increase self generated funds by approximately \$3,770 for SFY 2002-03, \$7,800 for SFY 2003-04 for SFY 2004-05 as a result of the collection of annual fees from the licensing of approximately 13 outpatient abortion facilities at a cost of approximately \$600 for each facility.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A Bearden
Director
0210#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Disproportionate Share Hospital Payment Methodologies
Final Payment and Small Rural Hospitals**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in May of 1999 governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 25, Number 5). The May 20, 1999 Rule was subsequently amended to revise the disproportionate share qualification criteria for small rural hospitals in March 2000 (*Louisiana Register*, Volume 26, Number 3) and again in August 2002 (*Louisiana Register*, Volume 28, Number 8).

Act 35 of the 2002 First Extraordinary Session of the Louisiana Legislature provides changes to the criteria used to define rural hospitals. In compliance with Act 35, the bureau promulgated an Emergency Rule to revise the disproportionate share qualification criteria for small rural hospitals (*Louisiana Register*, Volume 28, Number 8). In

response to provider inquiries, the bureau promulgated a subsequent emergency rule in order to clarify the policy governing final payments and adjustments (*Louisiana Register*, Number 28, Volume 9). The bureau hereby proposes to adopt a Rule to continue the provisions contained in the August 5, 2002 and September 7, 2002 Emergency Rules.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the August 20, 2002 Rule governing the disproportionate share payment methodologies as follows.

I. General Provisions

A. - D. ...

E. Qualification is based on the hospital's latest filed cost report. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization. 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 for non-state operated hospitals, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital.

F. - I. ...

III. Reimbursement Methodologies

A. ...

B. Small Rural Hospitals

1. - 1.g....

h. has no more than 60 hospital beds or has notified the Department of Health and Hospitals as of March 7, 2002 of its intent to reduce its number of hospital beds to no more than 60, and is located, as measured by the 2000 census:

i. in a municipality with a population of less than 13,000; and

ii. in a parish with a population of less than 32,000.

2. - 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.

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

Interested persons may submit written comments to Ben A. Bearden at the following address: Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Monday, November 25, 2002 at 9:30 am in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Disproportionate Share Hospital
Payment Methodologies C Final Payment and
Small Rural Hospitals**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that there will be no estimated costs to the state as a result of implementation of this proposed Rule. It is anticipated that \$228 (\$114 SGF and \$114 FED) will be expended in SFY 2002-03 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of this proposed Rule will have no effect on federal revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Implementation of this proposed Rule will not have estimable costs and/or economic benefits for directly affected hospitals as a whole, since the total of the disproportionate share payments is limited to the amounts appropriated. However, the amount of disproportionate share payments made to individual hospitals may either increase or decrease as payments are limited to total amounts appropriated for this purpose. Hospitals that fail to timely file Medicare cost reports will be assumed to be ineligible for disproportionate share (DSH) payments.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no known effect on competition and employment.

Ben A. Bearden
Director
0210#059

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Early and Periodic Screening, Diagnosis and Treatment
Program
Psychological and Behavioral Services
(LAC 50:XV.Chapter 79)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XV.Chapter 79 governing Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT) psychological and behavioral services in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides coverage for an extensive range of medical services, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services for Medicaid recipients up to the age of 21. As a result of a lawsuit, the Department was ordered to make available to class members with autism appropriate psychological and behavioral services. The bureau adopted an Emergency Rule to establish the provisions governing average and reimbursement services for psychological and behavioral services under the EPSDT Program (*Louisiana Register*, Volume 28, Number 8). The bureau now proposes to proceed with administrative procedures to continue the provisions contained in the August 5, 2002 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. It is anticipated that this proposed Rule will promote the health and welfare of Medicaid eligible children who have a diagnosis of autism or other pervasive developmental disorders by ensuring continued access to psychological and behavioral services.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program psychological and behavioral services.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part XV. Services for Special Populations

**Subpart 5. Early and Periodic Screening,
Diagnostic, and Treatment**

**Chapter 79. Psychological and Behavioral Services
§7901. Recipient Criteria**

A. In order to be eligible for services, a Medicaid recipient must be under the age of 21, be a member of the Chisholm lawsuit class and meet one of the following criteria:

1. have a diagnosis of Pervasive Developmental Disorder (PDD) according to a clinically appropriate diagnostic screening tool or other assessment; or

2. have an impaired functional status that can be addressed by psychological treatment on an instrument or other assessment of individual functioning that is appropriate for individuals with developmental disabilities; or

3. engage in behaviors so disruptive or dangerous that harm to others is likely (e.g., hurts or attempts to hurt others, such as hitting, biting, throwing things at others, using or threatening to use a weapon or dangerous object). Behaviors must be recurrent, not a single instance; or

4. engage in behaviors that have resulted in actual physical harm to the child himself/herself, such as bruising, lacerations or other tissue damage, or would result in physical harm if the child was not physically restrained. Behaviors must be recurrent, not a single instance. Behaviors are not the result of clinically suicidal intent.

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:

§7903. Covered Services

A. The following services, as identified by the accompanying Current Physicians' Terminology (CPT) procedure codes, are covered under EPSDT psychological and behavioral services:

1. necessary evaluations CCPT codes 90801 and 96100;

2. family education and training CCPT code 90847;

3. clinical interventions CCPT codes 90804 and 90806; and

4. periodic follow-up CCPT codes 90847, 90804, and 90806.

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:

§7905. Provider Qualifications

A. In order to receive reimbursement as a Medicaid provider of EPSDT psychological and behavioral services, a psychologist must provide verification that he or she meet all of the following qualifications:

1. have a Ph.D;

2. be licensed to practice within the State of Louisiana; and

3. be professionally qualified to treat children, or to treat children and/or adults with PDD, including autism and/or developmental disorders.

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:

§7907. Reimbursement Methodology

A. Reimbursement for EPSDT psychological and behavioral services shall be based on 70 percent of the allowable rate on the 2002 Medicare Fee Schedule for Area 1.

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

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

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Monday, November 25, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Early and Periodic Screening,
Diagnosis and Treatment Program
Psychological and Behavioral Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$2,867,166 for SFY 2002-03, \$3,281,126 for SFY 2003-04 and \$3,379,560 for SFY 2004-05. It is anticipated that \$324 (\$162 SGF and \$162 FED) will be expended in SFY 2002-2003 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$7,033,032 for SFY 2002-03, \$8,048,730 for SFY 2003-04 and \$8,290,191 for SFY 2004-2005.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Appropriate psychological and behavioral services will be made available to approximately 2000 Medicaid recipients up to the age of twenty one, who have a diagnosis of autism or other pervasive developmental disorders and are a member of the Chisolm lawsuit class. Implementation of this proposed rule will increase payments to providers of psychological and behavioral services by approximately \$9,899,874 for SFY 2002-03, \$11,329,856 for SFY 2003-04 and \$11,669,751 for SFY 2004-05.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this rule could increase the participation of providers of psychological and behavioral services due to the addition of additional recipients of these services.

Ben A Bearden
Director
0210#055

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Pharmacy Benefits Management Program
Asthma and Diabetes Drugs and Supplies

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides reimbursement for prescription drugs under the Medicaid Program. In recent years Medicaid expenditures for prescription drugs have risen as a substantial percentage of the total Medicaid budget. In recognition of the need to ensure that the state delivers a medical assistance prescription drug program which is both cost effective and prudently administered, the Louisiana Legislature enacted Act 395 of the 2001 Regular Session to amend R.S. 46:153.3(B)(2)(a) which states "The Department may establish ... or any other process or combination of processes that prove to be cost-effective in the Medical Assistance Program." It is expected that the following proposed Rule, in conjunction with other drug program cost containment measures, will significantly reduce the growth of Medicaid expenditures for prescription drugs.

The department implemented a prior authorization process with a preferred drug list (PDL) for certain designated drugs in selected therapeutic classes covered under the Pharmacy Benefits Management Program through emergency rulemaking (*Louisiana Registers*, Volume 28, Numbers 5 and 9).

The Bureau of Health Services Financing has determined that it is cost effective to implement a limitation on provider participation in the Medicaid Program for the provision of asthmatic and diabetic prescribed drugs and supplies to designated recipients. The Centers for Medicare and Medicaid Services has approved the 1915(b)(4) waiver to limit the recipient's choice of providers.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule may have a positive impact on the stability of the family with transportation issues since the pharmaceuticals and supplies can be delivered to the recipient's home.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing limits provider participation for the provision of asthmatic and diabetic prescribed drugs and supplies to designated recipients under the Medicaid Pharmacy Benefits Management Program.

Coverage of Prescribed Medications and/or Supplies

A. Certain categories of Medicaid recipients who have a chronic diagnosis of asthma or diabetes, and require

medications shall be limited to obtaining their asthmatic and/or diabetic prescriptions and supplies from one mail order pharmacy.

1. The limitation on choice of pharmacy will be mandatory for the following groups of recipients who are not receiving long term care services:

- a. Low Income Families with Children (formerly AFDC);
- b. Low Income Families with Children-related (LIFC);
- c. Supplemental Security Income (SSI); and
- d. SSI-related.

2. The following Medicaid recipients are exempt from the limitation and may continue to fill their prescriptions at participating Medicaid enrolled local pharmacies:

- a. recipients with Medicare coverage or other third party insurance with pharmacy benefits;
- b. recipients residing in a nursing facility or an Intermediate Care Facility for the Mentally Retarded;
- c. recipients whose eligibility period is less than three months (i.e. Medically Needy);
- d. recipients who are identified as Native Americans; and
- e. foster care children.

3. Pharmacy services received in a period for which Medicaid eligibility was retroactively established will also be excluded from the limitation.

B. Emergency prescriptions for exempt and non-exempt recipients shall continue to be filled by participating Medicaid enrolled local pharmacies according to the existing Medicaid Pharmacy Program policy and procedures.

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

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 25, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pharmacy Benefits Management ProgramC Asthma and Diabetes Drugs and Supplies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule (including the administrative cost of a professional services contract, staffing, and equipment relative to initial start-up as well as programmatic savings) will increase state fund expenditures by approximately \$430,097 for SFY 2002-03. It is anticipated that the implementation of this proposed

Rule will decrease state fund expenditures by approximately \$1,366,741 for SFY 2003-04, and \$2,595,875 for SFY 2004-05. It is anticipated that \$216 (\$108 SGF and \$108 FED) will be expended for the state's administrative expense for promulgation of this proposed Rule and the final Rule in SFY 2002-03.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$322,485 for 2002-03 and will decrease federal revenue collections by approximately \$979,088 for SFY 2003-04, and \$1,863,827 for SFY 2004-05.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed Rule will limit certain recipients (approximately 137,000 Low Income Families with Children, Low Income Families with Children-related, Supplemental Security Income, and SSI-related) to one mail order pharmacy provider for asthma and/or diabetic prescriptions and supplies. This proposed Rule will decrease reimbursement for pharmacy services by approximately \$115,159 for SFY 2002-03, \$1,797,611 for SFY 2003-04, and \$2,784,647 for SFY 2004-05. It is anticipated that the implementation of this proposed Rule will not have an estimated cost or economic benefit to Medicaid recipients, except that the pharmaceuticals and supplies can be delivered to the recipient's home, providing an economic benefit for recipients with transportation issues.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this proposed Rule will eliminate competition as one mail order pharmacy provider (chosen through the Request for Proposal Process) will provide asthma and/or diabetic prescriptions and supplies to designated recipients. Some pharmacies may find it necessary to reduce staff as a result of the decrease in Medicaid reimbursement.

Ben A. Bearden
Director
0210#060

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Pharmacy Benefits Management Program
Catheters and Catheter Trays

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides coverage and reimbursement for indwelling catheters and insertion trays under the Pharmacy Benefits Management (PBM) Program and the Durable Medical Equipment (DME) Program. Currently, state-assigned procedure codes are used to bill for these medical supply items through the PBM Program. The new federal

regulations contained in the Health Insurance Portability and Accountability Act (HIPAA) require the use of National Drug Codes (NDCs) in billing for prescription drug services and medical supplies. Catheters and catheter trays do not have assigned NDCs. Therefore, the bureau proposes to amend the April 20, 1990 Rule governing coverage of prescription drugs and medical supplies to remove coverage and reimbursement for indwelling catheters and catheter trays from the Pharmacy Benefits Management Program. These medical supplies will continue to be covered and reimbursed under the DME Program and will be included in the national coding system mandated by HIPAA for medical supplies and equipment.

In Compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the April 20, 1990 Rule governing coverage of prescription drugs and medical supplies under the Pharmacy Benefits Management Program to remove the coverage of indwelling catheters and catheter trays. These medical supplies shall continue to be covered and reimbursed under the Durable Medical Equipment Program.

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 25, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Benefits Management
ProgramC Catheters and Catheter Trays**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no estimated costs to the state as a result of implementation of this proposed Rule. It is anticipated that \$162 (\$81 SGF and \$81 FED) will be expended in SFY 2002-03 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed Rule will have no effect on federal revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed Rule will not have estimable costs and/or economic benefits for directly affected

persons or nongovernmental groups. Pharmacists will bill the Medicaid Durable Medical Equipment (DME) program instead of the pharmacy program for indwelling catheters and catheter trays. This should not increase costs to pharmacy providers as they are already accustomed to billing the DME program for other medical supplies and equipment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0210#058

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Records Management
(LAC 37:XI.2501)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Acting Commissioner of Insurance gives notice that rulemaking procedures have been initiated to adopt Insurance regulations.

The LDI considered the following laws, among others, and the intended action complies with the statutory law administered by the LDI: R.S. 44:1 et seq., R.S. 22:1 et seq.; R.S. 22:2.1.A; R.S. 14:67; R.S. 14:132, and R.S. 9:2601 et seq.

The Rule establishes that any public record maintained by the commissioner of insurance may be kept in any written, photographic, microfilm, or other similar form or method, or may be kept by any magnetic, electronic, optical, or similar form of data compilation that has reasonable safeguards against erasure or alteration, including the use of programs, methods, procedures and/or services that provide secured, portable document formats and digital signatures, and for which the Louisiana Department of Insurance has obtained the necessary license(s) and/or authorities to insure reasonable safeguards and/or authorities to insure reasonable safeguards against erasure or alteration.

Title 37

INSURANCE

Part XI. Rules

Chapter 25. Records Management

§2501. Records Management; General

A. Any public record maintained by the commissioner of insurance may be kept in any written, photographic, microfilm, or other similar form or method, or may be kept by any magnetic, electronic, optical, or similar form of data compilation that has reasonable safeguards against erasure or alteration, including the use of programs, methods, procedures and/or services that provide secured, portable document formats and digital signatures, and for which the Louisiana Department of Insurance has obtained the necessary license(s) and/or authorities to insure reasonable safeguards against erasure or alteration.

AUTHORITY NOTE: R.S. 49:950 et seq.; R.S. 44:1 et seq., R.S. 22:1 et seq.; R.S. 22:2.1.A; R.S. 14:67; R.S. 14:132; and R.S. 9:2601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 29:

Family Impact Statement

1. Describe the effect of the proposed Rule on the stability of the family. The proposed Rule would have no impact on the stability of the family.

2. Describe the effect of the proposed Rule on the authority and rights of parents regarding the education and supervision of their children. The proposed rule should have no impact upon the authority and rights of parents regarding the education and supervision of their children.

3. Describe the effect of the proposed Rule on the functioning of the family. The proposed Rule should have no impact on the functioning of the family.

4. Describe the effect of the proposed Rule on family earnings and budget. The proposed Rule should have no impact on the family earnings and budget.

5. Describe the effect of the proposed Rule on the behavior and personal responsibility of children. The proposed Rule should have no impact on the behavior and personal responsibility of children.

6. Describe the effect of the proposed Rule on the ability of the family or local governmental unit to perform the function as contained in the rule. The proposed Rule should have no impact on the ability of the family or local governmental unit to perform the function as contained in the rule.

The Department of Insurance (LDI) will afford the public the opportunity to submit data, views, comments, or arguments, orally or in writing, on Tuesday, November 26, 2002 beginning at 10 a.m. in the Auditorium on the first floor of the Louisiana Department of Insurance, 950 North 5th Street, Baton Rouge, LA 70802, P.O. Box 94214, Baton Rouge, LA 70804-9214. If special accommodations are needed, either (1) write to the above address to the attention of Ms. Pat Hill, (2) contact Ms. Hill at (225) 342-3981, or (3) contact Ms. Hill at phill@ldi.state.la.us prior to Tuesday, November 26, 2002.

J. Robert Wooley
Acting Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Records Management

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department of Insurance does not anticipate any implementation costs or savings as a result of the proposed Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of the proposed Rule should have no effect on revenue collections by local or state governmental units. The proposed Rule does not eliminate or create any source of revenue for the state or for local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs savings or benefits to directly affected persons or non-governmental groups. The proposed Rule clarifies existing statutory law and provides for uniform, practicable requirements for form filing, review and approval under the Louisiana Insurance Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that this Rule would have any effect on employment or competition.

Chad M. Brown Deputy Commissioner Management & Finance 0210#065 Robert E. Hosse General Government Section Director Legislative Fiscal Office

NOTICE OF INTENT Department of Insurance Office of the Commissioner

Transmission of Forms and Documents (LAC 37:XL901)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance gives notice that it intends to amend and re-enact its existing Rule 12. This intended action complies with the statutory law administered by the Department of Insurance.

The proposed amendments are needed in order for the department to receive, via electronic transmission, forms, documents, applications, filings, financial reports and any other forms and types of documents required by law or voluntarily filed with the Commissioner of Insurance by any company regulated by the Office of the Commissioner.

Title 37 INSURANCE Part XI. Rules

Chapter 9. Rule Number 12C Transmission of Forms and Documents

§901. Transmission of Forms and Documents Filed with the Department of Insurance

A. All forms, documents, applications, filings, financial reports, and any and all other forms and types of documents required by law or voluntarily filed with the Commissioner of Insurance by any company regulated by the office of the commissioner shall be filed by depositing the same in the United States Mail, postage prepaid, and/or electronic transmission. Payment of fees, including license fees, and premium taxes shall be exempt from this rule.

B. No document of any sort or kind described in §901.A will be accepted or received by the personnel of the department as filed with the department unless the same is transmitted to the department via the United States Mail and/or electronic transmission.

C. Upon receipt of such documents mailed to the department, the employees of the department charged with the duty of receiving the same shall cause the envelope in which the document was mailed to the department to be attached to the document received in such a way that it shall remain permanently attached to the same, and no employee of the department may remove said envelope for any reason, except as provided for by law.

D. Transmission of documents by Facsimile machine, private courier service, or hand delivery is permissible as long as the originals are mailed in the United States Postal Service and received by the Department of Insurance on or

before the twentieth day after receipt of the facsimile transmission, private courier delivery, or hand delivery. A document received in accordance with §901 shall be deemed received on the date of the receipt of the original facsimile transmission, private courier delivery, or hand delivery. Any departmental approval shall be indicated on the initial facsimile transmission, private courier delivery, or hand delivery.

E. Notwithstanding §901.A through D, requests for public records shall be in accordance with procedures established for public records requests and record management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22.2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 17:1210 (December 1991), amended LR 18:620 (June 1992), LR 29:

Persons interested in obtaining copies of the Rule or in making comments relative to these proposals may do so at the public hearing or by writing to Melinda L. Long, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted through the close of business at 4:30 p.m, November 26, 2002.

On November 26, 2002 at 9:00 a.m., the Department of Insurance will hold a public hearing in the Plaza Hearing Room of the Insurance Building located at 950 North Fifth Street, Baton Rouge, Louisiana, 70804 to discuss the proposed amendments as set forth.

J. Robert Wooley Acting Commissioner of Insurance

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Transmission of Forms and Documents

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs are anticipated as a result of the proposed amendments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Department of Insurance does not expect any increase or decrease in revenue collections by state or local governmental units as a result of the proposed amendments which neither create a new revenue source nor eliminate or decrease any.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Directly affected persons or non-governmental groups should experience no economic costs and/or benefits as a result of the proposed amendments because the proposed amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed amendments would have any impact upon employment or competition.

Chad M. Brown Deputy Commissioner Management and Finance 0210#095 Robert E. Hosse General Government Section Director Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Computation of Net Allocable Income from Louisiana Sources (LAC 61:I.1131)

Under the authority of R.S. 47:287.81, R.S. 47:287.92, R.S. 47:287.93, R.S. 47:287.785, R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1131 relative to the computation of net allocable income from Louisiana sources.

The primary purpose of this regulation is to update the corporation income tax regulation relating to the allocation of items of income and expense, and to make the regulation easier to understand. The current regulation, LAC 61:I.1130, has not been revisited in depth since the corporate income tax statutes were enacted in 1986. This regulation will provide more guidance on the treatment of intangible assets than the current regulation. In addition, this regulation will clarify the numerical example in the current regulation, and add several examples that explain the allocation of certain items of income and expense, such as the allocation of profits or losses from sales of intangible assets. Once this regulation becomes final, the Department of Revenue will repeal the current regulation, LAC 61:I.1130.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 11. Rule Number 14C Income Corporation Income Tax

§1131. Computation of Net Allocable Income from Louisiana Sources

A. Allocation of items of income and loss. R.S. 47:287.93 provides that items of gross allocable income or loss shall be allocated directly to the states within which such items of income are earned or derived. The statute attributes every item of gross allocable income to a location and does not allow for any unallocated items of income. The principles embodied in the statute and this regulations are that items of allocable income from the sale, exchange, or use of tangible assets are allocated to the location of the tangible asset at the time of the transaction; income from the sale, exchange, or use of intangible assets are allocated to the business situs of the intangible asset, or in the absence of a business situs, to the commercial domicile of the corporation; and items of allocable income from services are allocated to the location at which the service was performed. Abandonment, involuntary conversion, casualty loss, or the total write off of an asset are among the transactions that will be considered a sale or exchange.

1. Rents and Royalties from Immovable or Corporeal Moveable Property, and Profits or Losses from the Sales and Exchanges of Capital Assets Consisting of Immovable or Corporeal Moveable Property

a. Rents and royalties from immovable or corporeal moveable property, and profits or losses from the sales and exchanges of capital assets consisting of immovable or

corporeal moveable property, shall be allocated to the state where such property is located at the time the income is derived.

b. Capital assets means all property of the taxpayer, except:

i. land used in a trade or business of the taxpayer; and

ii. the following assets of the taxpayer, whether or not the assets are connected with the taxpayer's trade or business:

(a). stock in trade of the taxpayer; or

(b). other property of a kind which would be properly included in the inventory of the taxpayer if on hand at the close of the taxable year; or

(c). property held by the taxpayer primarily for sale to customers in the regular course of its trade or business; or

(d). property used in a trade or business of a character which is subject to depreciation.

c. Rents or royalties from incorporeal immovables, such as mineral interests, are allocated to the state in which the property subject to the interest is located.

2. Interest on Customers' Notes and Accounts

a. Interest on customers' notes and accounts shall be allocated by reference to the transactions from which the receivables arose, on the basis of the location at which ultimate delivery was made in the case of sale of merchandise or at the location at which the services were performed in the case of charges for services rendered.

b. A customer is a person who the taxpayer sells merchandise to or performs services for in the regular course of the taxpayer's trade or business.

3. Profits from Sales or Exchanges of Property not Made in the Regular Course of Business, Other than Sales or Exchanges of Capital Assets Consisting of Incorporeal Property or Rights

a. Both profits and losses from such transactions must be included in income allocated directly to the state in which the property had its business situs at the time of the transaction. Property will acquire a business situs if it has become an integral part of some business within the state.

b. Whether a sale or exchange is a sale not made in the regular course of business is a factual determination required to be made with respect to each property sold that will take into consideration such factors as the frequency of sales of similar properties and the relationship of the particular sale to other business transacted by the taxpayer.

c. The sale of a mineral lease, royalty interest, oil payment, or other mineral interest is allocated to the state in which the property subject to the mineral interest is located.

4. Interest, Dividends, and Profits or Losses from Sales and Exchanges of Capital Assets Consisting of Incorporeal Property or Rights

a. General Rule. Except as otherwise provided herein, interest, dividends, and profits or losses from sales and exchanges of capital assets consisting of incorporeal property or rights are allocated as follows:

i. if the securities or credits that produced the income, profits or losses have been so employed as to acquire a business situs, the items of income, profit or loss will be allocated to that business situs. Securities or credits

will acquire a business situs if they have become an integral part of some business within the state;

ii. securities or credits means any intangible property or right;

iii. if the securities and credits have not acquired a business situs, the items of income, profit or loss will be allocated to the corporation's commercial domicile;

iv. a security or credit may acquire a business situs in more than one state. The percentage of the profits or losses from the sale or exchange of an intangible asset that has more than one business situs that is to be allocated to Louisiana is a factual determination required to be made with respect to each property or right and will take into consideration such factors as:

(a). the number of locations at which the property or rights are used;

(b). the number of days during the tax year the property or rights were used within and without Louisiana;

(c). the amount of income the property or rights generated within and without Louisiana; and

(d). the earning power of the property or rights at the time of the sale or exchange;

(e). Example: Z Company, Inc., a Delaware corporation with its commercial domicile in California, owns certain patents relating to the refining of crude oil, which at all times were kept in its safe in California. Z entered into an agreement with the ABC Corporation whereby ABC was given the exclusive right to use the patents at ABC's refineries in consideration for the payment of a royalty to Z based upon units of production. ABC used the patents in its refineries in Texas and Louisiana and paid Z for such use. Because the patents are used in both Louisiana and Texas and have become an integral part of a business in Texas and a business in Louisiana, the patents have acquired both a Texas business situs and a Louisiana business situs.

b. Profits from the sale or exchange of capital assets consisting of incorporeal property or rights shall be allocated to the state in which the securities or credits giving rise to the profits have their business situs.

i. Example: X company, Inc., a Delaware corporation with its commercial domicile in California, owns certain patents relating to the refining of crude oil, which at all times were kept in its safe in California. X entered into an agreement with the Y corporation whereby Y was given the exclusive right to use the patents at Y's refinery in consideration for the payment of a royalty to X based upon units of production. Y used the patents exclusively at its Louisiana refinery and paid X for such use. In 1997, X sold the patents to Z Company, Inc., also a Delaware corporation for a profit of \$7.5 million. Because the patents were used exclusively in Louisiana and have become an integral part of a Louisiana business, the patents have acquired a Louisiana business situs. Therefore, the profits from the sale are allocated entirely to Louisiana.

ii. Example: Z Company, Inc., a Delaware corporation with its commercial domicile in California, owns certain patents relating to the refining of crude oil, which at all times were kept in its safe in California. Z entered into an agreement with the ABC Corporation whereby ABC was given the exclusive right to use the patents at ABC's refineries in consideration for the payment

of a royalty to Z based upon units of production. ABC used the patents in its refineries in Texas and Louisiana and paid Z for such use. In 2000, the royalty from the Texas refinery was \$300,000 and the royalty from the Louisiana refinery was \$700,000. In 2001, Z sold the patents to New Company, Inc., also a Delaware corporation, for a profit of \$10 million. The patents have acquired both a Texas business situs and a Louisiana business situs, therefore the profits from the sale will be allocated to both Louisiana and Texas. Without more facts, a reasonable method of determining how to allocate the profit between the states is to use the ratio of earnings in each state to total earnings. Using this method, 70 percent of the profits will be allocated to Louisiana, or \$7 million.

c. Exceptions

i. For special rules governing the taxable situs of stock canceled in corporate liquidations see R.S. 47:287.747.

ii. Dividends on stock that has a situs in Louisiana and that are received by a corporation from another corporation which is controlled by the former, through direct ownership of 50 percent or more of the voting stock of the latter, shall be allocated to the state or states in which the income from which the dividends are paid is earned.

(a). The amount of such income to be allocated to Louisiana may be determined by applying a ratio of Louisiana net income to net income.

(b). If the taxpayer can demonstrate that this method of allocation is materially in error, the taxpayer may use any reasonable method to determine the actual amount of income from which dividends paid is earned in Louisiana. The method used by the taxpayer must reflect the general principles that the income from which dividends are paid is book income and that dividends are deemed paid from current earnings to the extent that there are current earnings and then are paid from the earnings of the preceding year.

iii. Interest on securities and credits that have a situs in Louisiana and that is received by a corporation from another corporation controlled by the former through the direct or indirect ownership of 50 percent or more of the voting stock of the latter, shall be allocated to the state or states in which the real and tangible personal property of the controlled corporation is located. The allocation shall be made on the basis of the ratio of the value of such property located in Louisiana to the value of such property within and without the state, as follows.

(a). Real and Tangible Personal Property. For the purposes of this Section, real and tangible personal property includes all such property of the controlled corporation regardless of whether the property is idle or productive and regardless of the nature of the income which it produces.

(b). Average Values. For the purposes of this Section, the value of Louisiana real and tangible property and real and tangible property within and without the state shall be the average of such property at the beginning and close of the taxable year, determined on a comparable basis.

(c). Value of Property to be Used

(i). The value of property to be used shall be determined using one of the following methods. The taxpayer will elect which method to use on the first return filed for the tax year that begins the year after these regulations take effect. Once made, the election is irrevocable, without the approval of the secretary upon the showing of good cause:

[a]. the value of property is cost to the taxpayer, less a reasonable reserve for depreciation, amortization, depletion, and obsolescence; or

[b]. the value of property to be used is cost to the taxpayer, so long as the property continues to be used in the taxpayer's trade or business.

(ii). Any reserves reflected on the books of the taxpayer shall be deemed to be reasonable, subject to the right of the secretary to adjust the reserves when, in the secretary's opinion, an adjustment is necessary to reflect the fair value of the property.

(iii). The secretary may require a different method of valuation if the method elected by the taxpayer does not reflect the fair value of the property.

5. Royalties or Similar Revenue Received for the Use of Patents, Trademarks, Copyrights, Secret Processes, and Other Similar Intangible Rights

a. Royalties or similar revenue received for the use of patents, trademarks, copyrights, secret processes, and other similar intangible rights shall be allocated to the state or states in which such rights are used.

b. The use referred to is that of the licensee rather than that of the licensor.

c. Example: X Company, Inc., a Delaware corporation with its commercial domicile in California, owns certain patents relating to the refining of crude oil, which at all times were kept in its safe in California. During 2000, the X Company, Inc. entered into an agreement with the Y Corporation whereby that company was given the right to use the patents at its refineries in consideration for the payment of a royalty based upon units of production. The Y Corporation used the patents exclusively at its Louisiana refinery and paid the X Company, Inc. the amount of \$100,000 for such use. The entire royalty income of \$100,000 is allocable to Louisiana.

d. Example: ABC Company, Inc. is a trademark holding company incorporated in Delaware that owns certain trademarks relating to the sale of retail goods. In 1997, ABC entered into a licensing agreement with XYZ Retail Co. in which XYZ was authorized to use the trademark in exchange for consideration of royalty payments based on store sales. In 1998, XYZ used the trademark to promote the sale of retail goods in their stores in Louisiana. The royalty payment attributable to the Louisiana stores was \$250,000. ABC must allocate the royalty income of \$250,000 to Louisiana.

6. Income from construction, repair, or other similar services is allocable to the state or states in which the work is done.

a. The phrase other similar services means any work that has as its purpose the improvement of immovable property belonging to a person other than the taxpayer where a substantial portion of such work is performed at the location of such property.

i. It is not necessary that the services rendered actually result in the improvement of the immovable property.

ii. Mineral Properties. For the purpose of this Section, mineral properties, whether under lease or not, constitute immovable properties. Thus, the drilling of a well on a mineral lease is considered to have as its purpose the improvement of such property notwithstanding the fact that the well may have been dry.

b. Examples of other similar services include, but are not limited to:

- i. landscaping services;
- ii. the painting of houses;
- iii. the removal of stumps from farmland; and
- iv. the demolition of buildings.

B. From the total gross allocable income from all sources and from the gross allocable income allocated to Louisiana there shall be deducted all expenses, losses, and other deductions, except federal income taxes, allowable under the Louisiana income tax law which are directly attributable to such income plus a ratable portion of the allowable deductions, except federal income taxes, which are not directly attributable to any item or class of gross income.

1. Interest Expense

a. The approach set forth in these regulations for the allocation and apportionment of interest expense is based upon the concept of the fungibility of money and requires that interest expense ordinarily be allocated to all of the taxpayer's income-producing activities and properties, regardless of the specific purpose for which the borrowing was incurred; it does not directly require allocation of interest deductions to income. It is appropriate to associate part of the cost of money borrowed for a specific purpose to other purposes as well based on the following assumptions:

- i. money is fungible in that all of the taxpayer's activities and properties need funds;
- ii. the taxpayer's management has substantial flexibility in the source and use of its funds;
- iii. the creditors of the taxpayer look to its general credit for repayment and thereby subject the money loaned to the risk of all of the taxpayer's activities;
- iv. the use of money for one purpose frees funds for other purposes.

b. Interest Expense Applicable to Total Allocable Income

i. Interest expense which is applicable to assets which produce or which are held for the production of allocable income within and without Louisiana, shall be an item of deduction in determining net allocable income or loss.

ii. For purposes of this Section, assets which produce or which are held for the production of allocable income include but are not limited to investments in and advances or loans to affiliated corporations (other than normal trade accounts receivable) whether or not such investments, advances, or loans produce any income.

(a) The amount of interest which is applicable to such assets shall be determined by multiplying the total amount of interest expense by a ratio, the numerator of which is the average value of assets which produce or which are held for the production of allocable income, and the denominator of which is the average value of all assets of the taxpayer.

(b). Although income exempt from Louisiana income tax, such as interest on U.S. government bonds and notes, is not taxable and is therefore not included in allocable income, the adjustment for the amount of interest expense applicable to assets producing such income is computed in the same manner as in the case of assets producing allocable income.

(i). For convenience of computation such assets are grouped with assets producing or held for the production of allocable income.

(ii). Whenever interest expense applicable to U.S. government bonds and notes which are held as temporary cash investments determined as provided above, exceeds the amount of income derived from such investments, the interest expense which is attributable to such investments shall be limited to the amount of income derived from such investments.

(iii). The amount of interest expense applicable to U.S. government bonds and notes which are held as temporary cash investments, determined without reference to the income therefrom, is that portion of the interest expense applicable to assets which produce or which are held for the production of allocable income, which the ratio of the average value of U.S. government bonds and notes held as temporary cash investments bears to the average value of all assets which produce or which are held for the production of allocable income.

c. Interest Expense Applicable to Louisiana Allocable Income. Interest expense which is applicable to assets which produce or which are held for the production of Louisiana allocable income shall be an item of deduction in determining net allocable income or loss from Louisiana.

i. Except as otherwise provided, the amount of interest which is applicable to such assets shall be determined by multiplying the amount of interest expense allocated to total allocable assets, determined without reference to the income limitation in the case of investments in U.S. government bonds and notes held as temporary cash investments, by a ratio, the numerator of which is the average value of assets which produce or which are held for the production of Louisiana allocable income and the denominator of which is the average value of assets which produce or which are held for the production of allocable income within and without Louisiana.

ii. When Louisiana net apportionable income is determined on the separate accounting method, refer to §1132.C.1 for rules pertaining to the determination of the amount of interest expense applicable to Louisiana allocable income.

d. Louisiana Commercial Domicile

i. Investments in Stock of Controlled Corporations. When a corporation has a Louisiana commercial domicile and holds stock in corporations controlled by direct ownership of 50 percent or more of the voting stock of the latter, the stock shall be included in the numerator of the Louisiana interest expense computation as Louisiana assets based on the following allocation.

(a). This stock is to be attributed as Louisiana assets on the basis of the proportion of the respective amounts of income earned within Louisiana to the income earned everywhere of the controlled corporation.

(b). Stock held in corporations exempt from Louisiana income tax shall not be included as a Louisiana asset for the purpose of this computation.

ii. Advances to Controlled Corporations. When a corporation has a Louisiana commercial domicile and advances interest-bearing funds to corporations controlled by direct or indirect ownership of 50 percent or more of the voting stock of the latter, the receivable shall be included in

the numerator of the Louisiana interest expense computation as Louisiana assets based on the following allocation.

(a). These receivables are to be attributed as Louisiana assets on the basis of the ratio of the value of the controlled corporation's real and tangible personal property located in Louisiana to the value of such property within and without Louisiana.

(b). For the purpose of the allocation, real and tangible personal property includes all such property of the controlled corporation regardless of whether the property is idle or productive and regardless of the nature of the income which it produces.

e. Receivables Resulting from Advances of Non-Interest Bearing Funds

i. Receivables resulting from advances of non-interest bearing funds are deemed to be assets producing or held for the production of allocable income for the purpose of determining the amount of interest expense applicable to assets which produce or which are held for the production of allocable income from sources within and without Louisiana.

ii. When receivables resulting from advances of non-interest bearing funds have a Louisiana business situs, or, in the absence of a business situs, the lending corporation has a Louisiana commercial domicile, such receivables shall not be included in the numerator of the interest expense allocation formula for the purpose of §1131.B.1.c, unless the secretary, in order to clearly reflect Louisiana apportionable and allocable net income, imputes interest income on such receivables.

f. Average Value

i. The value of Louisiana real and tangible property and real and tangible property within and without the state shall be the average of such property at the beginning and close of the year, determined on a comparable basis.

ii. If the average at the beginning and end of the year does not fairly represent the average of the property owned during the year, the average may be obtained by dividing the sum of the monthly balances by the number of months in the tax period.

g. Value of Property to be Used

i. The value of property to be used shall be determined using one of the following methods. The taxpayer will elect which method to use on the first return filed for the tax year that begins the year after these regulations take effect. Once made, the election is irrevocable, without the approval of the secretary upon the showing of good cause.

(a). The value of property is cost to the taxpayer, less a reasonable reserve for depreciation, amortization, depletion, and obsolescence; or

(b). The value of property to be used is cost to the taxpayer, so long as the property continues to be used in the taxpayer's trade or business; or

(c). The value of property to be used is the value reflected on the taxpayer's books, so long as the value is not below zero.

ii. Any reserves reflected on the books of the taxpayer shall be deemed to be reasonable, subject to the right of the secretary to adjust the reserves when, in the

secretary's opinion, an adjustment is necessary to reflect the fair value of the property.

iii. The secretary may require a different method of valuation if the method elected by the taxpayer does not reflect the fair value of the property.

iv. Intangible assets that produce or that are held for the production of allocable income within and without Louisiana may acquire a business situs in more than one state. The percentage of the value of the asset that is to be attributed to Louisiana is a factual determination required to be made with respect to each asset and will take into consideration such factors as:

- (a). the number of locations at which the asset is used,
- (b). the number of days during the tax year the asset is used within and without Louisiana,
- (c). the amount of income that the asset generated within and without Louisiana, and

(d). the earning power of the asset at the time the interest expense is generated.

h. Example: The XYZ Corporation has incurred interest expense in the amount of \$150,000 during the year 2001. During 2001 it derived total allocable income and Louisiana allocable income as follows.

	Louisiana	Total
*Interest on U.S. Treasury notes	\$0	\$ 10,000
Interest (interest bearing checking)	\$0	\$,000
Dividends	\$0	\$ 5,000
Net rent income	\$10,000	\$ 10,000
Trademark royalty income	<u>\$ 4,000</u>	<u>\$ 10,000</u>
Total	<u>\$14,000</u>	<u>\$ 40,000</u>

*Treated as allocable income only for convenience in computing the applicable expense.

i. Its assets, liabilities, and net worth as of January 1, 2001, and December 31, 2001, were as follows.

	1-1-01	12-31-01
Assets:		
Cash (currency on hand)	\$ 10,000	\$ 10,000
Cash (non-interest bearing checking)	\$ 90,000	\$ 140,000
Cash (interest bearing checking)	\$ 110,000	\$ 220,000
Accounts receivable	\$ 780,000	\$ 800,000
Inventories	\$ 600,000	\$ 1,000,000
Stocks	\$ 100,000	\$ 100,000
Trademark	\$ 80,000	\$ 80,000
U.S. Treasury Notes	\$ 310,000	\$ 430,000
Real estate (rental property)	\$ 100,000	\$ 100,000
Less depreciation reserve	<u>\$ 20,000</u>	<u>\$ 25,000</u>
Net	\$ 80,000	\$ 75,000
Real estate	\$5,000,000	\$5,125,000
Less depreciation reserve	<u>\$1,080,000</u>	<u>\$1,300,000</u>
Net	<u>\$3,920,000</u>	<u>\$ 3,825,000</u>
Total Assets	<u>\$6,080,000</u>	<u>\$ 6,680,000</u>
Liabilities and Net Worth:		
Accounts payable	\$ 400,000	\$1,000,000
Bonds	<u>\$3,000,000</u>	<u>\$3,000,000</u>
Total Liabilities	\$3,400,000	\$ 4,000,000
Capital stock	\$2,080,000	\$2,080,000
Earned surplus	<u>\$ 600,000</u>	<u>\$ 600,000</u>
Net worth	<u>\$2,680,000</u>	<u>\$ 2,680,000</u>
Total Liabilities and Net Worth	<u>\$6,080,000</u>	<u>\$ 6,680,000</u>

ii. The amount of interest which is applicable to the assets which produce or are held for the production of

allocable income within and without Louisiana is \$18,633, determined as follows.

	Allocable Assets		Total Assets	
	1-1-01	12-31-01	1-1-01	12-31-01
U.S. Treasury Notes	\$ 310,000	\$ 430,000	\$ 310,000	\$ 430,000
Cash (interest bearing checking)	\$ 110,000	\$ 220,000	\$ 110,000	\$ 220,000
Rental property (net)	\$ 80,000	\$ 75,000	\$ 80,000	\$ 75,000
Stock	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000
Trademark asset	\$ 80,000	\$ 80,000	\$ 80,000	\$ 80,000
Other assets	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$5,400,000</u>	<u>\$ 5,775,000</u>
Totals	\$ 680,000	\$ 905,000	\$6,080,000	\$ 6,680,000
1-1-01 totals		<u>\$ 680,000</u>		<u>\$ 6,080,000</u>
Totals		<u>\$1,585,000</u>		<u>\$12,760,000</u>
Average		<u>\$ 792,500</u>		<u>\$ 6,380,000</u>
Ratio				.12422
Interest expense allocated to total allocable assets (.12422 X \$150,000)				<u>\$ 18,633.00</u>

iii. The amount of interest expense which is applicable to the assets which produce or are held for the production of Louisiana allocable income is \$2,668.62, determined as follows.

Louisiana Allocable Assets	
January 1, 2001 – Rental property	\$ 80,000
**January 1, 2001 – Trademark asset	\$ 32,000
December 31, 2001 – Rental property	\$ 75,000
**December 31, 2001 – Trademark Asset	<u>\$ 40,000</u>
Total	<u>\$ 227,000</u>
Average Louisiana allocable assets	\$ 113,500
Average total allocable assets	\$ 792,500
Ratio of Louisiana average to total average allocable assets	.14322
Interest expense allocated to total allocable assets	\$18,633.00
Interest expense allocated to Louisiana allocable assets (.14322 x \$18,633.00)	<u>\$ 2,668.62</u>

**For purposes of this example, it has been assumed that the ratio of trademark royalties for the prior month from Louisiana sources to total trademark royalties for the prior month is representative of the value of the asset attributable to Louisiana at balance sheet date. In December 2000, Louisiana trademark royalties were \$480 and total trademark royalties were \$1,200. In December 2001, Louisiana trademark royalties were \$550 and total trademark royalties were \$1,100.

2. Overhead Expense

a. Overhead Expense Attributable to Total Gross Allocable Income Derived from Rent of Immovable or Corporeal Movable Property or From Construction, Repair, or Other Similar Services.

i. Overhead expense attributable to total gross allocable income derived from rent of immovable or corporeal movable property or from construction, repair, or other similar services shall be deducted from such income for the purposes of determining net allocable income or loss from such items of income. The amount of overhead expense attributable to such income shall be determined by multiplying total overhead expense by the arithmetical average of two ratios, as follows:

(a). the ratio of the amount of total gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services to total gross income derived from all sources.

(b). the ratio of the amount of direct cost incurred in the production of total gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services to total direct cost incurred in the production of gross income from all sources.

ii. Overhead expense attributable to Louisiana gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services shall be deducted from such income for the purposes of determining Louisiana net allocable income or loss from such items of income. The amount of overhead expense attributable to such income shall be determined by multiplying overhead expense attributed to total gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair

or other similar services by the arithmetical average of two ratios, as follows:

(a). the ratio of the amount of Louisiana gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services to total gross allocable income from such sources.

(b). the ratio of the amount of direct cost incurred in the production of Louisiana gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services to total direct cost incurred in the production of such income.

b. Overhead Expense Attributable to All Other Items of Gross Allocable Income

i. Overhead expense attributable to items of gross allocable income derived from sources within and without Louisiana, except gross allocable income from rent of immovable or corporeal movable property or from construction, repair or other similar services, may be determined by any reasonable method which clearly reflects net allocable income from such items of income.

ii. In attributing overhead expense to items of gross allocable income that are passive in nature, including but not limited to dividends and investment interest, the taxpayer or the Secretary may estimate the actual expenses attributable to such income by multiplying the passive income by two percent. Either the secretary or the taxpayer may require the use of actual overhead if this estimate is materially in error.

3. Generally, direct and indirect expenses, other than interest expenses, attributed to allocable income from foreign sources for federal purposes are deductible in arriving at total net allocable income. Expenses, other than interest expenses, sourced pursuant to federal law and regulations to allocable income from foreign sources are presumed to be actual expenses attributed to such income.

C. This regulation shall not restrict the authority of the secretary to adjust the allocation of items of income and expense when the secretary determines that such adjustments are necessary in order to clearly reflect Louisiana income.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:287.81, R.S. 47:287.92, R.S. 47:287.93, R.S. 47:287.785, and R.S. 47:1511.

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

Family Impact Statement

The proposed adoption of LAC 61:I.1131, regarding the computation of net allocable income from Louisiana sources 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. The implementation of this proposed rule will have 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 budgets.;
5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 15409, Baton Rouge, LA 70895-5409. All comments must be submitted no later than 4:30 p.m., November 25, 2002. A public hearing will be held on November 26, 2002, at 2:30 p.m. in the River Room located on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Computation of Net Allocable Income
from Louisiana Sources**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The implementation of this proposed regulation, which updates the corporation income tax regulation relating to the allocation of items of income and expense, will have no impact on the agency's costs.
The implementation of this proposed regulation will have no impact upon any local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no effect on revenue collections for the state as a result of this proposed regulation.
There should be no effect on revenue collections of local governmental units as a result of this proposed regulation.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There should be no costs or economic benefits that directly affect persons or non-governmental groups as a result of this proposed regulation.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0210#064

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
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, proposes to amend LAC 61:I.4301 relative to the definition of *tangible personal property* for sales tax purposes.

These proposed amendments provide guidance regarding the definition of *tangible personal property* in R.S. 47:301(16) and describe items included in and excluded from that definition.

**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*C

a. R.S. 47:301(16)(a) defines *tangible personal property* as personal property that can be seen, weighed, measured, felt, touched, or is perceptible to the senses. The Louisiana Supreme Court has ruled that *tangible personal property* is equivalent to corporeal movable property as defined in Article 471 of the Louisiana Civil Code. The Louisiana Civil Code describes corporeal movable property as things that physically exist and normally move or can be moved from one place to another. Examples of *tangible personal property* include but are not limited to:

- i. durable goods such as appliances, vehicles, and furniture;
- ii. consumable goods such as food, cleaning supplies, and medicines;
- iii. utilities such as electricity, water, and natural gas; and
- iv. digital or electronic products such as "canned" computer software, electronic files, and "on demand" audio and video downloads.

b. Prepaid telephone cards and authorization numbers (for state sales or use tax purposes) and work products consisting of the creation, modification, updating, or licensing of canned computer software are specifically defined as *tangible personal property* by law.

c. Repairs of machinery, appliances, and equipment that have been declared immovable under Article 467 of the Louisiana Civil Code and things that have been separated from land, buildings, or other constructions permanently attached to the ground or their component parts as defined by Article 466 of the Louisiana Civil Code are treated as taxable repairs of *tangible personal property* under R.S. 47:301(14)(g).

i. Things are considered separated from an immovable when they are detached and repaired at a location off the customer's immediate property where the immovable is located or at the repair vendor's facility, even if that facility is on property owned, leased, or occupied by the customer. If the thing is detached from the immovable and repaired on the customer's immediate property, it is not considered separated from the immovable and the repair would not be subject to tax.

ii. The customer's immediate property is the tract of land that is owned, leased, or occupied by the customer where the immovable is located.

iii. Tracts of land owned, leased, or occupied by the customer that are separated only by a public road or right-of-way from the land where the immovable is located are also considered the customer's immediate property.

d. Tangible personal property does not include:

i. incorporeal property such as patents, copyrights, rights of inheritance, servitudes, and other legal rights or obligations;

ii. work products presented in a tangible form that have worth because of the technical or professional skills of the seller. Work products are considered non-taxable technical or professional services if the tangible personal property delivered to the client is insignificant in comparison to the services performed and there is a distinction between the value of the intangible content of the service and the tangible medium on which it is transferred. These do not include items that have intrinsic value, like works of art, photographs, or videos. Also, documents that are prepared or reproduced without modification are considered tangible personal property. Examples of sales of technical or professional services that are transmitted to the customer in the form of tangible personal property include but are not limited to:

- (a). audience, opinion, or marketing surveys;
- (b). research or study group reports;
- (c). business plans; and
- (d). investment analysis statements;

iii. immovable property defined by the Louisiana Civil Code, which includes:

- (a). tracts of land (La. Civil Code Article 462);
- (b). component parts of a tract of land when they belong to the owner of the land (La. Civil Code Article 463);
- (c). buildings and standing timber even when owned by someone other than the owner of the land (La. Civil Code Article 464);

(d). things, such as building materials, incorporated into a tract of land or incorporated into a building or other construction that belongs to the owner of the land and is an integral part of the immovable (La. Civil Code Article 465);

(e). things permanently affixed to a building or other construction so that they cannot be removed without substantially damaging them or the immovable to which they are attached (La. Civil Code Article 466); and

(f). except when being repaired as defined by R.S. 47:301(14)(g), machinery, appliances, and, equipment that have been declared immovable by the owner in the parish conveyance records (La. Civil Code Article 467).

e. For sales tax purposes, buildings are structures that are permanently affixed to the ground, not necessarily intended for habitation, and include, but are not limited to, office buildings, homes, apartments, and stores.

f. Constructions, other than buildings, permanently attached to the land are movables when they belong to someone other than the owner of the land. Examples of this include, but are not limited to, towers, signs, and fences.

g. Items specifically excluded from the definition of *tangible personal property* include:

- i. stocks, bonds, notes, or other obligations or securities;
- ii. gold, silver, or numismatic coins of any value;
- iii. platinum, gold, or silver bullion having a total value of \$1,000 or more;
- iv. proprietary geophysical survey information or geophysical data analysis furnished under a restrictive use agreement even if transferred in the form of tangible personal property;

v. parts and services used in the repairs of motor vehicles if all of the following conditions are met:

(a). the repair is performed by a dealer licensed by the Louisiana Motor Vehicle Commission or the Louisiana Used Motor Vehicle and Parts Commission;

(b). the repair is performed subsequent to the lapse of an original warranty that was included in the taxable price of the vehicle by the manufacturer or the seller;

(c). the repair is performed at no charge to the owner; and

(d). the repair charge is not paid by an extended warranty plan that was purchased separately.

vi. pharmaceuticals administered to livestock used for agricultural purposes as defined by the Louisiana Department of Agriculture and Forestry under LAC 7:XXIII.103; and

vii. work products of persons licensed under Title 37 of the Louisiana Revised Statutes such as legal documents prepared by an attorney, financial statements prepared by an accountant, and drawings and plans prepared by an architect or engineer for a specific customer. However, if these items are reproduced without modification, they are considered *tangible personal property* and subject to sales or use tax.

h. Manufactured or mobile homes purchased in or delivered from another state to Louisiana after June 30, 2001, are excluded from the definition of *tangible personal property* for state sales or use taxes. Manufactured or mobile homes purchased in or delivered from another state to Louisiana after December 31, 2002, are excluded from the definition of *tangible personal property* for local sales or use taxes when the buyer certifies the manufactured or mobile home will be used as a residence.

i. For state sales taxes, the entire price paid for used manufactured or mobile homes and 54 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax.

ii. For local sales taxes when the buyer certifies the manufactured or mobile home will be used as a residence:

(a). after December 31, 2002, and before January 1, 2004C 25 percent of the price paid for used manufactured or mobile homes and 13 1/2 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax;

(b). after December 31, 2003, and before January 1, 2005C 50 percent of the price paid for used manufactured or mobile homes and 27 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax;

(c). after December 31, 2004, and before January 1, 2006C 75 percent of the price paid for used manufactured or mobile homes and 40 1/2 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax; and

(d). after December 31, 2005C the entire price paid for used manufactured or mobile homes and 54 percent of the price paid for new manufactured or mobile homes are

excluded from the definition of *tangible personal property* and not subject to tax.

iii. Manufactured or mobile homes are structures that are transportable in one or more sections, built on a permanent chassis, designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and include plumbing, heating, air-conditioning, and electrical systems. The units must be either 8 body feet or more in width or 40 body feet or more in length in the traveling mode, or at least 320 square feet when erected on site. These size requirements may be disregarded if the manufacturer voluntarily certifies to the distributor or dealer at the time of delivery that the structure conforms to all applicable federal construction and safety standards for manufactured homes.

iv. Manufactured or mobile homes do not include modular homes that are not built on a chassis, self-propelled recreational vehicles, or travel trailers.

i. The sale or purchase of custom computer software on or after July 1, 2002, and before July 1, 2005, is partially excluded, and on or after July 1, 2005, completely excluded, from the definition of *tangible personal property* under R.S. 47:301(16)(h). This exclusion applies to state sales tax, the sales tax of political subdivisions whose boundaries are coterminous with the state, and the sales tax of political subdivisions whose boundaries are not coterminous with the state that exempt custom computer software by ordinance as authorized by R.S. 47:305.52. Custom computer software is software that is specifically written for a particular customer or that adapts prewritten or "canned" software to the needs of a particular customer.

i. Before July 1, 2002, purchases of prewritten or canned software that are incorporated into and resold as a component of custom computer software before July 1, 2002, are considered purchases of *tangible personal property* for resale. Use tax is not due on these purchases and any sales tax paid is eligible for tax credit against the tax collected on the retail sale of the custom software.

ii. Phase-In Period—the sales tax exclusion for custom computer software will be phased in at the rate of 25 percent per year beginning on July 1, 2002. During the phase-in period, purchases of prewritten or canned software that are incorporated into and resold as a component of custom computer software will be considered a purchase for resale according to the applicable sales tax exclusion percentage in effect at the time of sale. The custom software vendor must pay sales tax on the purchase price of the canned software and may claim tax credit for the percentage that is resold as *tangible personal property*. If 75 percent of the sales price of the custom computer software is taxable, the vendor is allowed a tax credit for 75 percent of tax paid on the canned software purchase. Conversely, if sales tax was not paid by the custom software vendor on the purchase of canned software that is incorporated into custom software, use tax will be due on the percentage that is not considered to be a purchase for resale. The sales tax exclusion percentage will increase each year during the phase-in period and guidelines on the phase in of this exclusion will be published in a Revenue Ruling.

iii. July 1, 2005, the purchase of prewritten or canned software that is incorporated into and resold as a component of custom computer software sold on or after

July 1, 2005, will be considered the purchase of *tangible personal property* for the personal use of the custom software vendor and subject to sales or use tax.

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 29:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Friday, November 22, 2002. A public hearing will be held on Monday, November 25, 2002, at 2 p.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Definition of Tangible Personal Property

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this proposed regulation, which clarifies the definition of tangible personal property for sales tax purposes, will have no impact on state or local agencies' costs.

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 as a result of this proposed regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed regulation would have no effect on the costs or economic benefits to vendors, manufacturers, or purchasers of tangible personal property in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0210#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Offset of Individual Income Tax Refunds
Against Debts Owed Certain Persons
(LAC 61:I.1306)**

Under the authority of R.S. 47:299.34 and 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1306 relative to the offset of individual income tax refunds against debts owed certain persons.

Revised Statute 47:299.31 et seq. permits certain persons owed child support to make a claim against any income tax refund due to an individual who has failed to provide child support payments required by an order and against whom a judgment has been rendered. The secretary is authorized by R.S. 47:299.34 to establish a reasonable and efficient system for permitting a claim of offset by a claimant. This proposed rule provides the requirements for submitting offset claims including the information that must be submitted, the time limits for submitting claims, and the method of making remittances to the claimant.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 13. Income: Personal

§1306. Offset of Individual Income Tax Refunds

Against Debts Owed Certain Persons

A. The claimant must submit a written offset claim with a certified copy of the judgment that makes past-due payments under a child-support award executory. The claim must be submitted before participation in the program and by December 1 each year thereafter. After the first year of participation, a copy of the claim and judgment can be submitted if the information requested in Subsection B has not changed.

B. For each offset claim, the claimant must provide the following information:

- 1. the name of the debtor;
- 2. the amount of offset claimed;
- 3. the social security number of the debtor;

4. the most current address of the debtor available to the claimant; and

5. any additional information requested that will facilitate identification of the debtor and processing of the offset claim.

C. Remittances will be made to the claimant within three months after the debtor has waived the right to contest the offset or final disposition by the claimant or by a court.

D. A fee for processing the claim will be withheld from each refund issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:299.34.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, LR 29:

Family Impact Statement

1. The effect on the stability of the family. Implementation of this proposed Rule will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 15409, Baton Rouge, LA 70895-5409 or by fax to 225-219-2759. All comments must be received no later than 4:30 p.m., November 25, 2002. A public hearing will be held on Tuesday November 26, 2002 at 9 a.m. in the River Room on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana 70802.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Offset of Individual Income Tax Refunds
Against Debts Owed Certain Persons**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of this proposed regulation, which provides the requirements for submitting offset claims including the information that must be submitted, the time limits for submitting claims, and the method of making

remittances to the claimant, will have no impact on the agency's costs.

Implementation of this proposed regulation would have no impact upon any local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no impact on state or local revenue collections as a result of this proposed regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed regulation establishes a reasonable and efficient system for permitting a claim of offset by a claimant. There should be no costs or economic benefits that directly affect persons or non-governmental groups as a result of this proposed regulation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0210#078

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Sales Tax on Property Used in Interstate Commerce
(LAC 61:I.4420)**

Under the authority of R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.4420 relative to the sales tax exemption set forth in R.S. 47:305.50 for vehicles used in interstate commerce.

This proposed Rule provides guidance on the length of time vehicles must be used in interstate commerce in order to qualify for the exemption. It also discusses the consequences if a taxpayer claims the exemption at the time of purchase and subsequently does not qualify for the exemption.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the

Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§4420. Property Used in Interstate Commerce

A. R.S. 47:305.50(A) allows certain taxpayers to register trucks with a gross weight of 26,000 pounds or more, trailers to be used with such trucks, and contract carrier buses with the Office of Motor Vehicles of the Department of Public Safety and Corrections (OMV) without paying state or local sales or use tax. To qualify for the exemption, the taxpayer's activities must be subject to the jurisdiction of the United States Department of Transportation, and the taxpayer must certify to the OMV that the property will be used at least 80 percent of its total mileage in interstate commerce. The Department of Revenue and the OMV provide forms on which to make these certifications.

B. Any taxpayer who claims the exemption provided for in R.S. 47:305.50(A) must maintain records of the use of the

property in order to document that the property is used for at least 80 percent of its total mileage in interstate commerce.

1. If the documentation indicates that the property was not used during the one-year period following the date of its purchase for the required 80 percent or more of its total mileage in interstate commerce, the taxpayer will not qualify for the exemption and state and local sales or use tax will be due on the amount paid for the property at the rate that was applicable on the date the property was purchased, plus interest from the date the property was purchased to the date of the tax payment. The state portion of the tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the twentieth day of the month following the end of the one-year period in which the taxpayer fails to qualify for the exemption. The local portion of the tax must be reported and paid to the proper local taxing authority in accordance with their ordinances.

2. If, during any of the following one-year periods, the documentation indicates that the property was not used for the required 80 percent or more of its total mileage in interstate commerce, the taxpayer will no longer qualify for the exemption. If this occurs, state and local sales or use tax will be due on the lesser of the purchase price or fair market value of the property on the first day of the one-year period that it does not meet the 80 percent test. The tax will be calculated based on the rate in effect on the first day of the one-year period in which the taxpayer no longer qualifies for the exemption, plus interest from the date the tax is due to the date of tax payment. The state portion of the tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the twentieth day of the month following the end of the one-year period in which the taxpayer no longer qualifies for the exemption. The local portion of the tax must be reported and paid to the proper local taxing authority in accordance with their ordinances.

C. If the taxpayer fails to provide proper documentation, it will be presumed that the taxpayer does not qualify for the exemption and state and local sales or use tax will be due in accordance with Subsection B above.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:305.50 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, Post Office Box 44098, Baton Rouge, Louisiana 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Thursday, November 21, 2002. A public hearing will be held on Monday, November 25, 2002, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sales Tax on Property Used In Interstate
Commerce**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation of this proposed rule will have no impact on state or local governmental units' cost. This proposal is being adopted to provide guidance on the sales tax exemption provided by R.S. 47:305.50 regarding vehicles used in interstate commerce.

**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 as a result of this proposed regulation.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed regulation would have no costs or economic benefits to businesses that acquire trucks of 26,000 pounds or more, trailers, and contract carrier buses when at least 80 percent of their usage occurs in interstate commerce.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0210#038

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Child Care Assistance Program Repair and
Improvement Grants
(LAC 67:III.5102, 5103, and 5107)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 12, the Child Care Assistance Program.

To provide for the eligibility of more applicants, the agency proposes to expand 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. The agency intends to redefine a *Household* to include a disabled adult parent. The definitions of *Head of Household* and *Training and Employment Mandatory Participant* are being amended for grammatical reasons. 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.

Pursuant to Act 152 of the 2002 First Extraordinary Session of the Louisiana Legislature, funds from Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant were appropriated to 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.

These changes were effected by Declaration of Emergency effective September 1, 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

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) live with the MUP and the MUP's 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.

c. These amounts may be adjusted at the discretion of the Assistant Secretary, based upon the availability of funds.

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; Act 152, 2002 First Extraordinary Session, and Act 13, 2002 Reg. Session.

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:

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 more families may be eligible for child care assistance, based on the new definition of a disabled adult household member. The working parent of these households will no longer have to give up employment or job training because they can not afford to pay for child care.

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 child care assistance to these families. The working parent would not have to give up employment or job training. The expanded Repair and Improvement Grant Program will help to ensure that children receive quality child care services.

4. What effect will this have on family earnings and family budget? The Rule will have a positive impact on the family earnings and budget as families with a disabled adult household member may now be eligible for child care assistance and these services will no longer have to be paid for by the family. Additionally, the working parent of these households will no longer have to give up employment or job training because they can not afford to pay for child care.

NOTICE OF INTENT

Department of Social Services Office of Family Support

TANF Initiatives Early Childhood Supports and Services Program and Adult Education Basic Skills Training, and Job Skills Training and Retention Services (LAC 67:III.5507 and 5559)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to adopt LAC 67:III, Subpart 15, Chapter 55, §5559 Early Childhood Supports and Services, as a TANF Initiative and to amend §5507, Adult Education, Basic Skills Training, Jobs Skills Training and Retention Services Program.

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature, the agency will adopt a new TANF Initiative, Early Childhood Supports and Services Program (ECSS). 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.

Act 12 of the 2001 Regular Session of the Louisiana Legislature appropriated monies for implementation of the TANF Initiative, Adult Education, Basic Skills Training, Jobs Skills Training and Retention Services Program. The agency entered into a Memorandum of Understanding with the Workforce Commission to implement and administer the program. Pursuant to Act 152 of the 2002 First Extraordinary Session of the Louisiana Legislature and Act 13 of the 2002 Regular Session of the Louisiana Legislature, the agency entered into Memoranda Of Understanding with several additional agencies including Louisiana Community and Technical College System, Department of Economic Development, Department of Public Safety and Corrections, and Governor's Office of the Workforce Commission, to carry out the intended goals of this initiative. Therefore, the agency is amending §5507 to remove language regarding a specific TANF partner and in doing so, eliminates the need for future amendments to the Code should there be another change in the TANF partner.

Declarations of Emergency signed August 2 and August 14, 2002, effected the rules. The 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

Part III. Family Support

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

Chapter 55. TANF Initiatives

§5507. Adult Education, Basic Skills Training, Job Skills Training and Retention Services Program

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to create programs to provide adult education, basic skills training, jobs skills training, and retention services to low-income

5. What effect will this have on the behavior and personal responsibility of children? Services targeting young children in child care facilities should improve with the expanded Repair and Improvement Grants Program as the percentage and maximum grant amounts will increase.

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.

Interested persons may submit written comments by November 26, 2002 to the following: Ann S. Williamson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065. She is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on November 26, 2002, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Child Care Assistance Program Repair and Improvement Grants

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated costs of amending §5107 is \$1,069,952 for FY 02/03 and thereafter. Monies will be used to cover the cost of Repair and Improvement Grants to eligible child care providers to comply with DSS licensing or registration requirements and/or improve the quality of child care services. The revised definitions in §§5102 and 5103 will have minimal to no impact on costs. The cost of publishing rulemaking and printing policy and forms revisions are estimated to be \$5,180.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule results in no costs to any persons or non-governmental groups and no economic benefit to non-governmental groups.

Eligible child care providers will benefit economically from revisions to the Repair and Improvement Grants by making more providers eligible and increasing the amount of the individual grants. The estimated economic impact to providers is \$1,069,952 in grant monies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed actions will have no impact on competition and employment.

Ann S. Williamson
Assistant Secretary
0210#090

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

families. Employed participants will be provided child care and transportation services. Unemployed participants will be provided short-term child care and transportation services.

B. - 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 152, 2002 First Extraordinary Session; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:870 (April 2002), amended LR 29:

**§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. 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 offered 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 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, 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 support and services to young children and their families who are at risk of developing cognitive, behavioral, or relationship difficulties, thereby contributing to 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 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 family members with counseling, behavior modification, parent support groups, infant mental health screening and assessment, etc. Services such as these should foster secure child/family relationships leading to stable family functioning.

4. What effect will this have on family earnings and family budget? The Rule will have no effect on family earnings and budget.

5. What effect will this have on the behavior and personal responsibility of children? Services targeting young children such as behavior modification, counseling, and infant mental health screening and assessment should positively impact the behavior and personal responsibility of the children.

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 November 26, 2002, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed Rule will be held on November 26, 2002, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana, 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: TANF InitiativesC Early Childhood
Supports and Services Program and Adult Education
Basic Skills Training, and Job Skills Training and
Retention Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost of implementing the TANF Initiative at §5559 and amending the existing initiative at §5507 is estimated to be \$19,750,000 for FY 02/03. The agency will enter into

Memoranda of Understanding with state agencies and other entities to provide services for the programs and funds for these services will be allocated from Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant to the specified departments/agencies. The minimal cost of publishing rulemaking is approximately \$240. The total increase in expenditures of \$19,750,000 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 interagency transfers, the Louisiana Community and Technical College System, Department of Economic Development, Governor's Office of Workforce Commission, Department of Public Safety and Corrections, and the Office of Mental Health, will receive increased revenues totaling \$19,750,000 to be expended in the provision of services.

There is no effect on revenue collection of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no immediate cost or economic benefit to any persons or non-governmental groups. However, the programs have a long-term goal of improving the economic situations 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
0210#089

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**TANF Initiatives C Individual Development Accounts
(LAC 67:III.1235 and 5555)**

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to adopt LAC 67:III, Subpart 15, Chapter 55, §5555 as part of the TANF Initiatives and to amend §1235 of the Family Independence Temporary Assistance Program (FITAP).

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature, the agency is implementing the Individual Development Account (IDA) Program, to provide asset and savings opportunities to low-income families for home ownership, post-secondary education, and small business capitalization, as well as provide financial management education. By enabling individuals to purchase a home, capitalize a business, or send a minor child or themselves to college, the IDA program will assist families in overcoming poverty and their dependence on public assistance. The agency will contract with qualified non-profit organizations, or state or local governments who work with non-profit organizations, to develop and administer the IDA Program for low-income families.

Additionally, the agency proposes to amend §1235 by revising the IDA excludable resource in FITAP, to coincide with federal regulations as stated in the new program.

The Rule was effected by a Declaration of Emergency signed July 1, 2002.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1235. Resources

A. Assets are possessions which a household can convert to cash to meet needs. The maximum resource allowable for an assistance unit is \$2,000. All resources are considered except:

1. - 20. ...

21. an Individual Development Account (IDA) which is a special account established in a financial institution for specific purposes. Only one IDA per assistance unit is allowed. The balance of the account cannot exceed \$6000, including interest, at any time. IDA funds may be used for one of three purposes. Withdrawal of funds for purposes other than those listed below shall be deemed as a countable resource. Effective July 1, 2002, IDA funds may be used for the following purposes only:

a. postsecondary educational expenses paid from an IDA directly to an eligible educational institution;

b. first home purchase C qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an IDA directly to the persons to whom the amounts are due; and

c. business capitalization C amounts paid from an IDA directly to a business capitalization account which is established in a federally-insured financial institution and is restricted to use solely for qualified business capitalization expenses.

A.22. - B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 106-387, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), amended LR 27:736 (May 2001), LR 27:866 (June 2001), LR 28:1031 (May 2002), LR 29:

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

Chapter 55. TANF Initiatives

**§5555. Individual Development Account Program
Effective July 1, 2002**

A. OFS shall establish the Individual Development Account (IDA) Program to provide asset and savings opportunities to low-income families for specific purposes as well as provide financial management education. The agency will contract with qualified non-profit organizations, or state or local governments who work with non-profit organizations, to develop and administer the IDA Program for low-income families.

B. An IDA is a financial account established by, or on behalf of, an individual eligible for assistance to allow that individual to accumulate funds for specific purposes. Funds deposited into the account may be matched by the agency using Temporary Assistance For Needy Families (TANF) Block Grant funds. The balance of the account cannot exceed \$6000, including interest, at any time. Funds deposited by the individual into the account must be derived from earned income. All matching contributions must be deposited in a separate matching fund account and used in accordance with the purposes outlined in §5555.C. The program will also provide financial management and organization education to eligible families.

C. IDA funds may be used for the following qualified purposes only:

1. postsecondary educational expenses paid from an IDA directly to an eligible educational institution;
2. first home purchase qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an IDA directly to the persons to whom the amounts are due; and
3. business capitalization amounts paid from an IDA directly to a business capitalization account which is established in a federally-insured financial institution and is restricted to use solely for qualified business capitalization expenses.

D. Definitions

Eligible Educational Institution

a. an institution described in Section 481(a)(1) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1) or 1141(a)), as such sections are in effect on the date of the enactment of this Subsection [enacted August 22, 1996].

b. an area vocational education school (as defined in Subparagraph (C) or (D) of Section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)), which is in any state (as defined in Section 521(33) of such Act [20 USCS §521(33)]), as such Sections are in effect on the date of the enactment of this Subsection [enacted August 22, 1996].

Post-Secondary Educational Expenses tuition and fees required for the enrollment or attendance of a student at an eligible education institution, and fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

Qualified Acquisition Costs the costs of acquiring, constructing, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

Qualified Business any business that does not contravene any law or public policy (as determined by the federal secretary of the Department of Health and Human Services).

Qualified Business Capitalization Expenses qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

Qualified Expenditures expenditures included in a qualified plan including capital, plant, equipment, working capital, and inventory expenses.

Qualified First-Time Homebuyer a taxpayer (and if married, the taxpayer's spouse), who has no present ownership interest in a principal residence during the 3-year

period ending on the date of acquisition of the principal residence to which this Subsection applies. Date of acquisition means the date on which a binding contract to acquire, construct, or reconstruct the principal residence to which this Subparagraph applies is entered into.

Qualified Plan a business plan which:

- a. is approved by a financial institution, or by a nonprofit loan fund having demonstrated fiduciary integrity;
- b. includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and
- c. may require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor.

Qualified Principal Residence a principal residence (within the meaning of Section 1034 of the Internal Revenue Code of 1986 [26 USCS §1034], the qualified acquisition costs of which do not exceed 100 percent of the average area purchase price applicable to such residence (determined in accordance with Paragraphs (2) and (3) of Section 143(e) of such Code [26 USCS §143(e)]).

E. These services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in homes of relatives.

F. Eligibility is limited to low-income families at or below 200 percent of the federal poverty level.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 1098, 2001 Reg. Session; Act 84, 2002 First Extraordinary Session; and Act 13, Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, 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 opportunities for low-income families to save and accumulate assets for home ownership, post-secondary education, and business capitalization thereby contributing to 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 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 positively impact the functioning of the family by increasing the educational level and earning potential of family members as well as providing for home ownership, all of which contribute to positive family functioning.

4. What effect will this have on family earnings and family budget? The long-term effect of providing families with a means to further their education, establish a home, or start up a business, should be an increase in family earnings and the subsequent budget.

5. What effect will this have on the behavior and personal responsibility of children? There will be no effect on the behavior and personal responsibility of the children.

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 November 26, 2002, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed Rule will be held on November 26, 2002, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana, 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: TANF InitiativesC Individual
Development Accounts**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation costs for the Individual Development Account (IDA) Program are estimated to be \$2 million which includes actual funds that will be matched to participant savings, administrative fees (not to exceed 10 percent of the total expenditures), and the cost of publishing rulemaking and printing policy and forms revisions. 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)**

The Rule will have no impact on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Participating families will receive a four to one match on their savings contributions. This could result in program participants receiving as much as \$24,000 in matching funds based on the maximum allowable contribution by the participant of \$6,000. Additionally, the projected 250 participants will be provided with financial literacy education and training resulting in improved financial management skills thereby providing a positive impact on the family's budget.

The IDA Collaborative of Louisiana (IDACL), a partnership of financial institutions, community-development corporations, social service and community-based organizations, workforce development organizations and public agencies, will be paid administrative fees not to exceed 10 percent of the total allocation.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed Rule will have some impact on competition and employment as IDACL will subcontract with several local and regional service providers to ensure statewide coverage for recruitment, enrollment, and provision of program services. These service providers will employ additional staff to provide case management and other direct support services to IDA program participants. Additionally, four administrative and

three non-administrative personnel will be employed directly by the IDACL to implement and administer the program.

Ann S. Williamson,
Assistant Secretary
0210#088

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Rehabilitation Services
Vocational Rehabilitation Services**

General Provisions (LAC 67:VII.Chapter 1)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) proposes to amend Sections 101, Agency Profile and Section 103, Enabling Legislation, Section 107 Applicant/Client Appeal Right, and Section 115, Financial of its Vocational Rehabilitation Policy Manual. In Section 101, Agency Profile and Section 103, Enabling Legislation, the agency is amending guidelines to remove the reference to the Blind Register from policy, as it is not mandated. In Section 107 Applicant/Client Appeal Rights, the agency is extending the required timeline for conducting an appeal and specifying when written notice of appeal rights must be provided to an applicant or consumer as per Federal Regulations 34 CFR Part 361.57 effective January 17, 2001. In Section 115, Financial, the agency is amending guidelines to distinguish between trial work and extended evaluation; clarify that personal assistance services are not based on economic need; and remove the RS-14 form from policy, but maintain the basic living requirement and other necessary policy required to determine a consumer's financial need for certain vocational rehabilitation services. This proposed Rule does not change the vocational rehabilitation services that are based on the agency's financial need policy.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. General Provisions

§101. Agency Profile

A. - H. ...

I. Data Collection. Staff shall ensure the provision of client and financial data necessary for the operation of the agency's information and financial system.

J. - T ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:1263 (July 1999), LR 29:

§103. Enabling Legislation

A. - C.1 ...

2. Act 19 of 1988 effected the merger of the Division of Rehabilitation Services with the Division of Blind Services to form Louisiana Rehabilitation Services.

3. Act 109 of 1984, R.S. 39:1595.3, and Act 291 of 1986, R.S. 39:1594(I), enacted and authorized the State Use Law.

4. Act 10 of 1994, R.S. 18:59(I)(2), 61(A)(1), 62(A), 103(A), enacted and authorized to provide for the implementation of the National Voter Registration Act of 1993.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:473 (May 1995), LR 25:1265 (July 1999), LR 29:

§107. Applicant/Client Appeal Rights

A. - A.1. ...

2. All applicants/clients must be provided written notification of appeal rights at the time of application, placement into a category in the Order of Selection, development of the Individualized Plan for Employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services, including evaluations and assessment services and plan development (IPE), will continue during the administrative review appeal process unless the services being provided were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

3. In order to insure that an applicant/client is afforded the option of availing themselves of the opportunity to appeal agency decisions impacting their vocational rehabilitation case, written notification by the Counselor and/or Regional Manager must include:

A.3.a. - B.4. ...

5. All applicants/clients must be provided written notification of appeal rights at the time of application, placement into a category in the Order of Selection, development of the Individualized Plan for Employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services, including evaluations and assessment services and plan development (IPE), will continue during the Mediation process unless the services being provided were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

6. In order to insure that an applicant/client is afforded the option of availing themselves the opportunity to appeal agency decisions impacting their vocational rehabilitation case, written notification by the Counselor and/or Regional Manager must include:

a. - f.(note) ...

C. Fair Hearing

1. The fair hearing process may be requested by applicants/clients to appeal disputed findings of an administrative review, or as a direct avenue of appeal bypassing the administrative review or the mediation process option. The fair hearing must be conducted by an impartial hearing officer within 60 days of the initial written request. At the time the fair hearing is requested, the applicant/client shall be offered mediation as an option to resolve a dispute.

2. An Impartial Hearing Officer shall be selected on a random basis or by agreement between the Louisiana Rehabilitation Services Director and the applicant/client. This officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation

Council. The Impartial Hearing Officer shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services within 30 days of completion of the hearing.

3. All applicants/clients must be provided written notification of appeal rights at the time of application, placement into a category in the order of selection, development of the Individualized Plan for Employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services, including evaluations and assessment services and plan development (IPE), will continue during the fair hearing process unless the services being provided were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

4. In order to insure that the applicant/client is afforded the option of availing themselves the opportunity to pursue a fair hearing, written notification by the Counselor and/or Regional Manager must include:

C.4.a. - D.1. ...

2. The decision of the Impartial Hearing Officer will be final unless the applicant/client or the agency requests a review of the Impartial Hearing Officer's decision by making a written request to the Secretary of the Department of Social Services within 20 days of mailing the decision. The Secretary cannot delegate the responsibility for making this final decision to any other officer or employee of Louisiana Rehabilitation Services. The applicant/client and the agency shall be provided an opportunity to submit additional evidence and information relevant to the final decision.

D.3. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:189 (February 1995), LR 24:958 (May 1998), LR 25:1266 (July 1999), LR 26:1634 (August 2000), LR 29:

§115. Financial

A. - B.1. ...

2. LRS will consider, through budgetary analysis of assets, income, disability-related expenses and comparable services and benefits, the financial need of eligible individuals; individuals who are participating in trial work periods; and individuals under extended evaluations for purposes of determining the extent of the individual's participation in the costs of certain vocational rehabilitation services.

a. - a.x. ...

xi. personal assistance services provided simultaneously with any of the above-listed vocational rehabilitation services; (Examples include attendant, reader, scribe, interpreter, ASL, braille, notetaker, and adjustment/orientation and mobility training services.)

b.i. - viii. ...

ix. vocational and other training services, such as college/university and proprietary school training.

x. other goods and services not specifically identified in Clauses b.i. thru ix above.

xi. post-employment services consisting of the services listed above.

c. The only exception to item ix. above is as follows:

i. to preserve LRS' Continuity of Services provision in the Order of Selection, LRS exempted those eligible individuals who had an IWRP/IPE in effect prior to July 20, 1999, which is the date of the adoption of this rule change; therefore, Clause b.ix. above will only apply to those individuals who had an IWRP/IPE developed after July 20, 1999.

d. - h. ...

i. Simultaneously with the comprehensive assessment, at the annual review of the IPE, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring vocational rehabilitation services as listed above in §115.B.2.b.i. - xi. The amount of client participation in the cost of their vocational rehabilitation program will be based upon the most recent budget analysis at the time the relevant IPE or amendment is developed.

3. State and Departmental Purchasing Procedures. All applicable state, departmental and agency purchasing policies and procedures must be followed.

3.a. - d. ii. ...

C. LRS shall determine an individual's financial need for certain vocational rehabilitation services based on the individual's disability related expenses, available assets, and the basic living requirement chart below.

The Basic Living Requirement (BLR)

Persons	Allowable BLR**
1	\$21,475
2	\$29,025
3	\$36,575
4	\$44,125
5	\$51,675
6	\$59,225
7	\$66,775
8	\$74,325
Other	

**For each additional person over 8, add \$3020.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 25:1273 (July 1999), LR 27:212 (February 2001), LR 27:1561 (September 2001), LR 29:

Family Impact Statement

The Department of Social Services, Louisiana Rehabilitation Services hereby issues this Family Impact Statement: The proposed rule for the Vocational Rehabilitation Policy Manual Sections: 101, 103, 107 and 115, has no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Interested persons may submit written comments for 40 days from the date of this publication to James Wallace, Director, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806-4834. Mr. Wallace is responsible for responding to inquiries regarding the proposed rule.

Public Hearings will be conducted November 21, 2002, at 10:00 a.m., as follows, Baton Rouge, LRS Regional Office, 3651 Cedarcrest Avenue; Alexandria, LRS Regional Office, 900 Murray Street, Shreveport, LRS Regional Office, 1525

Fairfield Avenue; New Orleans, LRS Regional Office, 3500 Canal Street.

Individuals with disabilities who require special services should contact Judy Trahan, Program Manager, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call 225-925-4131 or 1-800-737-2958, or 1-800-543-2099 for voice and TDD.

Gwendolyn Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: General Provisions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost of publishing rulemaking is approximately \$162.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated increase or decrease in revenue.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated impact of the proposed action on local governmental units. There is no anticipated Impact in workload and Paperwork requirements. LRS will continue to maintain existing levels of verification and documentation of applicants or consumers' appeal rights and of consumer's income, assets, and medical liabilities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact of the proposed action on competition and employment in either the public or private sector.

James Wallace
Director
0210#087

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of the Secretary**

Cash Management Plan
(LAC 70:I.101 and 103)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to amend Chapter 1 of Title 7 entitled "Cash Management Plan," in accordance with R.S. 48:251(D).

Title 70

TRANSPORTATION

Part I. Highway Construction

Chapter 1. Cash Management Plan

§101. Phased Funding

A. The department is authorized to utilize cash management on multi-fiscal year projects which exceed the contract limit established in R.S. 48:251. The department is authorized to allocate only sufficient appropriated funds in

any fiscal year to pay for anticipated actual contract obligations incurred in that fiscal year. A multi-fiscal year phased funding plan will be developed for each project approved by the secretary for phased funding. The phased funding plan will provide annual anticipated expenditure projections over the life of the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:251.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 24:1324 (July 1998), amended by the Office of the Secretary, LR 29:

§103. Project Eligibility for Phased Funding

A. In order to qualify for phased funding, the proposed project must be a multi-fiscal year project which exceeds the contract limit established in R.S. 48:251.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:251.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR. 24:1324 (July 1998), amended by the Office of the Secretary 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. Such comments should be submitted to Sherryl J. Tucker, Senior Attorney, P.O. Box 94245, Baton Rouge, LA 70804, Telephone (225) 237-1359.

Kam K. Movassaghi, P.E., Ph.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Cash Management Plan**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This is an amendment to the existing Rule establishing a Cash Management Plan in the department. The department anticipates no additional costs to the state to implement this

revised Rule. The Rule is being amended so that more projects qualify for the phased funding under the cash management plan, thereby enabling the department to more effectively use available cash. Implementation of the revised Rule will provide the department with the flexibility to sell the minimum amount of bonds required to meet project/program expenditures amounts and thus save interest costs that would otherwise accrue on obligated but unexpended cash balances.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The revised Rule will have no effect on the revenue collections of state or local governmental units. However, the projected reduction in cash balances anticipated from effective use of cash management principles will eventually also reduce the amount of interest earned by the state on obligated but unexpended cash balances.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The revised Rule will benefit directly affected persons and non-governmental groups insofar as more DOTD road construction projects will be initiated in a shorter span of time. This will eventually result in certain projects being completed earlier than currently estimated, thereby allowing the traveling public to enjoy the benefits of these transportation improvements sooner.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The revised Rule will not directly affect competition and/or employment.

John P. Basilica, Jr.
Undersecretary
0210#044

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

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

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the Section on white-tailed deer within the Game Breeder's License Rule.

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. Whitetail 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 x 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 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 of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Tommy Prickett, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, December 5, 2002.

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.

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Wild Quadrapeds
Game Breeder's License**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Department of Wildlife and Fisheries' revenue collections are estimated to decrease by \$800 in FY 02-03, \$1,000 in FY 03-04 and \$1,200 in FY 04-05. Revenue collection of local governmental units will not be impacted.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Persons that are interested in obtaining a game breeder's license in the future will not be able to obtain a license. Existing game breeder licensees who have a game breeder's license will be required to report deer deaths within 48 hours. Commercial alternative livestock farmers who raise deer to sell may experience a slight loss of income from reduced deer sales due to the prohibition on issuing new game breeder's licenses for deer. On the other hand, participants deer recreational activities and persons who provide goods and services to deer recreational activities participants will benefit, if the Rule is effective in preventing a chronic wasting disease (CWD) outbreak in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule is not expected to affect competition or employment in the short term.

James L. Patton
Undersecretary
0210#043

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY – SEPTEMBER 2002

LAC Title	Part.Section	Effect	Location LR 28 Month Page	LAC Title	Part.Section	Effect	Location LR 28 Month Page
1	III.Chapters 1-7	Adopted	Jan. 40	28	IV.301, 2103	Amended	Jan. 45
4	III.Chapters 3,5	Adopted	June 1197		IV.301, 503,507, 701, 705	Amended	Mar. 446
	VII.Chapter 11	Amended	May 1016		IV.301, 703, 803, 805, 903, 907	Amended	Apr. 772
	VII.1215, 1223, 1225	Amended	May 1016		IV.503	Amended	Aug. 1760
	VII.1741, 1743	Adopted	May 1018		IV.803, 903, 907, 1303, 1901	Amended	Mar. 446
	VII.1747, 1749	Adopted	May 1018		IV.911,1103, 1111, 1903, 2105	Amended	Apr. 772
	IX.101, 301, 303, 501, 503	Adopted	July 1583		IV.Chapter 15	Repealed	Sept. 1950
	XV.101, 301, 303, 501, 503	Repromulgated	Sept. 1954		IV.1903, 2103, 2107	Amended	Mar. 446
7	V.927, 929	Amended	June. 1170		IV.1903	Amended	Aug. 1760
	XXI.101, 121	Amended	June 1170		IV.2107, 2303, 2309	Amended	Apr. 772
	XXIII.121, 125, 129	Amended	Jan. 39		VI.107, 301	Amended	Mar. 450
	XXXV.119	Amended	June 1171		VI.107, 301, 303, 307, 311, 313	Amended	Apr. 777
	XXXIX.1307, 1315	Amended	Feb. 267		VI.315	Amended	Aug. 1761
10	III.701, 702	Amended	Mar. 482		XXI.Chapters 1, 3, 5	Adopted	Feb. 274
	III.703	Repealed	Mar. 482		XXXVII.Chapters 1-35	Adopted	Feb. 276
	XV.1501-1509	Adopted	Feb. 307		XXXIX.905, 1301	Amended	June 1189
	XV.505	Adopted	Mar. 484		XLV.Chapters 1-11	Adopted	Aug. 1730
	XV.507	Repromulgated	June 1172		XLIX.101, 349, 2523, 2911, 3307	Amended	Aug. 1737
13	XV.320	Amended	May 989		XLIX.101, 349, 2523, 2911, 3307	Repromulgated	Sept. 1949
22	I.107	Adopted	Jan. 94		XLIX.1503, 2515	Amended	Aug. 1740
	I.325	Adopted	Apr. 857		XLIX.3309, 3313	Amended	Aug. 1737
	I.325	Amended	Sept. 1993		XLIX.3309, 3313	Repromulgated	Sept. 1949
	I.326	Adopted	Apr. 861		XLIX.Chapter 34	Adopted	Aug. 1737
	I.326	Amended	Sept. 1993		XLIX.Chapter 34	Repromulgated	Sept. 1949
	I.359	Amended	Jan. 94	32	LI.Chapters 1-9	Amended	Aug. 1741
	I.359	Amended	Aug. 1797		LIII.Chapter 1-11	Adopted	June 1172
	I.369	Amended	Apr. 856		LV.Chapters 1-11	Adopted	Apr. 765
	I.401	Adopted	May 1026		LIX.Chapters 1-11	Adopted	Sept. 1939
	I.Chapter 5	Adopted	Aug. 1782		III.301	Amended	Mar. 480
	III.4703	Amended	Mar. 475		III.405	Amended	Mar. 479
	V.105	Amended	May 1026		III.409, 501, 503, 505, 507	Amended	Mar. 479
	XI.511	Amended	July 1597		III.509, 511, 513, 515, 517	Repealed	Mar. 479
	XV.Chapters 1-5	Adopted	June 1200		V.301	Amended	Mar. 478
25	VII.507	Repromulgated	July 1576		V.405	Amended	Mar. 476
	VII.1101-1109, 2101-2105	Repealed	July 1576		V.701	Amended	Mar. 476
	VII.2501-2505, 2701-2703	Repealed	July 1576		V.409, 501, 503, 505, 507	Amended	Mar. 477
	VII.4303, 4305, 4311, 4313	Amended	July 1576		V.509, 511, 513, 515, 517	Repealed	Mar. 477
	VII.4501, 4503	Amended	July 1576		VII.Chapters 1-13	Amended	June 1494
28	I.103	Amended	Feb. 268	33	VII.727, 1503, 1505, 1901	Adopted	June 1494
	I.107	Amended	June 1189		VII.1305	Repealed	June 1494
	I.901	Amended	Feb. 269		VII.1501	Amended	June 1494
	I.901	Amended	Feb. 272		I.3931	Amended	May 993
	I.901	Amended	May 991		III.501	Amended	May 997
	I.901	Amended	June 1187		III.502	Amended	Sept. 1950
	I.901	Amended	Aug. 1724		III.507, 1432, 3003, 5116, 5122	Amended	May 993
	I.901	Amended	Aug. 1725		III.2201	Adopted	Feb. 290
	I.901	Amended	Aug. 1725		III.2201	Repromulgated	Mar. 450
	I.901	Amended	Aug. 1726		III.Chapter 21	Amended	July 1578
	I.901	Amended	Sept. 1936		III.5311	Amended	Sept. 1763
	I.901	Amended	Sept. 1936		III.Chapter 6	Amended	May 993
	I.901	Amended	Sept. 1937		III.621, 623, 625	Repealed	Feb. 301
	I.903	Amended	Feb. 273		III.5901	Amended	Mar. 463
	I.903	Amended	Mar. 445		V.109, 321, 4901, 4909	Amended	May 998
	I.903	Amended	Apr. 759		V.109, 2601, 2603, 2605	Amended	June 1190
	I.903	Amended	Apr. 760		V.2213, 2215	Adopted	May 998
	I.903	Amended	Apr. 763		V.2601	Amended	July 1580
	I.903	Amended	Apr. 765		V.2602, 2607	Adopted	June 1190
	I.903	Amended	May 990		V.Chapter 30	Amended	May 993
	I.903	Amended	Aug. 1727		V.30105, 30135, 30292, 30293	Amended	Jan. 83
	I.903	Amended	Aug. 1728		V.30294	Amended	Jan. 83
	I.903	Amended	Aug. 1729		V.30112, 30149, 30295, 30296	Adopted	Jan. 83
	I.903	Amended	Aug. 1730		V.30298, 30351	Adopted	Jan. 83
	I.904	Amended	June 1187		V.30129	Repealed	Jan. 83
	I.904	Amended	Sept. 1937		V.Chapter 42	Adopted	May 998
					VI.201	Amended	Aug. 1762
					VII.301	Amended	Apr. 780
					VII.10505, 10519, 10525, 10537	Repromulgated	Sept. 1953
					IX.1123	Amended	Mar. 461

LAC Title	Part.Section	Effect	Location LR 28 Month Page	LAC Title	Part.Section	Effect	Location LR 28 Month Page			
33	IX.1123	Amended	Aug. 1761	46	LXXXV.301, 303	Amended	Sept. 1982			
	IX.Chapter 23	Amended	Mar. 463		LXXXV.403	Amended	June 1208			
	IX.2301, 2531, 2533	Amended	May 993		LXXXV.1103, 1115	Amended	June 1208			
	IX.2331, 2361, 2415, 2519-2528	Amended	Aug. 1766		LXXXVI.501, 503, 705, 1101	Amended	Mar. 490			
	IX.Chapters 31-35	Adopted	July 1584		LXXXVI.Chapter 6	Adopted	June 1476			
	IX.3101-3113	Adopted	Apr. 780		LXXXVI.Chapters 16, 17	Adopted	Mar. 490			
	XI.301, 303	Amended	Mar. 474		C.101-107	Repealed	Jan. 82			
	XV.403	Amended	May 1010		48	I.Chapter 27	Adopted	July 1593		
	XV.443	Adopted	May 1010			I.Chapter 75	Amended	Mar. 508		
	XV.455, 575, 577, 587, 588, 590	Amended	Sept. 1951			I.16103-16121	Amended	May 1019		
	XV.541	Amended	Feb. 305			V.Chapter 22	Amended	Apr. 837		
	XV.605, 1329, 2013	Amended	Sept. 1951			V.2210	Adopted	Apr. 837		
	XV.1517	Amended	May 993			V.Chapter 73	Adopted	Mar. 502		
						V.Chapter 73	Repromulgated	Apr. 839		
	34	VII.307	Amended		Mar. 481	XI.3501	Amended	Jan. 46		
35	I.1797	Amended	May 1014	50	VII.1301-1309	Repealed	June 1472			
	XI.9915, 9939	Amended	May 1013		VII.1301-1309	Adopted	June 1472			
	XIII.11601-11625	Adopted	May 1014		VII.1301-1311	Repromulgated	Aug. 1789			
37	XI.717, 723	Amended	Mar. 510	XV.Chapters 31-43	Adopted	June 1466				
	XIII.Chapter 62	Adopted	Apr. 844	XIX.Chapter 41	Adopted	May 1023				
	XIII.8903, 8907, 8909, 8917	Amended	July 1593	XIX.Chapter 43	Adopted	May 1023				
40	XV.Chapter 1	Amended	Mar. 511	XXI.301	Amended	Aug. 1787				
42	III.201	Adopted	Apr. 855	XXI.Chapters 111-121	Adopted	Sept. 1983				
43	III.301, 303, 304	Adopted	Sept. 1987	51	I-XXVIII	Adopted	June 1208			
	VII.2325, 22955	Amended	May 1028		III.Chapter 8	Repromulgated	Feb. 344			
	VII.Chapter 37	Repealed	Sept. 1987		III.813	Amended	Feb. 345			
	IX.2174, 2931, 4103	Amended	May 1028		55	I.1305, 1307, 1311, 1313	Amended	June 1482		
	IX.2939	Repealed	Sept. 1987			I.Chapter 19	Amended	Aug. 1797		
	IX.Chapter 37	Repealed	Sept. 1987			I.1973, 1975	Adopted	Aug. 1797		
	IX.4103	Repromulgated	Feb. 344			I.2303, 2315	Amended	Aug. 1803		
	XIII.2325, 2955	Amended	May 1028			III.315	Adopted	Feb. 346		
	XIII.2933	Repealed	Sept. 1987			V.4001	Adopted	July 1597		
	XIII.Chapter 37	Repealed	Sept. 1987			VII.317	Amended	June 1484		
						XXIII.Chapters 1-47	Adopted	Feb. 311		
	43	I.701, 723	Amended			Mar. 516	58	III.509-513, 519	Amended	May 1031
	46	I.Chapter 4	Adopted			July 1581	61	I.305	Amended	Sept. 1995
V.3001, 3003, 3503, 3901, 4101		Adopted	July 1586	I.309		Amended	Jan. 97			
V.4103		Adopted	July 1586	I.1302	Adopted	Jan. 101				
XIX.319, 709		Amended	May 1013	I.1304	Adopted	Jan. 98				
XXXIII.101, 118, 714		Repealed	Aug. 1775	I.1305	Adopted	Jan. 98				
XXXIII.110, 122, 124, 301, 306		Amended	Aug. 1775	I.1307	Adopted	May 1030				
XXXIII.316, 318, 411, 415, 419		Amended	Aug. 1775	I.1401	Adopted	Apr. 868				
XXXIII.504, 706, 710, 1207		Amended	Aug. 1775	I.1505	Adopted	June 1488				
XXXIII.1711		Amended	Aug. 1775	I.1515	Adopted	June 1489				
XXXIII.113, 508, 1713		Adopted	Aug. 1775	I.4301	Amended	Feb. 348				
XXXIII.1801-1805		Adopted	Aug. 1775	I.4301	Amended	June 1488				
XLI.1105		Amended	Jan. 46	I.4910	Amended	Apr. 866				
XLV.3162		Adopted	Apr. 830	I.4908	Amended	Apr. 866				
XLV.4903-4925		Amended	Sept. 1976	I.5105	Adopted	Feb. 348				
XLV.Chapter 71		Adopted	July 1589	I.5302	Adopted	Mar. 517				
XLVII.3505		Amended	Sept. 1979	V.309, 703, 907, 1103, 1503	Amended	Mar. 517				
XLVII.4513		Repromulgated	June 1205	V.2503, 2705, 2707, 3103, 3301	Amended	Mar. 517				
LIV.Chapters 1, 3		Amended	Sept. 1979	V.3501	Amended	Mar. 517				
LIV.355		Adopted	Sept. 1979	67	III.902, 1207, 2902, 5203, 5303	Amended	July 1598			
LIV.501		Amended	Sept. 1979		III.1223, 1931, 1932, 5323	Amended	July 1599			
LVII.113		Adopted	Feb. 308		III.1235, 1949	Amended	May 1031			
LVII.518		Amended	Apr. 855		III.1257	Adopted	Mar. 522			
LIX.201, 203		Amended	Jan. 96		III.1290, 5390, 5503	Adopted	Jan. 102			
LXVII.1507		Amended	Mar. 485		III.1291, 5391	Adopted	June 1492			
LXVII.1903		Amended	Apr. 830		III.2013	Amended	Jan. 103			
LXVII.2301		Amended	Apr. 829		III.2015	Repealed	Jan. 103			
LXVII.2501, 2515		Amended	Apr. 829		III.2913	Amended	Jan. 102			
LXVII.4501		Amended	Apr. 830		III.2529	Amended	Feb. 350			
LXVII.4513		Amended	Mar. 487		III.5102, 5103, 5107, 5109	Amended	June 1490			
LXVII.5205, 5323, 5329		Amended	Mar. 486		III.5107	Amended	Feb. 349			
LXVII.5515, 5535, 5539		Amended	Mar. 485		III.5505-5545	Adopted	Feb. 350			
LXXV.103, 107, 301		Amended	Aug. 1781		III.5403, 5405	Amended	Sept. 1996			
LXXV.109, 113, 115, 117, 119		Amended	Sept. 1971		III.5407	Amended	July 1598			
LXXV.123, 125, 507		Amended	Sept. 1971		V.Chapters 5, 9	Repealed	Sept. 1995			
LXXVI.Chapter 2		Adopted	Aug. 1794		V.1301	Amended	Jan. 102			
LXXX.Chapters 1, 3, 5, 7, 9, 11,		Amended	Sept. 1955							
LXXX.Chapters 13, 15, 17, 19		Amended	Sept. 1955							

LAC Title	Part.Section	Effect	Location		LAC Title	Part.Section	Effect	Location	
			LR 28	Month Page				LR 28	Month Page
70	I. III	Repromulgated	May	1031	76	I.327	Adopted	Feb.	354
	III.5507, 5511, 5541, 5547	Adopted	Apr.	870		V.305	Amended	May	1033
	I.127	Amended	Apr.	871		V.701	Amended	Sept.	1996
	I.134	Adopted	Apr.	871		VII.149	Amended	Jan.	104
	I.505	Repealed	Apr.	874		VII.195	Adopted	Sept.	1996
	I.507, 513	Amended	Apr.	874		VII.343	Amended	May	1032
	I.515	Amended	Apr.	876		VII.519	Adopted	Mar.	524
	III.Chapter 4	Adopted	Apr.	873		VII.701	Amended	July	1601
73	I.Chapter 12	Amended	Mar.	522	VII.703	Repromulgated	Feb.	354	
	I.1709	Amended	July	1600	XIX.101, 103	Amended	July	1615	
					XIX.111	Amended	July	1603	

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POTPOURRI

Department of Environmental Quality Office of Environmental Assessment

Request for Public Comment and Notice of Public
Hearing Proposed Revision to the Motor Vehicle
Emissions Budgets in the Ozone State
Implementation Plan (SIP) for Baton Rouge

Under the authority of the Louisiana 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., and 40 *Code of Federal Regulations*, §51.102, of the United States Environmental Protection Agency regulations concerning SIPs, the secretary gives notice that the Department will conduct a public hearing to receive comments regarding the proposed revision to the motor vehicle emissions budgets (MVEBs) for transportation conformity purposes in the ozone SIP for Baton Rouge.

The proposed MVEBs for Baton Rouge have been revised using MOBILE6, which is EPA's latest model for calculation of emissions from on-road motor vehicles. This submittal will fulfill the State's commitment to submit revised MVEBs for Baton Rouge.

The public hearing for this proposed SIP revision will be held at 1:30 p.m. on November 25, 2002, in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Attendees should report directly to the hearing location for DEQ visitor registration, instead of the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or (225) 765-0399. Interested persons are invited to attend and submit oral comments on the proposed SIP revision.

Written comments should be mailed to Ron Rebouche, Office of Environmental Assessment, Environmental Planning, Post Office Box 82178, Baton Rouge, Louisiana 70884-2178, or faxed to (225) 765-0617. Comments must be received no later than 4:30 p.m., November 25, 2002. Copies of this document can be purchased by contacting the Records Management Section at (225) 765-0843. A check or money order is required in advance for each copy of the document.

A copy of the proposed SIP revision is located at www.deq.state.la.us/news/PubNotice. Additionally, a copy of the proposed revision may be viewed from 8 a.m. to 4:30

p.m., Monday through Friday, at DEQ Headquarters, 7290 Bluebonnet Boulevard, 4th Floor, Room 4400, Baton Rouge, LA; Capital Regional Office, 5222 Summa Court, Baton Rouge, LA; Acadiana Regional Office, 111 New Center Drive, Lafayette, LA; Northeast Regional Office, 1823 Hwy 546, West Monroe, LA; Southeast Regional Office, 201 Evans Road, Building 4, Suite 420, New Orleans, LA; Southwest Regional Office, 3519 Patrick Street, Suite 265, Lake Charles, LA; and Northwest Regional Office, 1525 Fairfield, Room 11, Shreveport, LA.

James H. Brent, Ph.D.
Assistant Secretary

0210#082

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment

Request for Public Comment on Section 111(d) Plan for
Commercial and Industrial Solid Waste Incineration Units

Under the authority of the Louisiana 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 a Section 111(d) plan is proposed for Commercial and Industrial Solid Waste Incineration Units in Louisiana.

Sections 111(d) and 129 of the Clean Air Act Amendments of 1990 require states to submit to EPA a plan which establishes performance standards for each category of existing solid waste incinerator sources to which a standard of performance under New Source Performance Standards, 40 CFR Part 60, would apply if such an existing source were a new source. EPA publishes guidelines to assist states with this plan. EPA promulgated 40 CFR CCCC, *Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for which Construction is Commenced after November 30, 1999 or for Which Modification or Reconstruction is Commenced on or After June 1, 2001*, and DDDD, *Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction on or before November 30, 1999*, on December 1, 2000, and the department is proceeding to incorporate these rules by reference. The public comment period for the proposed Section 111(d) plan begins on October 20, 2002 and ends on November 25, 2002.

The public hearing for this proposed Section 111(d) plan will be held at 1:30 p.m. on November 25, 2002, in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Attendees should report directly to the hearing location for DEQ visitor registration, instead of the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or (225) 765-0399. Interested persons are invited to attend and submit oral comments on the Section 111(d) plan.

Written comments should be mailed to Jim Orgeron, Office of Environmental Assessment, Environmental Planning, Post Office Box 82178, Baton Rouge, Louisiana 70884-2178, or faxed to (225) 765-0617. Comments must be received no later than 4:30 p.m., November 25, 2002. Copies of this document can be purchased by contacting the Records Management Section at (225) 765-0843. A check or money order is required in advance for each copy of the document.

A copy of the proposed plan is located at www.deq.state.la.us/news/PubNotice. Additionally, a copy of the Section 111(d) plan may be viewed from 8 a.m. to 4:30 p.m., Monday through Friday, at DEQ Headquarters, 7290 Bluebonnet Boulevard, 4th Floor, Room 4400, Baton Rouge, LA; Capital Regional Office, 5222 Summa Court, Baton Rouge, LA; Acadiana Regional Office, 111 New Center Drive, Lafayette, LA; Northeast Regional Office, 1823 Hwy 546, West Monroe, LA; Southeast Regional Office, 201 Evans Road, Building 4, Suite 420, New Orleans, LA; Southwest Regional Office, 3519 Patrick Street, Suite 265, Lake Charles, LA; and Northwest Regional Office, 1525 Fairfield, Room 11, Shreveport, LA.

James H. Brent, Ph.D.
Assistant Secretary

0210#081

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

Public Hearing Rescheduled

The public hearing scheduled for Thursday, September 26, 2002 has been rescheduled for Tuesday, October 29, 2002 due to the threat from Hurricane Isidore. This hearing concerns the following four Notices of Intent:

1. Early and Periodic Screening, Diagnosis and Treatment CDental Program CReimbursement Fee Increase;
2. Medicaid Eligibility CIncurred Medical Expenses;
3. Minimum Licensing Standards CAmbulatory Surgical Centers CSteriotactic Radiosurgery; and
4. Nursing Facilities Services Requirements.

The public hearing will be held at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

0210#086

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
Primos-Tomlinson	Monroe	M	Hart	1	168658
Primos-Tomlinson	Monroe	M	Murphy	1	166622
Custer K. Primos	Monroe	M	Love 1	1	059603
Custer K. Primos	Monroe	M	G W Love	1	092015
Custer K. Primos	Monroe	M	Howard	4	093606
Kiss Productions	Caddo Pine Island	S	Noel 8	8	045585
Kiss Productions	Caddo Pine Island	S	Davis	2	056248
Kiss Productions	Caddo Pine Island	S	McCain -Hatcher	2	081991
Kiss Productions	Caddo Pine Island	S	McCain -Hatcher	3	087173
Kiss Productions	Caddo Pine Island	S	Gulf	2	091603
Kiss Productions	Caddo Pine Island	S	Gulf	4	096467
Kiss Productions	Caddo Pine Island	S	Acme Brick Co	2	111707
Kiss Productions	Caddo Pine Island	S	Gulf	1	154663
Kiss Productions	Caddo Pine Island	S	J S Noel	1	164050
Kiss Productions	Caddo Pine Island	S	J S Noel	3	164052
Kiss Productions	Caddo Pine Island	S	Noel A	1	177335
Kiss Productions	Caddo Pine Island	S	Acme Brick Co	3	177912
Kiss Productions	Caddo Pine Island	S	Acme Brick Co	4	177913
Kiss Productions	Caddo Pine Island	S	McCain -Hatcher	6	177914
Kiss Productions	Caddo Pine Island	S	McCain	1	180349

Kiss Productions	Caddo Pine Island	S	J S Noel SWD	1	183308
Kiss Productions	Caddo Pine Island	S	J S Noel	2	183309
Kiss Productions	Caddo Pine Island	S	Caddo Parish Police Jury	1	183501
Kiss Productions	Caddo Pine Island	S	Caddo Parish Police Jury	2	183611
Kiss Productions	Caddo Pine Island	S	Noel B	1	185833
Kiss Productions	Caddo Pine Island	S	Gulf	3	192552
Kiss Productions	Caddo Pine Island	S	Acme Brick Co	6	203069
Kiss Productions	Caddo Pine Island	S	Noel	1	216705
Kiss Productions	Caddo Pine Island	S	Davis	2	217890
Custer K. Primos	Monroe	M	Lieber Estate	1	166612
Custer K. Primos	Monroe	M	Lieber Estate	2	179093
David Divine Production	Caddo Pine Island	S	PT Alexander	3	033929
David Divine Production	Caddo Pine Island	S	PT Alexander	4	034033
David Divine Production	Caddo Pine Island	S	PT Alexander	5	040242
David Divine Production	Caddo Pine Island	S	PT Alexander	6	105834
Cambridge Energy Corporation	Big Island	L	Floyd A	1	112440
Cambridge Energy Corporation	Donner	L	ROB L 4 RA SUE; Lutch Moore B	1	069745
Cambridge Energy Corporation	Donner	L	Lutcher Moore Lumber Co B	1-D	071807
Cambridge Energy Corporation	West Lake Arthur	L	Morgan Plantation A	1	066228
Cambridge Energy Corporation	West Lake Arthur	L	Morgan Plantation	1	205128
Cornelius & Son Production	Caddo Pine Island	S	Ellis	2	052238
Cornelius & Son Production	Caddo Pine Island	S	Ellis	1	052239
Cornelius & Son Production	Caddo Pine Island	S	Ellis	3	065245
Zercon Oil & Gas, Inc.	Nebo-Hemphill	M	Brian-Hudnall SWD	1	095296
Zercon Oil & Gas, Inc.	Searcy, West	M	Margie Chance	1	157464
Zercon Oil & Gas, Inc.	Searcy, West	M	Margie Chance	2	157465
Zercon Oil & Gas, Inc.	Searcy, West	M	Margie Chance	3	157578
Zercon Oil & Gas, Inc.	Searcy, West	M	Margie Chance SWD	5	111737
Zercon Oil & Gas, Inc.	Sarepta	S	VUA; Thurman-Wilburn	1	200590
Zercon Oil & Gas, Inc.	Sarepta	S	VUA; Thurman-Wilburn	3	214208
Zercon Oil & Gas, Inc.	Nebo-Hemphill	M	WX A RC SUR; W Bradford et al	1	118234
Zercon Oil & Gas, Inc.	Nebo-Hemphill	M	WX F RB SU90; Carr-Nguyen	1	207067
Research Enterprises, Inc.	Lafitte	L	J S Rojas	1	080904
Marion Corporation	West Delta Block 52	L	SL 977	2	159783
Hooker Chemical Corporation	Minden	S	W D Turner	1	122438
Transworld Indemnity Ltd	Lake End	S	William Prince	15	069870
Transworld Indemnity Ltd	Redoak Lake	S	D I Dupree	1	150673
Transworld Indemnity Ltd	Lake End	S	William Prince	19	154841
Transworld Indemnity Ltd	Lake End	S	William Prince	2	154842
Transworld Indemnity Ltd	Lake End	S	William Prince	3	154843
Transworld Indemnity Ltd	Lake End	S	William Prince	4	154844
Transworld Indemnity Ltd	Lake End	S	William Prince	5	154845
Transworld Indemnity Ltd	Lake End	S	William Prince	6	154846
Transworld Indemnity Ltd	Lake End	S	William Prince	7	154847
Transworld Indemnity Ltd	Lake End	S	William Prince	8	154848
Transworld Indemnity Ltd	Lake End	S	William Prince	9	154849
Transworld Indemnity Ltd	Lake End	S	William Prince	10	154850
Transworld Indemnity Ltd	Lake End	S	William Prince	11	154851
Transworld Indemnity Ltd	Lake End	S	William Prince	12	154852
Transworld Indemnity Ltd	Lake End	S	William Prince	13	154983
Transworld Indemnity Ltd	Redoak Lake	S	M B Dupree	1	156869
Transworld Indemnity Ltd	Redoak Lake	S	M B Dupree	3	156871
Transworld Indemnity Ltd	Redoak Lake	S	M B Dupree	4	157305
Transworld Indemnity Ltd	Redoak Lake	S	M B Dupree	5	157306
Transworld Indemnity Ltd	Redoak Lake	S	M B Dupree	6	157307
Transworld Indemnity Ltd	Redoak Lake	S	M B Dupree	7	157308
Transworld Indemnity Ltd	Redoak Lake	S	M B Dupree	9	158728
Transworld Indemnity Ltd	Lake End	S	William Prince	18	173929
Transworld Indemnity Ltd	Redoak Lake	S	ROD RA SUR; Prince	1	177687
Transworld Indemnity Ltd	Lake End	S	William Prince	16	182332
Transworld Indemnity Ltd	Lake End	S	William Prince	17	182333
Transworld Indemnity Ltd	Redoak Lake	S	D I Dupree	2	188993
Transworld Indemnity Ltd	Redoak Lake	S	D I Dupree	3	204041
Transworld Indemnity Ltd	Redoak Lake	S	D I Dupree	4	204042
Cotton Petroleum Corporation	Wildcat CSo. LA Houma Dist	L	SL 7165	1	157912(29)

James H. Welsh
Commissioner of Conservation

0210#079

POTPOURRI
Department of Natural Resources
Office of the Secretary

Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 21 claims in the amount of \$62,775.39 were received for payment during the period August 1, 2002 - September 30, 2002. There were 16 claims paid and 5 claims denied.

Loran Coordinates of reported underwater obstructions are:

26696	46991	Cameron
27380	46967	Vermilion
28233	46871	Terrebonne
29105	46983	St Bernard

Latitude/Longitude Coordinates of reported underwater obstructions are:

2902.373	9019.821	Lafourche
2904.588	9053.786	Lafourche
2913.568	9025.320	Lafourche
2914.363	9018.900	Lafourche
2914.472	9107.550	Terrebonne
2915.670	9003.740	Jefferson
2916.045	8951.726	Jefferson
2917.595	9042.569	Terrebonne
2918.963	9048.880	Terrebonne
2924.448	8959.976	Jefferson
2952.150	9320.793	Cameron
3000.083	8933.826	St Bernard
3000.311	9319.939	Cameron

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear

Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Jack C. Caldwell
Secretary

0210#067

POTPOURRI
Department of Transportation and Development
Sabine River Compact Administration

Meeting Notice
Sabine River Compact Administration

The fall meeting of the Sabine River Compact Administration will be held at the San Luis Resort, Galveston, Texas, October 18, 2002 at 8:30 a.m.

The purpose of the meeting will be to conduct business as programmed in Article IV of the By Laws of the Sabine River Compact Administration.

The spring meeting will be held at a site in Louisiana to be designated at the above described meeting.

Contact person concerning this meeting is:

Kellie Ferguson, Secretary
Sabine River Compact Administration
15091 Texas Highway
Many, LA 71449
(318) 256-4112

Kellie Ferguson
Secretary

0210#032

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