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Executive Orders

EXECUTIVE ORDER KBB 04-20

Louisiana Emergency Operations Plan

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

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

WHEREAS, the state of Louisiana will best achieve effective coordinated emergency planning by updating the state's current emergency operations order and by the Military Department, Office of Homeland Security and Emergency Preparedness, updating its emergency operations plan;

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

SECTION 1:

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

B. The director, or the director's designee, shall also coordinate the activities of all non-state agencies,

departments, and/or organizations involved in emergency management within the state of Louisiana.

SECTION 2:

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

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

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

SECTION 3:

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

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

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

SECTION 4: The primary and support responsibilities for the emergency services within the state of Louisiana shall be as follows.

PRIMARY/

ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
A	Communication & Warning	Louisiana Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Corrections	S
		Department of Culture, Recreation, and Tourism	S
		Office of the Governor - Division of Administration	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Department of Social Services	S
		Private Industry	S
		Volunteer Organizations	S
		U.S. Coast Guard	S

PRIMARY/

ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
B	Damage Assessment	Louisiana Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S

PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
		Department of Culture, Recreation, and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		Office of the Governor - Office of Elderly Affairs	S
		Office of the Governor - Oil Spill Coordinator	S
		Department of Health and Hospitals	S
		Department of Labor	S
		Department of Natural Resources	S
		Department of Social Services	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Private Industry	S
		Volunteer Organizations	S
		U.S. Army Corps of Engineers	S
		U.S. Department of Agriculture - NRCS	S
		U.S. Coast Guard	S

PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
C	Donated Goods	Volunteer Organizations	P
		Louisiana Office of Homeland Security and Emergency Preparedness	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Economic Development	S
		Louisiana State University Health Sciences Center	S
		Department of Health and Hospitals	S
		Department of Social Services	S
		Department of Transportation and Development	S
		Private Industry	S

PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
D	Emergency Direction & Control	Louisiana Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation, and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality/LRPD	S
		Office of the Governor - Division of Administration	S
		Office of the Governor - Office of Elderly Affairs	S
		Office of the Governor - Oil Spill Coordinator	S
		Department of Health and Hospitals	S
		Louisiana State University Health Science Center	S
		Department of Justice	S

PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
		Department of Labor	S
		Department of Natural Resources	S
		Department of Social Services	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Louisiana Public Service Commission	S
		Volunteer Organizations	S
		U.S. Army Corps of Engineers	S
		U.S. Coast Guard	S
		U.S. Department of Agriculture - NRCS	S
PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
E	Energy	Department of Natural Resources/In. Nat. Gas	P
		Louisiana Public Service Commission/Power	P
		Louisiana National Guard	S
		Department of Transportation and Development	S
		Volunteer Organizations	S
PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
F	Engineering & Traffic Management Services	Department of Transportation and Development	P
		Louisiana National Guard	S
		Department of Health and Hospitals	S
		Private Industry	S
		Volunteer Organizations	S
		U.S. Army Corps of Engineers	S
		U.S. Department of Agriculture - NRCS	S
PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
G	Fire Fighting	Department of Agriculture and Forestry	P
		Louisiana National Guard	S
		Department of Culture, Recreation, and Tourism	S
		Department of Wildlife and Fisheries	S
		Volunteer Organizations	S
PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
H	HAZMAT	Louisiana State Police	P
		Louisiana Office of Homeland Security and Emergency Preparedness	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Environmental Quality	S
		Louisiana State University Health Science Center	S
		Department of Health and Hospitals	S
		Department of Natural Resources	S

PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Private Industry	S
		U.S. Coast Guard	S

PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
I	Information Management	Louisiana Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation, and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality/LRPD	S
		Office of the Governor - Division of Administration	S
		Office of the Governor - Office of Elderly Affairs	S
		Office of the Governor - Oil Spill Coordinator	S
		Louisiana State University Health Science Center	S
		Department of Health and Hospitals	S
		Department of Justice	S
		Department of Labor	S
		Department of Natural Resources	S
		Department of Social Services	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Louisiana Public Service Commission	S
		Private Industry	S
		Volunteer Organizations	S
		U.S. Army Corps of Engineers	S
		U.S. Coast Guard	S
		U.S. Department of Agriculture - NRCS	S

PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
J	Law Enforcement and Security	Louisiana State Police	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation, and Tourism	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		U.S. Coast Guard	S

PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
K	Legal Issues	Department of Justice	P
		Louisiana National Guard	S

PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
		Office of the Governor - Division of Administration	S
PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
L	Mass Feeding	Department of Corrections	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Economic Development	S
		Department of Environmental Quality	S
		Department of Health and Hospitals	S
		Department of Social Services	S
		Department of Wildlife and Fisheries	S
		Volunteer Organizations	S
PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
M	Medical & Sanitation	Department of Health and Hospitals	P
		Louisiana State University Health Science Center	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Environmental Quality	S
		Department of Transportation and Development	S
		Private Industry	S
		Volunteer Organizations	S
PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
N	Oil Spill	Office of the Governor-Oil Spill Coordinator	P
		Louisiana Office of Homeland Security and Emergency Preparedness	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Environmental Quality	S
		Department of Natural Resources	S
		Louisiana State Police	S
		Department of Wildlife and Fisheries	S
		Private Industry	S
		Volunteer Organizations	S
		U.S. Coast Guard	S
PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
O	Public Information	Louisiana Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation, and Tourism	S
		Department of Economic Development	S
		Department of Education	S

PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
		Department of Environmental Quality/LRPD	S
		Office of the Governor - Division of Administration	S
		Office of the Governor - Office of Elderly Affairs	S
		Office of the Governor - Oil Spill Coordinator	S
		Louisiana State University Health Sciences Center	S
		Department of Health and Hospitals	S
		Department of Justice	S
		Department of Labor	S
		Department Natural Resources	S
		Department of Social Services	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Louisiana Public Service Commission	S
		Private Industry	S
		Volunteer Organizations	S
		U.S. Army Corps of Engineers	S
		U.S. Coast Guard	S
		U.S. Department of Agriculture - NRCS	S

PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
P	Radiological	Department of Environmental Quality/LRPD	P
		Louisiana Office of Homeland Security and Emergency Preparedness	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Louisiana State University Health Sciences Center	S
		Department of Health and Hospitals	S
		Department of Natural Resources	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Louisiana Public Service Commission	S
		U.S. Coast Guard	S

PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
Q	Search and Rescue	Department of Wildlife and Fisheries	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation, and Tourism	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Private Industry	S
		Volunteer Organizations	S
		U.S. Coast Guard	S

PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
R	Shelter Operation Control s	Department of Social Services	P
		Department of Corrections	S
		Department of Culture, Recreation, and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Office of the Governor - Office of Elderly Affairs	S
		Louisiana State University Health Sciences Center	S
		Department of Health and Hospitals	S
		Private Industry	S
		Volunteer Organizations	S

PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
S	Traffic Control/ Evacuation	Louisiana State Police	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation, and Tourism	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Volunteer Organizations	S

PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
T	Transportation	Louisiana National Guard	P
		Department of Corrections	S
		Department of Economic Development	S
		Department of Education	S
		Office of the Governor - Office of Elderly Affairs	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		U.S. Coast Guard	S
		Volunteer Organizations	S

PRIMARY/ ANNEX	ASSIGNMENT	DEPARTMENT/AGENCY	SUPPORT
U	Watershed	Louisiana Office of Homeland Security and Emergency Preparedness Protection	P
		Department of Natural Resources	S
		Department of Transportation and Development	S
		Private Industry	S
		U.S. Army Corps of Engineers	S
		U.S. Coast Guard	S
		U.S. Department of Agriculture - SCS	S

EXECUTIVE ORDER KBB 04-21

Bond Allocation Procedures

SECTION 5: The head of each department, agency, office, entity, and/or organization (hereafter "department") identified in Section 4 of this Order shall designate both an emergency coordinator and an alternate coordinator to act on the department's behalf during an emergency situation, and furnish the director with their names and all phone numbers.

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

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

SECTION 8: The head of each department assigned a primary and/or a support responsibility in Section 4 of this Order for an emergency function shall:

- A. Staff the Center with personnel during training exercises and emergencies as requested by the director;
- B. Maintain and operate a 24-hour response capability in the department headquarters when the Plan is implemented;
- C. Participate in exercises of the Plan when scheduled by the director;
- D. Participate in, and conduct, training essential to implementation of the department's assigned emergency service;
- E. Conduct an annual internal review to update the details of their department's implementing procedures and advise the director of any needed modifications of their department's implementing procedures; and
- F. Maintain logs, records, and reporting system required by all state and federal laws, rules, and regulations.

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

SECTION 10: 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 12th day of August, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#099

WHEREAS, Section 146 of the Internal Revenue Code of 1986 (hereafter "the Act"), as amended (hereafter "the Code"), restricts the total principal amount of certain private activity Bonds which exclude interest from gross income for federal income tax purposes under Section 103 of the Code, including the portion of government use Bonds allocated to non-governmental use as required by the Act (hereafter "Bonds") which may be issued within the state of Louisiana during each calendar year to a dollar amount determined by (a) multiplying \$75 times the population of the state, based on the most recently published estimate of the population for the state of Louisiana released by the United States Bureau of Census before the beginning of each such calendar year, and (b) multiplying such amount by the cost of living adjustment, as determined pursuant to the Act;

WHEREAS, Act No. 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act No. 51 of 1986") authorizes the governor to allocate the volume limit applicable to the Bonds (hereafter "the ceiling") among the state and its political subdivisions in such a manner as the governor deems to be in the best interest of the state of Louisiana; and

WHEREAS, pursuant to the authorization of both the Act and Act No. 51 of 1986, the governor hereby elects to

- (a) provide for the manner in which the ceiling shall be determined;
- (b) establish the method to be used in allocating the ceiling;
- (c) establish the application procedure for obtaining an allocation of Bonds subject to such ceiling, and (d) establish a system of record keeping for such allocations;

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

SECTION 1: DEFINITIONS

A. Each abbreviation provided in the preamble of this Order, *supra*, shall have the same meaning throughout all the sections, subsections, and paragraphs of this Order.

B. The following definitions shall apply:

- 1. "Economic Development Bonds" means all types of Bonds subject to the ceiling other than Industrial Bonds, Housing Bonds, and Student Loan Bonds;
- 2. "Housing Bonds" means Bonds subject to the ceiling and issued to provide housing described under Section 142(d) of the Code ("Qualified Residential Rental Project Bonds"), or issued to provide housing under Section 143 of the Code ("Qualified Mortgage Bonds");
- 3. "Industrial Bonds" means Bonds for manufacturers, as defined by North American Industry Classification System (NAICS) codes 113310, 211, 213111, 541360, 311-339, 511-512 and 54171, or facilities financed as part of the Department of Health and Hospitals' Drinking Water Revolving Loan Fund, which Bonds subject to the ceiling are

(1) designated as "exempt facility Bonds" in Section 142(a) of the Code (other than Housing Bonds), or

(2) issued for facilities to treat, abate, reduce, or eliminate air or water pollution pursuant to the transition rules of the Tax Reform Act of 1986;

4. "Issuer" or Issuers" means any entity or entities now or hereafter authorized to issue Bonds under the Louisiana Constitution of 1974, as amended, or the laws of the state of Louisiana; and

5. "Student Loan Bonds" means Bonds subject to the ceiling and issued under the authority of Section 144(b) of the Code.

C. Any term not defined in this Order shall have the same meaning as in the Act.

SECTION 2: DETERMINATION OF CEILINGS FOR 2004 AND THEREAFTER

A. The sum of three hundred fifty-nine million, seven hundred six thousand, seven hundred twenty dollars (\$359,706,720) represents the amount of the ceiling determined by the staff of the Louisiana State Bond Commission (hereafter "the SBC staff") for the year of 2004 pursuant to the provisions of the Act.

B. On or before January 15, 2005, and on or before the fifteenth (15) day of each subsequent calendar year during the life of this Order, the SBC staff shall determine the amount of the ceiling for each calendar year in the manner set forth in the Act. Upon determining the amount of the ceiling, the SBC staff shall promptly notify the governor in writing of the amount determined.

SECTION 3: GENERAL ALLOCATION POOL; METHOD OF ALLOCATION

A. A pool, designated as the "General Allocation Pool", shall be hereby created. The entire ceiling for each calendar year shall be automatically credited to the General Allocation Pool. Allocations for all types of Bonds that require allocations from the ceiling under the Act may be requested, and granted, from this General Allocation Pool. During the calendar year of 2004, and in each calendar year thereafter, at the discretion of the governor, amounts shall be initially reserved for allocations from the General Allocation Pool as follows:

1. Until September 1 of each year, an amount equal to fifty (50) percent of the General Allocation Pool shall be reserved for allocations for Housing Bonds;

2. Until September 1 of each year, an amount equal to twenty-five (25) percent of the General Allocation Pool shall be reserved for allocations for Student Loan Bonds;

3. Until September 1 of each year, an amount equal to twenty (20) percent of the General Allocation Pool shall be reserved for allocations for Economic Development Bonds; and

4. Until September 1 of each year, an amount equal to 5 percent of the General Allocation Pool shall be reserved for allocations for Industrial Bonds.

B. On September 1 of each year, any amounts remaining and not allocated for the purposes described in Section 3(A) (1) through (4) shall be combined, and allocations from such amounts remaining shall be granted, at the discretion of the governor, without regard to any reservation for particular use.

C. The allocation of the ceiling from the General Allocation Pool shall be considered by the governor on the basis of criteria established by the governor.

D. The issuance of an executive order by the governor, awarding a portion of the ceiling to a particular issue of Bonds, shall be evidence of each allocation granted pursuant to this Order. A copy of such an executive order shall be promptly furnished to the Louisiana State Bond Commission.

SECTION 4: APPLICATION PROCEDURE FOR ALLOCATIONS

A. All issuers in and of the state of Louisiana may apply for allocations.

B. An issuer who proposes to issue Bonds for a specific project or purpose must apply for an allocation of a portion of the ceiling for the particular project or purpose by submitting an application to the SBC staff. The application form, if any, may be revised from time to time at the discretion of the governor. However, at a minimum, all applications must contain the following information:

1. The name and the address of the issuer of the Bonds;

2. In the case of Bonds, other than Student Loan Bonds or Qualified Mortgage Bonds, the name and mailing address of

(1) the initial owner or operator of the project,

(2) an appropriate person from whom information regarding the project can be obtained, and

(3) the person to whom notification of the allocation should be made;

3. If required by the Code, the date of adoption by the issuer of an inducement resolution adopted for the purpose of evidencing "official intent";

4. The amount of the ceiling which the issuer is requesting be allocated for the project or purpose of the application, including, without limitation, a statement of the minimum amount of allocation that will support the issuance of the Bonds and a general description of the project (including the address or other description of its location) or the purpose to be financed; and

5. In the case of Housing Bonds for Qualified Residential Rental Project Bonds, the following criteria must be included on the application for the project:

(a) Identify whether the project promotes neighborhood revitalization and/or in-fill development, including new development on vacant or adjudicated properties, and whether the buildings are complimentary to the existing architecture in the neighborhood;

(b) Identify whether the project is for scattered site single-family units, or, if the project is for a multiple unit dwelling or dwellings, the number of buildings in the project and the number of units that each dwelling contains;

(c) Identify whether the project is located proximate to a central business district or within a targeted area within the meaning of the Internal Revenue Code of 1986, as amended;

(d) Identify whether the project leverages other governmental or private equity funds and/or governmental incentives, and, if so, what the sources and amounts are; and

(e) Identify whether a workforce training program is a component of the project's development plan.

6. In the case of Industrial Bonds and Economic Development Bonds requested for manufacturing purposes, the following criteria must be included on the application:

(a) Identify the North American Industrial Classification System code reported to the federal government and the Department of Labor;

(b) Report the economic impact over ten years as determined by the Department of Economic Development;

(c) Identify the number of jobs to be created and/or retained and the average salary for both new and retained jobs as well as the amount of the capital investment made or to be made; and

(d) Identify other state programs that provide any financial or business incentives as part of this expansion or new location;

7. Either

(1) a bond purchase agreement or other written commitment to purchase the Bonds for which an allocation is requested, executed by one or more purchasers, setting forth in detail the principal and interest payment provisions and the security for the Bonds, accepted by the issuer or the beneficiary of the Bonds;

(2) in the case of a public offering of the Bonds for which the allocation from the ceiling is requested, a binding bond purchase or underwriting agreement obligating the underwriter or underwriters to sell or purchase the Bonds within 90 days of the receipt of an allocation, setting forth in detail the proposed principal and interest payment provisions and the security for the Bonds, accepted by the issuer or the beneficiary of the Bonds; or

(3) a \$7,500 escrow deposit which will be forfeited in the event the Bonds for which an allocation is granted are not delivered prior to the expiration of such allocation as provided in Section 4(E). The \$7,500 escrow deposit shall be returned to the party depositing the same without interest upon the substitution of the items described in (1) or (2), *supra*, or delivery of the Bonds within the allocation period. In the event that such Bonds are not delivered within the allocation period, the deposit shall be forfeited and deposited in the State Treasury, unless the failure to deliver such Bonds is the result of the Louisiana State Bond Commission denying approval of such Bonds, in which case the deposit shall be returned to the party depositing same, without interest;

8. A specific date as to when the bond allocation is required and when the project financing is intended to close;

9. A schedule showing the project time or projected timing of the use of the bond proceeds;

10. Information necessary to evidence compliance with the criteria established by the governor; and

11. A letter from bond counsel, addressed to the governor, expressing that the Bonds for which an allocation is requested are subject to the ceiling.

C. Upon receipt of the application required by Section 4(B), the SBC staff shall determine if the requirements of Section 4(B) have been met. When it is determined the requirements have been met, the SBC staff shall immediately forward a copy of the application to the governor.

D. Until September 1 of each year, the maximum amount of allocation that may be granted for any project or purpose in any calendar year (other than for Qualified Mortgage Bonds issued by the Louisiana Housing Finance Agency or Student Loan Bonds) shall not exceed the greater of thirty million dollars (\$30,000,000) or fifteen (15) percent of the ceiling for that year. If an issuer submits a request for an allocation that is in excess of this authorized amount, the SBC staff shall retain the application for consideration of the allocation of additional amounts, which may only be granted on or after September 1 of that year.

E. Any allocation from the ceiling (other than carry forward allocations described in Section 4(H), *infra*) shall expire unless the Bonds receiving the allocation are delivered by the earlier of (1) ninety (90) days from the date of notice of allocation is mailed to the person designated, or (2) December 27th of the calendar year granted. In the event the allocation of the ceiling for a particular project or purpose expires as provided in this section, the issuer may resubmit its application for an allocation of a portion of the ceiling for such project or purpose. The application of the issuer relating to such project or purpose shall be reviewed in chronological order of receipt of the resubmission.

F. On September 1 of each year, the SBC staff shall determine the remaining amounts of the ceiling and shall submit to the governor for consideration all applications for allocations of Bonds in excess of the permitted amounts.

G. The SBC staff shall maintain accurate records of all allocations and all Bonds delivered. All issuers of Bonds that have received an allocation shall notify the SBC staff of the delivery of Bonds within 5 days after the delivery of such Bonds and shall specify the total principal amount of Bonds issued. The SBC staff shall provide to any person so requesting, within a reasonable time:

(1) the amount of unallocated ceiling remaining on the date such request is made;

(2) a list of allocations (naming the issuer and amount of allocation) which have been made and the date of each allocation;

(3) a list of applications being held by the SBC staff which have requested a larger allocation than permitted; and

(4) a list of Bonds which have been given an allocation and have been delivered.

H. If the ceiling exceeds the aggregate amount of Bonds issued during any year by all issuers, the governor may allocate such to issuers for use as a carry forward for one or more carry forward projects permitted under the Act by issuing an executive order for all carry forward projects for which an application has been submitted that contains the elements required by Section 4(B), and for which a request to be treated as a carry forward project has been received by the SBC staff. The SBC staff shall notify the issuers which are allocated a portion of the ceiling for a carry forward project at least five (5) days prior to the last date an election to carry forward a portion of the ceiling may be made.

I. This Order only relates to Bonds subject to the private activity bond volume limitation set forth in the Act. No issuer shall apply for or be entitled to an allocation from the ceiling for Bonds that are not subject to the private activity bond volume limitation set forth in the Act.

J. The governor may modify, amend, supplement, or rescind this Order to reflect any change in federal or state legislation; provided, however, that any modification, amendment, supplementation or rescission shall not rescind any allocation granted for a project or purpose pursuant to the terms of this Order if such allocation is required under federal law in order to maintain the tax-exempt status of the Bonds issued for such project or purpose.

K. Notwithstanding any provision in this Order to the contrary, if the governor determines it to be in the best interest of the state of Louisiana, because a project or purpose serves a crucial need or provides an extraordinary benefit to the state of Louisiana or to an area within the state of Louisiana, through the issuance of an executive order, the governor may authorize allocations in any amount or grant any or every portion of the ceiling, and for any purpose.

SECTION 5: MISCELLANEOUS PROVISIONS

A. The responsibility of the SBC staff as set forth in this Order shall be exercised by the SBC staff independent of any of its other duties and responsibilities owed to the Louisiana State Bond Commission.

B. The governor will certify in each executive order that grants a portion of the ceiling to a particular issue of Bonds that said bond issue meets the requirements of Section 146 of the Code.

C. 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 12th day of July, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#100

EXECUTIVE ORDER KBB 04-22

Inmate Labor

WHEREAS, during the 1988 Regular Session of the Louisiana Legislature, Act No. 933 was enacted relative to correctional facilities inmate labor;

WHEREAS, Act No. 933, among other things, authorizes the governor to use inmate labor in certain projects or maintenance or repair work; and

WHEREAS, The act further provides that the governor, upon determining that it is appropriate and in furtherance of the rehabilitation and training of inmates, may, by executive order, authorize the use of inmates of a penal or correctional facility owned by the state of Louisiana for necessary labor in connection with a particular project;

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

SECTION 1: In furtherance of the goals of the state of Louisiana of rehabilitating inmates, reducing recidivism,

and reintegrating inmates into society, inmate labor is hereby authorized to:

A. Construct a non-denominational chapel at the Louisiana State Penitentiary, Main Prison, Angola, Louisiana;

B. Construct a non-denominational chapel at Louisiana Correctional Institute for Women, St. Gabriel, Louisiana; and

C. Construct additional housing for inmate work crews in order to support further military activity at Camp Beauregard in addition to public sector responsibilities at England Air Park, Pineville, Louisiana.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#049

EXECUTIVE ORDER KBB 04-23

Interstate 49 South Project Task Force

WHEREAS, U.S. Highway 90 (hereafter "U.S. 90") is one of the state of Louisiana's major links to the Gulf of Mexico, and a main corridor for access to oil and gas operations in the central gulf's outer continental shelf, petro-chemical industries along the Mississippi River, and waterborne freight en route to the central United States;

WHEREAS, over thirty-six percent (36%) of the population of the state of Louisiana resides in the vicinity of U.S. 90 between Interstate 10 (hereafter "I-10") in Lafayette and the Westbank Expressway in New Orleans; as a consequence, the four-laned highway is the primary hurricane evacuation route for South Louisiana;

WHEREAS, it is a priority for the state of Louisiana to prepare for the twenty-first century by promoting economic growth and development through the provision of a transportation system adequate to support new economic activity with its increase in traffic volume, encourage international and domestic commerce, promote tourism, and improve public safety; and

WHEREAS, the interests of the citizens of the state of Louisiana would be best served by the continuation of the Interstate 49 South Project Task Force in order to complete its analysis of upgrading U.S. 90 into an interstate and evaluating the impact it would have on the general populace of the state, particularly those living in South Louisiana;

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

SECTION 1: The Interstate 49 South Project Task Force (hereafter "Task Force") is reestablished within the Executive Department, Office of the Governor.

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

A. Assisting the Department of Transportation and Development in the completion of the environmental decision making process for the remaining studies in progress; and

B. Documenting the level of support for the I-49 South Project by

1) the citizens of the state of Louisiana living in the various geographical sections of the state of Louisiana;

2) the Metropolitan Planning Organizations in the areas surrounding U.S. 90 between I-10 in Lafayette and the Westbank Expressway in New Orleans; and

3) the members of the Louisiana Legislature.

SECTION 3:

A. By March 1, 2005, the Task Force shall submit a comprehensive report on the issues set forth in Section 2 of this Order to the governor, the House Committee on Transportation, Highways, and Public Works, and the Senate Committee on Transportation, Highways, and Public Works.

B. The Task Force shall also submit documentation to the governor by March 1, 2005, suitable for submission to the members of the state of Louisiana's United States Congressional Delegation, supporting the reasons for extending Interstate 49 south from Lafayette to New Orleans.

SECTION 4: The Task Force shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 5: The Task Force shall be composed of a maximum of twenty-three (23) members who, unless otherwise specified, shall be appointed by, and serve at the pleasure of the governor. The membership of the Task Force shall be selected as follows:

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

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

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

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

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

F. representatives from communities located along the span of U.S. 90 between the Westbank Expressway in New Orleans and I-10 in Lafayette;

G. representatives of businesses in South Louisiana;

H. representatives of the Lafayette, Houma, and New Orleans Metropolitan Planning Organizations;

I. a representative of the farming community, who resides in Louisiana, whose principal business is farming; and

J. two (2) at-large members.

SECTION 6: The chair of the Task Force shall be appointed by the governor from the membership of the Task Force. All other officers, if any, shall be elected by the members of the Task Force from its membership.

SECTION 7:

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

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

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

SECTION 8: Support staff, facilities, and resources for the Task Force shall be provided by the Department of Transportation and Development.

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#050

EXECUTIVE ORDER KBB 04-24

Interstate 49 North Extension Feasibility
and Funding Task Force

WHEREAS, due to Interstate 49 not extending north beyond the city of Shreveport, businesses and industries of the state of Louisiana are not directly linked by an interstate highway to our neighboring state of Arkansas and consumer markets in the mid-west;

WHEREAS, the state of Louisiana's goals and objectives for economic development are inextricably intertwined with those for improving the infrastructure of the state's highways and roadways; and

WHEREAS, the interests of the citizens of the state of Louisiana would be best served by the continuation of the Interstate 49 North Extension Feasibility and Funding Task Force in order to complete its analysis of securing funding sources for extending Interstate 49 north to the Louisiana-Arkansas border, analyzing the benefits of such an extension project, and evaluating the impact that such an extension would have on the citizens of the state of Louisiana, especially those who live and/or work in the northwest region of the state of Louisiana;

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

SECTION 1: The Interstate 49 North Extension Feasibility and Funding Task Force (hereafter "Task Force") is reestablished within the executive department, Office of the Governor.

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

A. Identify funding sources and/or innovative financing alternatives to fully fund the proposed project to extend Interstate 49 north from the city of Shreveport to the Louisiana-Arkansas border (hereafter "I-49 Extension Project"), from the beginning of the project through its completion; and

B. Documenting and evaluating the level of support for the I-49 Extension Project from a) the citizens of the state of Louisiana living in the various geographical regions of the state, b) the chambers of commerce of the communities located in the northwest region of the state of Louisiana, and c) the members of the Louisiana Legislature and Louisiana's United States Congressional Delegation.

SECTION 3:

A. By March 1, 2005, the Task Force shall submit a comprehensive report on the issues set forth in Section 2 of this Order to the governor, the House Committee on Transportation, Highways, and Public Works, and the Senate Committee on Transportation, Highways, and Public Works.

B. The Task Force shall also submit documentation to the governor by March 1, 2005, suitable for submission to the members of the state of Louisiana's United States Congressional Delegation, supporting the reasons for extending Interstate 49 north to the Louisiana-Arkansas border.

SECTION 4: The Task Force shall be composed of a maximum of twenty-three (23) members who, unless specified, shall be appointed by and serve at the pleasure of the governor, and selected as follows:

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

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

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

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

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

F. The chair of the Senate Committee on Commerce, or the chair's designee;

G. The chair of the House Committee on Commerce, or the chair's designee;

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

I. A member of the Louisiana State Senate, elected from the northwest region of the state of Louisiana, designated by the president of the Senate;

J. A member of the House of Representatives, elected from the northwest region of the state of Louisiana, designated by the speaker of the House of Representative;

K. Citizens of the state of Louisiana who reside in a community in the northwest region of the state of Louisiana; and

L. Representatives of businesses and/or industries that are located in the northwest region of the state of Louisiana.

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

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

SECTION 7:

A. Task Force members shall not receive additional compensation or a per diem from the Office of the Governor or the Department of Transportation and Development for serving on the Task Force.

B. Task Force members who are an employee or an elected public official of the state of Louisiana or a political subdivision of the state of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing department, agency and/or office or elected office.

C. Task Force members who are also a member of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance at Task Force meetings and/or services on the Task Force.

SECTION 8: Support staff, facilities, and resources for the Task Force shall be provided by the Department of Transportation and Development.

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#051

EXECUTIVE ORDER KBB 04-25

Louisiana Highway 1 Project Task Force

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

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

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

WHEREAS, the Louisiana Highway 1 Project Task Force was created by executive order and charged with the duty of

1) analyzing the feasibility of upgrading, from a 2-lane to a 4-lane highway or an interstate, the section of LA 1 between the region; and

2) evaluating the impact that such an upgrade would have on the citizens of the state of Louisiana, especially those citizens who live and/or work in region; and

WHEREAS, the citizens of the state of Louisiana would be best served by the continuation of the Louisiana Highway 1 Project Task Force;

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

SECTION 1: The Louisiana Highway 1 Project Task Force (hereafter "Task Force") is reestablished within the executive department, Office of the Governor.

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

A. Evaluating the progress made of upgrading, from a 2-lane highway to a 4-lane highway or an interstate, the section of LA 1 (including Louisiana Highway 3090) that is located in the region (hereafter "LA 1 Project");

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

C. Evaluating and documenting the progress made for the level of citizen support for the LA 1 Project by: 1) the citizens of the state of Louisiana, in the region and statewide; 2) the municipalities, communities and parishes in the region and statewide; and 3) the members of the Louisiana Legislature from the region and statewide;

SECTION 3: The Task Force shall meet quarterly, and at the call of the chair.

SECTION 4: Annually, on January 15, the Task Force shall submit a written comprehensive report to the Governor, the House Committee on Transportation, Highways, and Public Works, and the Senate Committee on Transportation, Highways, and Public Works on its findings and/or conclusions which address the issues set forth in Section 2 of this Order.

SECTION 5: The Task Force shall be composed of a maximum of twenty-four (24) members appointed by and serving at the pleasure of the governor. The membership of the Task Force shall be selected as follows:

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

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

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

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

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

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

G. Citizens of the state of Louisiana who reside in a community in the region;

H. Representatives of businesses and/or industries that are located in the region; and

I. Five (5) at-large members.

SECTION 6: The governor shall appoint the chair from the membership of the Task Force. All other officers, if any, shall be elected by the Task Force from its membership.

SECTION 7:

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

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

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

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#052

EXECUTIVE ORDER KBB 04-26

Royal Street Project Advisory Board

WHEREAS, the New Orleans Court Building, which occupies the 400 block of Royal in the French Quarter, was constructed as a joint project between the city of New Orleans and state of Louisiana during the period of 1907 to 1910;

WHEREAS, in October of 1910, the Louisiana Supreme Court moved from the Cabildo to join the Orleans Court of Appeal and various state and city offices in the New Orleans Court Building, where it stayed until the 1950's;

WHEREAS, when the Louisiana Supreme Court began to outgrow its present location on Loyola Avenue, the court began studying the feasibility of returning to the New Orleans Court Building (hereafter the "Royal Street Project");

WHEREAS, the Royal Street Project is the site of the Louisiana Supreme Court, the Louisiana Fourth Circuit Court of Appeal, the Law Library of Louisiana, the Louisiana Judicial Administrator's Office, a satellite office of the Louisiana Attorney General, and a museum or tourist information center; and

WHEREAS, considering the historical significance of the building, the high cost of renovation projects, the project's fast-approaching completion date, and the complications that can normally arise in a project of this size and nature, the interests of the citizens of the state of Louisiana would be best served by the continuation of the Royal Street Project Advisory Board, composed of local businessmen and attorneys who have earned the public's confidence as experienced developers, to advise the Louisiana Supreme Court and Division of Administration with regard to all plans and contracts for the project;

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

SECTION 1: The Royal Street Project Advisory Board (hereafter "Board") is reestablished within the executive department, Office of the Governor.

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

A. providing advice to the Division of Administration and the Louisiana Supreme Court regarding the expenditure of all funds and all contracts, bids,

proposals, and plans associated with the Royal Street Project;

B. providing consulting advice for all planning, development, and/or construction associated with the Royal Street Project; and

C. preparing the documentation for all future requests for legislative appropriations for the Royal Street Project and presenting the appropriation requests to the Commissioner of Administration and the legislative committees and/or leadership of the Louisiana Legislature.

SECTION 3: The Board shall consist of at least five (5) members appointed by and serving at the pleasure of the governor. The membership of the Board shall be composed as follows:

A. The chief justice of the Louisiana Supreme Court, or the chief justice's designee; and

B. At least four (4) members selected from the New Orleans business community who are well-known and respected for possessing an expertise in historical renovations and/or the development and management of significant building construction projects.

SECTION 4: The governor shall appoint the chair and vice-chair from the membership of the Board. All other officers, if any, shall be elected by the Board from its membership.

SECTION 5: The Board shall meet at the call of the chair.

SECTION 6: Support staff, facilities, and resources for the Board shall be provided by the Division of Administration and/or the Louisiana Supreme Court.

SECTION 7: Board members shall not receive compensation or a per diem for serving on the Board. Nonetheless, contingent on the availability of funds, Board members who are not employees or elected public officials of the state of Louisiana or a political subdivision thereof may receive reimbursement for actual travel expenses, in accordance with PPM 49, and upon advance written approval of the commissioner of administration.

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#053

EXECUTIVE ORDER KBB 04-27

Regional Trauma-Patient Care Statewide System Task Force

WHEREAS, to diminish or eliminate risk of death or permanent disability, a patient with a trauma-related injury from an incident such as a motor vehicle accident, fall, stabbing, blunt force, explosion, and/or chemical, biological or nuclear agent, should receive timely diagnosis and treatment of both their actual and potential injuries by a multi-disciplinary team of health care professionals who are part of an organized, coordinated trauma-patient care system composed of public and private health care providers that deliver full-range trauma-patient care within a defined geographical area;

WHEREAS, optimally, a trauma-patient care system should be regionalized for efficient use of the health care resources within a specific region, based upon the unique requirements of the population being served in the context of preventative community health; and

WHEREAS, the interests of the citizens of the state of Louisiana would be best served by the continuation of the Regional Trauma-Patient Care Statewide System Task Force in order to complete its duties of evaluating the current level of the trauma-patient care capabilities within each region of the state of Louisiana, proposing a comprehensive statewide plan for a regional trauma-patient care system throughout the state of Louisiana, and identifying funding sources to adequately support the proposed regional statewide trauma-patient care system;

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

SECTION 1: The Regional Trauma-Patient Care Statewide System Task Force (hereafter "Task Force") is reestablished within the executive branch, Department of Health and Hospitals.

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

A. Evaluating the current level of trauma-patient care in existence in the various regions of the state of Louisiana;

B. Evaluating the feasibility and benefits of creating a regional trauma-patient care system throughout the state of Louisiana, and/or creating a joint regional trauma-patient care/homeland security network system;

C. Developing and recommending a comprehensive statewide plan for a regional trauma-patient care system throughout the state of Louisiana that is compatible and/or interfaced with the state of Louisiana's Homeland Security Network (hereafter "comprehensive statewide plan"); and

D. Identifying funding sources and/or innovative financing alternatives to adequately fund regional trauma-patient care as described in the statewide plan.

SECTION 3: By February 1, 2005, the Task Force shall submit a written report to the governor and the Louisiana Legislature on the issues set forth in Section 2 of this Order, including a proposal for a comprehensive statewide plan.

SECTION 4: The Task Force shall be composed of a maximum of twenty-four (24) members, who unless otherwise specified, shall be appointed by and serve at the

pleasure of the governor. The membership of the Task Force shall be selected as follows:

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

B. the speaker of the Louisiana House of Representatives, or the speaker's designee;

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

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

E. the adjutant general/director of the Office of Homeland Security and Emergency Preparedness, or the adjutant general/director's designee;

F. the chair of the House Committee on Louisiana Homeland Security, or the chair's designee;

G. the chair of the Senate Select Committee on Homeland Security, or the chair's designee;

H. the chair of the House Committee on Health and Welfare, or the chair's designee;

I. the chair of the Senate Committee on Health and Welfare, or the chair's designee;

J. the assistant secretary of the Department of Health and Hospitals, Office of Public Health, or the assistant secretary's designee;

K. the chancellor of the LSU Health Sciences Center New Orleans, or the chancellor's designee;

L. the chancellor of the LSU Health Sciences Center Shreveport, or the chancellor's designee;

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

N. the president of the Louisiana Chapter of the American College of Emergency Physicians, or the president's designee;

O. the president of the Louisiana Ambulance Association, or the president's designee;

P. the president of the Louisiana Chapter of the American College of Surgeons, or the president's designee;

Q. two (2) representatives of the Louisiana Chapter of the American College of Surgeons, Committee on Trauma;

R. the president of the Louisiana Hospital Association, or the president's designee;

S. the president of the Rural Hospital Coalition, or the president's designee;

T. the president of the Louisiana State Medical Society, or the president's designee;

U. the president of the Louisiana Medical Association, or the president's designee; and

V. two (2) members at-large.

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

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

SECTION 7:

A. Task Force members shall not receive additional compensation or a per diem from the Office of the Governor or the Department of Health and Hospitals for serving on the Task Force.

B. Task Force members who are employees or an elected public officials of the state of Louisiana or a political subdivision of the state of Louisiana may seek

reimbursement of travel expenses, in accordance with PPM 49, from their employing department, agency and/or office or elected office.

C. Task Force members who are also a member of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance at Task Force meetings and/or services on the Task Force.

SECTION 8: Support staff, facilities, and resources for the meeting of the Task Force and the performance of its duties shall be provided and/or coordinated by the Department of Health and Hospitals.

SECTION 9: No provision in this Order shall be interpreted or construed so as to create any right of action, cause of action, and/or substantive, procedural, and/or equitable right enforceable by, or in favor of, any person or entity against the state of Louisiana, any department, commission, board, entity, agency, office, or political subdivision of the state of Louisiana, and/or any officer or employee thereof.

SECTION 10: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Task Force in implementing the provisions of this Order.

SECTION 11: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#054

EXECUTIVE ORDER KBB 04-28

Advisory Council on Child Care and
Development Block Grant Program

WHEREAS, high quality child care is an important objective of the governments of both the United States and the state of Louisiana;

WHEREAS, the United States Congress passed the Child Care and Development Block Grant Act of 1990 (hereinafter "the Act") to provide funds to the states in order to increase the availability, the affordability, and the quality of child care, through the use of grants, contracts, and certificates for child care services;

WHEREAS, the state of Louisiana is a participant in the Child Care and Development Block Grant Program and is a recipient of block grant funds under the Act;

WHEREAS, the state of Louisiana may achieve optimum use of the block grant funds it receives by utilizing an advisory council to advise the Department of Social

Services regarding the recent developments in the field of child care, the concerns of parents who have children in day care, and the needs of child day care facilities within the state; and

WHEREAS, the interests of the citizens of the state of Louisiana will best be served by the continuation of the Advisory Council on the Child Care and Development Block Grant Program;

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

SECTION 1: The Advisory Council on the Child Care and Development Block Grant Program (hereafter "Council"), is reestablished within the Department of Social Services.

SECTION 2: The duties and functions of the Council shall include, but are not limited to, the following:

A. Making recommendations to the secretary of the Department of Social Services regarding the expenditure and disbursement of Child Care and Development Block Grant Funds;

B. Making recommendations to the secretary of the Department of Social Services for improving, modernizing, and updating the quality of child care at the day care centers which operate within the state of Louisiana;

C. Studying and making recommendations on the potential of a "Quality Rating System" for child care in Louisiana; and

D. Assisting the Department of Social Services in updating its long range plans for insuring quality child care at day care centers operating within the state of Louisiana.

SECTION 3: By March 1, 2005, the Council shall submit a written comprehensive report to the governor and the Department of Social Services, on the issues set forth in Section 2 of this Order.

SECTION 4: The Council shall be composed of twelve (12) voting members and three (3) ex-officio, non-voting members who shall be appointed by, and serve at the pleasure of the governor.

A. The voting membership of the Council shall represent the following agencies, organizations, and special interest groups:

1. non-profit, family-oriented organizations domiciled within the geographic boundaries of Greater New Orleans;

2. non-profit, family-oriented organizations domiciled within the geographic boundaries of North Louisiana;

3. the Louisiana Head Start Association;

4. the Institute of Infant and Early Childhood Mental Health at Tulane University;

5. the Louisiana Association for the Education of Young Children;

6. the National Association for Family Child Care;

7. child development programs at a Louisiana college or university;

8. child care providers who provide services within the state of Louisiana;

9. parents with at least one (1) child who is currently receiving care at a day care facility;

10. church operated day care centers operating within the state of Louisiana;

11. trainers of child day care providers within the state of Louisiana; and

12. the Louisiana Council on Child Abuse.

B. The ex-officio, non-voting membership of the Council shall be selected as follows:

1. the secretary of the Department of Social Services, or the secretary's designee;

2. the director of the Bureau of Licensing, Department of Social Services, or the director's designee; and

3. the secretary of the Department of Education, or the secretary's designee.

SECTION 5: The chair shall be elected by the voting members of the Council.

SECTION 6: Council members shall not receive compensation or a per diem for their services or attendance at Council meetings. However, contingent on the availability of funds, the actual travel expenses of Council members may be reimbursed in accordance with PPM 49, and upon advance written approval of the commissioner of administration.

SECTION 7: Support staff, facilities, and resources for the Council shall be provided by the Department of Social Services.

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

SECTION 9: The provisions of this Order are effective upon signature and shall remain in effect until August 20, 2005, unless rescinded, modified, or terminated sooner.

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 20th day of August, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#055

EXECUTIVE ORDER KBB 04-29

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. KBB 2004-21 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 2004 (hereafter "the 2004 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2004 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 2004 Ceiling to be used to finance the acquisition and rehabilitation of a multi-family residential housing development located at 3980 Cambronne Street, New Orleans, Louisiana, 70118, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2004 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$4,000,000	Louisiana Housing Finance Agency	Palmetto Apartments

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

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2004, provided that such bonds are delivered to the initial purchasers thereof on or before November 17, 2004.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#056

EXECUTIVE ORDER KBB 04-30

Small Purchase Procedures

WHEREAS, the Louisiana Procurement Code, R.S. 39:1596, authorizes the governor to establish procedures for the procurement of small purchases with the caveat that "procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section;"

WHEREAS, the Louisiana Procurement Code exempts small purchases from the competitive sealed bidding requirements of the code; and

WHEREAS, Louisiana businesses are a driving force in the Louisiana economy;

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

SECTION 1: All departments, institutions, boards, commissions, budget units, and agencies of the executive branch of state government, and the officers and employees thereof, (hereafter "agency") shall observe, be guided by, and implement the specific directives on small purchase procedures set forth in this Order. This Order in no way affects or changes the purchasing authority delegated to an agency by the chief procurement officer as defined in R.S. 39:1556(3). No provision of this Order shall be construed as a limitation on the number of bids to be solicited prior to making a purchase or procurement. Louisiana businesses should be utilized to the greatest extent possible when soliciting prices.

SECTION 2: Unless the context clearly indicates otherwise, the words and terms used in this Order shall be defined as follows:

A. "Small purchases" means (1) any procurement not exceeding twenty-five thousands dollars (\$25,000), or (2) any procurement of those items listed in Section 5 of this Order, regardless of price, except as noted in paragraphs 5(A)(14), 5(A)(24), and 5(A)(26) which are exempt from the competitive sealed bidding requirements of the Louisiana Procurement Code;

B. "Certified small and emerging business" means a business certified as a small and emerging business by the Division of Small and Emerging Business Development, Department of Economic Development, in accordance with the provisions of the Small and Emerging Business Development Program, R.S. 51:941 et seq., and included on the most recent list of certified small and emerging businesses issued by the Division of Certified Small and Emerging Business Development; and

C. "Louisiana authorized dealer" means a company that satisfies the requirements of a resident business defined in R.S. 39:1591(6) and is authorized by the manufacturer to sell and/or provide services for their products.

SECTION 3: The following items are not subject to the procedures set forth in this Order:

A. Those items covered by an existing state contract; and

B. Public works contracts which exceed five thousand dollars (\$5,000) and are governed by the provisions of R.S. 38:2241.

SECTION 4: Except as otherwise provided in this Order, all small purchases shall be made in accordance with the following minimum procedures:

A. No competitive process is required (1) for purchases not exceeding five hundred dollars (\$500) per single purchase transaction for purchases made without the LaCarte Procurement Card, or (2) for purchases made with the LaCarte Procurement Card not exceeding one thousand dollars (\$1,000) per single purchase transaction.

B. Price quotations shall be solicited from three (3) or more bona fide, qualified vendors (1) for purchases exceeding five hundred dollars (\$500) but not exceeding five thousand dollars (\$5,000), and (2) for purchases made with the LaCarte Procurement Card exceeding one thousand dollars (\$1,000) but not exceeding five thousand dollars (\$5,000). Quotations may be made by telephone, facsimile, or other means and shall be awarded on the basis of the lowest responsive quotation. Whenever possible, at least one (1) of the bona fide, qualified vendors shall be a certified small and emerging business. Agency files shall document and list all solicited vendors and each vendor's contact person, summarize quotations received, indicate the successful vendor, and state the reason why any lower quotation was rejected. Agency files should also contain written confirmation of the quotation from the successful vendor.

C.1. Price quotations shall be solicited from five (5) or more bona fide, qualified vendors for purchases exceeding five thousand dollars (\$5,000) but not exceeding twenty-five thousand dollars (\$25,000). Quotations may be made by facsimile or written and shall be awarded on the basis of the lowest responsive price quotation received. Whenever possible, at least two (2) of the bona fide, qualified vendors shall be certified small and emerging businesses. The requirement to solicit certified small and emerging businesses is waived for those agencies that post on LaPAC Louisiana's internet based system for posting vendor opportunities and award information.

2. A minimum of three (3) working days shall be allowed for receipt of quotations.

3. All written or facsimile solicitations shall include the closing date, time, and all pertinent competitive specifications, including quantities, units of measure, packaging, delivery requirements, ship-to location, terms and conditions, and other information sufficient for a supplier to make an acceptable quotation. Precautionary measures shall be taken to safeguard the confidentiality of vendor responses prior to the closing time for receipt of quotations. No quotation shall be evaluated using criteria not disclosed in the solicitation.

4. Agency files shall document and list all solicited vendors and each vendor's response, summarize quotations received, indicate the awarded quotation, and state the reason why any lower quotation was rejected.

SECTION 5: Except as provided in subsection A(14), A(24), or A(26) of this section, the following items are considered small purchases regardless of price and may be procured in the following manner:

A. No competitive process is required for the following items:

1. Repair parts for equipment obtained from a Louisiana authorized dealer where available. This provision does not apply to the stocking of parts;
2. Equipment repairs obtained from a Louisiana authorized dealer where available;
3. Vehicle repairs not covered by a competitive state contract or the state fleet maintenance repair contract, obtained from a Louisiana authorized dealer where available;
4. Vehicle body repairs covered by insurance recovery and in accordance with insurance requirements;
5. Livestock purchased at public auction;
6. Purchasing or selling transactions between state budget units and other governmental agencies;
7. Publications and/or copyrighted materials purchased directly from the publisher or copyright holder;
8. Publications and/or copyrighted materials purchased by libraries from either subscription services or wholesale dealers which distribute for publishers and/or copyright holders;
9. Public utilities and services provided by local governments;
10. Prosthetic devices, implantable devices, and devices for physical restoration, which are not covered by a competitive state contract;
11. Educational training and related resources (except equipment) used to enhance the performance of state employees, including memberships in professional societies and organizations, except for customized training which is covered under R.S. 39:1481, et seq.;
12. Purchases for clients of Blind and Vocational Rehabilitation programs not covered by competitive state contract which are federally funded at a rate of at least 78.7%, regulated by Title 34, Parts 361, 365, 370, and 395 of the Code of Federal Regulations, and in accordance with OMB Circular A-102;
13. Materials, supplies, exhibitor fees, and exhibit booths at conferences, seminars, and workshops, for participation in promotional activities which enhance economic development may be procured in accordance with this Section with the approval of the department secretary, or agency equivalent, if not covered by competitive state contract;
14. Wire, related equipment, time and material charges to accomplish repairs, adds, moves, and/or changes to telecommunications systems not exceeding two thousand five hundred dollars (\$2,500);
15. Working class animals trained to perform special tasks, including but not limited to narcotics detection, bomb detection, arson investigation, and rescue techniques;
16. Food, materials and supplies for teaching and training where the purchasing, preparing, and serving of food is part of the regularly prescribed course;
17. Shipping charges and associated overseas screening and broker fees from an international origin to a domestic destination;
18. Parcel services, including but not limited to Federal Express, United Parcel Service, Airborne Express, and Express Mail;
19. Renewal of termite service contracts;

20. Purchase of supplies, operating services, or equipment for Louisiana Rehabilitation Services, Traumatic Head and Spinal Cord Injury Fund Program. Although competitive process is not required under this Paragraph, whenever practicable, three (3) quotations from bona fide, qualified vendors should be obtained. Whenever possible, at least one (1) of the bona fide qualified vendors shall be a certified small and emerging business;

21. Purchasing of clothing at retail necessary to individualize clients at state development centers in compliance with Federal Regulations for ICF/MR facilities;

22. Health insurance for the managers of Randolph-Sheppard programs, as defined by 20 U.S.C. §107 et seq., and paid from income generated by unmanned vending locations;

23. Purchases made to resell as part of a merchandising program with the written approval on file from the secretary of the department, or agency equivalent, when it is not practical or feasible to obtain competitive price quotations;

24. Commercial Internet Service not exceeding one thousand five hundred dollars (\$1,500) per subscription per year;

25. Advertising where permitted by law and the head of an agency or designee certifies that specific media is required to reach targeted audiences; or

26. Scientific and laboratory supplies and equipment when procured by colleges and universities for laboratory scientific research not to exceed ten thousand dollars (\$10,000) per transaction.

B. For the following items, telephone or facsimile price quotations shall be solicited, where feasible, to at least three (3) bona fide, qualified vendors. Whenever possible, at least one (1) of the bona fide, qualified vendors shall be a certified small and emerging business.

1. Farm products including, but not limited to, fresh vegetables, milk, eggs, fish, or other perishable foods, when it is determined that market conditions are unstable and the competitive sealed bidding process is not conducive for obtaining the lowest prices;

2. Food, materials, and supplies needed for:

a. Operation of boats and/or facilities in isolated localities where only limited outlets of such supplies are available; and/or

b. Juvenile detention homes and rehabilitation facilities/homes where the number of inmates, students, or clients is unstable and unpredictable;

3. Convention and meeting facilities. However, any associated food or lodging must be in accordance with Policy & Procedure Memorandum No. 49, General Travel Regulations (hereafter "PPM 49");

4. Gasoline and fuel purchases not covered by competitive state contract;

5. Equipment for blind operated facilities not covered by competitive state contract;

6. Feed commodities, including but not limited to soybean meal, cottonseed meal, and oats for use on prison farms;

7. Aircraft parts, repairs, inspections, and modifications approved by the head of the agency, head of Division of Administration Flight Operations, or its designee and performed by an FAA certified mechanic and/or at an

FAA certified repair station in accordance with FAA requirements; or

8. Air and bus charters in accordance with PPM 49, including group travel that does not qualify for commercial rates available to individual travelers.

SECTION 6: In the absence of a good faith business basis, no purchase or procurement shall be artificially divided within a cost center, or its equivalent, to avoid the competitive process or the solicitation of competitive sealed bids.

SECTION 7: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the implementation of the provisions of this Order.

SECTION 8: 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 20th day of August, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#057

EXECUTIVE ORDER KBB 04-31

Louisiana D.A.R.E. Advisory Board

WHEREAS, the Congress of the United States has enacted the Anti-Drug Abuse Act of 1988, 21 U.S.C.A. §861, et seq., as generally amended, in recognition of the serious problems occurring within the United States due to the increase of drug abuse;

WHEREAS, the Louisiana Commission on Law Enforcement has been created within the Office of the Governor to operate as a forum on drug abuse issues and to coordinate drug abuse projects;

WHEREAS, two-thirds of Louisiana's public, private, and parochial school systems have executed written agreements with law enforcement agencies to implement a Drug Abuse Resistance Education (D.A.R.E.) program; and

WHEREAS, the D.A.R.E. Program is a nationally recognized and copyrighted drug education effort with specific criteria for implementation which requires strict replication of the parent project;

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

SECTION 1: The Louisiana D.A.R.E. Advisory Board (hereafter "Board") is reestablished within the executive department, Office of the Governor.

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

A. Develop, promote, monitor and evaluate the D.A.R.E. Program throughout the state of Louisiana; and

B. Serve as an advisory body to the Louisiana Commission on Law Enforcement regarding the performance of its duties in relation to the D.A.R.E. Program.

SECTION 3: The Board shall consist of thirteen (13) members, who shall be appointed by and serve at the pleasure of the governor, selected as follows:

A. The president of the Louisiana D.A.R.E. Officers' Association, or the president's designee;

B. One (1) representative from the Governor's Drug Policy Board;

C. Two (2) members from the Louisiana Sheriff's Association;

D. Two (2) members from the Louisiana Chiefs of Police Association;

E. Two (2) members from the Louisiana Commission on Law Enforcement;

F. One (1) principal representing a Louisiana public school;

G. One (1) teacher representing a Louisiana elementary school; and

H. Three (3) members representing community interests.

SECTION 4: The chair of the Board shall be appointed by the governor from the membership of the Board. All other officers, if any, shall be elected by the members of the Board from its membership.

SECTION 5: The Board shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 6:

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

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

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

SECTION 7: Support staff, facilities, and resources for the Board shall be provided by the Office of the Governor.

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

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

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

Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#058

EXECUTIVE ORDER KBB 04-32

Governor's Task Force on DWI-Vehicular Homicide

WHEREAS, currently, Louisiana ranks twenty-first in the United States in population, but ranks seventh in the nation in alcohol-related fatalities and fifteenth in the nation in fatal crashes;

WHEREAS, nearly forty-seven percent of Louisiana's traffic fatalities are alcohol-related, as compared to the national average of forty percent;

WHEREAS, Louisiana automobile owners pay high premiums for public liability insurance. Our state ranks ninth in the nation in costs for insurance, with an average premium of \$838.96; and

WHEREAS, there is a possible correlation between Louisiana's unusually high percentage of alcohol-related traffic fatalities and the unusually high insurance premiums paid by Louisiana motorists;

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

SECTION 1: The Governor's DWI-Vehicular Homicide Task Force (hereafter ""Task Force") is reestablished within the executive department, Office of the Governor.

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

- A. Addressing problems in the following areas:
 1. Unusually high incidence of drunk or drugged driving;
 2. Difficulty in proving identification of multiple DWI offenders for the purposes of enhanced penalties;
 3. Refusing to submit to breath and/or field sobriety tests;
 4. Obtaining evidence from drivers who cause alcohol involved fatal or serious injury crashes; and
 5. Arrest and prosecution of drug-impaired drivers;
- B. Soliciting input and recommendations from all agencies, departments, commissions, boards, or offices which are involved in DWI enforcement and countermeasures, particularly law enforcement officers at the state, parish, and local levels to aid in the implementation of the provisions of this Order; and
- C. Acting in an advisory capacity to the governor, the Highway Safety Commission, the Alcohol and Tobacco Control Commission, and any other agency, department, commission, board, or office that are involved directly or peripherally with DWI issues.

SECTION 3: By March 1, 2006, the Task Force shall submit a comprehensive written report to the governor on the issues set forth in Section 2 of this Order. A preliminary report, which shall include recommended legislation, shall be submitted to the governor by January 15, 2006.

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

- A. The governor, or the governor's designee;
- B. The attorney general, or the attorney general's designee;
- C. The speaker of the Louisiana House of Representatives, or the speaker's designee;
- D. The president of the Louisiana State Senate, or the president's designee;
- E. A member of the Louisiana House of Representatives appointed by the speaker of the Louisiana House of Representatives;
- F. A member of the Louisiana State Senate appointed by the president of the Louisiana State Senate;
- G. The commissioner of the Office of Alcohol and Tobacco Control, Department of Revenue, or the commissioner's designee;
- H. The assistant secretary of the Department of Public Safety, Office of Motor Vehicles, or the assistant secretary's designee;
- I. The executive director of the Louisiana Highway Safety Commission, or the executive director's designee;
- J. The assistant secretary of the Department of Health and Hospitals, Office of Addictive Disorders, or the assistant secretary's designee;
- K. A representative of the Louisiana State Police;
- L. A representative of the Louisiana State Police Crime Lab;
- M. A representative of the Louisiana District Attorneys Association;
- N. A representative of the Louisiana Sheriff's Association;
- O. A representative of the Municipal Police Officers Association of Louisiana;
- P. A representative of Mothers Against Drunk Driving;
- Q. A representative of the Louisiana Restaurant Association; and
- R. Two (2) at-large members.

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

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

SECTION 7:

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

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

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

SECTION 8: Support staff, facilities, and resources for the Task Force shall be provided by the Office of the Governor.

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#059

EXECUTIVE ORDER KBB 04-33

Louisiana Rehabilitation Council

WHEREAS, the State Rehabilitation Advisory Council was originally established by executive order to provide Louisiana's citizens with disabilities assistance in their pursuit of meaningful careers and gainful employment through specific programs;

WHEREAS, the Rehabilitation Act of 1973, 29 U.S.C.A. §701, et seq., as amended by the Workforce Investment Act (Public Law 105-220), and the Rehabilitation Act Amendments of 1998 and subsequent 1999 amendments to 29 U.S.C.A. §725, provide the state of Louisiana with financial assistance to promote effective programs of vocational rehabilitation services for individuals with disabilities; and

WHEREAS, it is in the best interest of the citizens of the state of Louisiana to continue providing its citizens with disabilities vocational rehabilitation services and/or programs by the continuation of a rehabilitation council;

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

SECTION 1: The Louisiana Rehabilitation Council (hereafter "Council") is established within the executive department, Department of Social Services;

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

A. Reviewing, analyzing, and advising the Department of Social Services, Office of Louisiana Rehabilitation Services (hereafter "Louisiana Rehabilitation

Services"), regarding the performance of its responsibilities, particularly the responsibilities relating to:

1. Eligibility (including order of selection);
2. The extent, scope, and effectiveness of services provided; and

3. Functions performed by state agencies that affect or potentially affect the ability of individuals with disabilities in achieving employment under 29 U.S.C.A. §720 *et seq.*;

B. In partnership with Louisiana Rehabilitation Services:

1. Developing, agreeing to, and reviewing the state goals and priorities for rehabilitation services in accordance with 29 U.S.C.A. §721(a)(15)(E); and

2. Evaluating the effectiveness of the vocational rehabilitation program and submitting progress reports to the commissioner of the Rehabilitation Service Administration, Department of Education, Washington, D.C.;

C. Advising Louisiana Rehabilitation Services regarding activities authorized to be carried out under the Rehabilitation Act, and assisting in the preparation of and amendments to the state plan, together with the necessary applications, reports, needs assessments, and evaluations as required by 29 U.S.C.A. §720 *et seq.*;

D. To the extent feasible, conducting a review and analysis of the effectiveness of, and consumer satisfaction with:

1. The functions performed by Louisiana Rehabilitation Services;

2. The vocational rehabilitation services provided by Louisiana Rehabilitation Services and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under 29 U.S.C.A. §701 *et seq.*; and

3. The employment outcomes achieved by eligible individuals receiving services under 29 U.S.C.A. §725, including the availability of health and other employment benefits in connection with such employment outcomes;

E. Preparing and submitting an annual report to the governor and the commissioner of the Rehabilitation Service Administration, Washington, D.C., on the status of vocational rehabilitation programs operating within the state, and making the report available to the public;

F. To avoid duplication of efforts and enhance the number of individuals served, coordinating activities with the activities of other councils within the state, including the Statewide Independent Living Council, established under 29 U.S.C.A §796d; the advisory panel established under Section 612(a)(21) of the Individuals with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17), [20 U.S.C.A. §1412 (a)(21)]; the State Developmental Disabilities Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C.A. §6024); the State Mental Health Planning Council established under Section 1914(a) of the Public Health Service Act (42 U.S.C.A. §300x-4(a)); and the State Workforce Investment Board;

G. Providing for coordination and the establishment of working relationships between Louisiana Rehabilitation

Services and the Statewide Independent Living Council and the Centers for Independent Living within the state;

H. Preparing, in conjunction with Louisiana Rehabilitation Services, a plan for the provision of such resources, including such staff and other personnel, as may be necessary and sufficient to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan;

I. Supervising and evaluating such staff and other personnel as may be necessary to carry out its functions; and

J. Performing such other functions as the State Rehabilitation Council determines to be appropriate, that are comparable to the other functions performed by the Council.

SECTION 3: Members of the Council shall be selected from all areas of the state and shall be knowledgeable of the vocational rehabilitation services offered to individuals with disabilities. The majority of the membership of the Council shall be composed of Louisiana citizens with disabilities, representing a broad range of disabilities, and who are not employed by Louisiana Rehabilitation Services or any state agency.

SECTION 4: The Council shall consist of twenty-five (25) members who shall be appointed by, and serve at the pleasure of the governor for a term of up to three (3) years, including:

A. Twenty-three (23) voting members selected as follows:

1. One (1) representative from a parent training and information center established pursuant to section 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17) [20 U.S.C.A. §1482(a)];

2. One (1) representative from the voting membership of the Statewide Independent Living Council established under 29 U.S.C.A. §796d;

3. One (1) representative of the Client Assistance Program established under 29 U.S.C.A. §732;

4. One (1) representative from the service providers for the community rehabilitation program;

5. Four (4) representatives of business, industry, and labor;

6. Twelve (12) members representing a cross section of the following categories:

a. Individuals with physical, cognitive, sensory, and mental disabilities;

b. Representatives of individuals with disabilities who have difficulty representing themselves; and

c. Current or former applicants for, or recipients of, vocational rehabilitation services.

7. One (1) representative of the State Workforce Investment Board;

8. One (1) representative of the state educational agency responsible for the public education of students with disabilities who are eligible to receive services under 29 U.S.C.A. §720 and part B of the Individuals with Disabilities Education Act; and

9. One (1) director of a project carried out under Section 121 of the Federal Rehabilitation Act Amendments of 1998.

B. Two (2) non-voting members, selected as follows:

1. One (1) vocational rehabilitation counselor with knowledge of and experience with vocational rehabilitation programs shall serve as an ex officio, nonvoting member of the Council; and

2. The director of the Louisiana Rehabilitation Services shall serve as an ex officio, nonvoting member of the Council.

SECTION 5: The voting members of the Council shall select a chair from among its voting membership.

SECTION 6: No member of the Council, other than the representative of the Client Assistance Program, may serve more than two consecutive full terms.

SECTION 7: The majority of the voting membership of the Council shall not be composed of individuals who receive compensation, either directly or indirectly, for work they perform on behalf of any vocational rehabilitation service provider.

SECTION 8: The Council shall coordinate its activities with the Office of Disability Affairs, Office of the Governor. The Council shall follow all rules and regulations of the state of Louisiana, including those concerning purchasing, procurement, hiring, and ethics.

SECTION 9:

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

B. Council members who are not employees of the state of Louisiana or any of its political subdivisions thereof, contingent upon availability of funds, may seek reimbursement for travel expenses, in accordance with PPM 49, and with advance written approval of the commissioner of administration;

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

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

SECTION 10: The Council shall convene, a minimum of four (4) meetings a year, in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate.

SECTION 11: Support staff, facilities, and resources for the Council shall be provided by the Louisiana Rehabilitation Services.

SECTION 12: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Council in implementing the provisions of this Order.

SECTION 13: 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 20th day of August 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#060

EXECUTIVE ORDER KBB 04-34

Louisiana Emergency Response Commission

WHEREAS, the ability to protect the citizens of the state of Louisiana depends, in part, upon the adequacy of local community emergency response plans;

WHEREAS, the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C.A. §11001-11050, requires the states to establish and maintain an emergency response commission which has technical expertise in the field of emergency response to notify and protect the public in the event of a release of an extremely hazardous substance into the environment; and

WHEREAS, through the enactment of R.S. 30:2364, the Louisiana Legislature created the Emergency Response Commission within the Department of Public Safety and Corrections to

- (1) establish emergency planning districts;
- (2) appoint local emergency planning committees;
- (3) supervise and coordinate the activities of local emergency planning committees;
- (4) provide the Environmental Protection Agency with information concerning notification received on certain releases of hazardous materials and substances;
- (5) designate, as necessary, facilities subject to hazardous material reporting procedures;
- (6) recommend a standardized inventory form for gathering required information and develop reporting procedures which reduce duplication of reporting;
- (7) recommend, as necessary, additional substances which should be defined as hazardous materials;
- (8) act as the central advisory body for coordinating state and federal Right-to-Know activities with regard to hazardous substances;
- (9) establish procedures for recalling and processing public requests for information; and
- (10) review local emergency planning committee emergency response plans and recommend revisions as necessary.

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

SECTION 1: The Louisiana Emergency Response Commission (hereafter "Commission") shall be composed of twenty (20) members appointed by and serving at the pleasure of the governor, selected as follows:

A. The deputy secretary of the Department of Public Safety, or the deputy secretary's designee;

B. The secretary of the Department of Environmental Quality, or the secretary's designee;

C. The secretary of the Department of Agriculture and Forestry, or the secretary's designee;

D. The two (2) directors of the Office of Homeland Security and Emergency Preparedness, Military Department, Office of the Governor, or the directors' designees;

E. A representative of the Right-To-Know Unit, Department of Public Safety, Office of State Police;

F. A representative of the Louisiana Emergency Preparedness Association;

G. A member of the Louisiana State University Firearm Training Program;

H. A representative of environmental interests;

I. A representative of the chemical industry nominated by the Louisiana Chemical Association; and

J. Ten (10) at-large members.

SECTION 2: The chair of the Commission shall be selected by the governor, all other officers, if any, shall be elected from the membership of the Commission

SECTION 3: The Commission shall have authority to receive grants, donations, or gifts of money, equipment, supplies, or services from any public or private source to enable it to fulfill the duties and responsibilities specified in Title 30 of the Louisiana Revised Statutes of 1950, as amended.

SECTION 4: The Commission shall meet quarterly and at the call of the chair.

SECTION 5: Commission members shall serve without compensation, and no member shall receive a per diem or reimbursement of personal expenses from public funds.

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 20th day of August, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#061

EXECUTIVE ORDER KBB 04-35

State Hazard Mitigation Team

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, set forth in R.S. 29:721 et seq., recognizes "the existing possibility of the occurrence of emergencies and disasters of unprecedented size and destructiveness resulting from terrorist events, enemy attack, sabotage, or other hostile action, or from fire, flood, earthquake, or other natural or man-made causes," and designates the Military Department, state of Louisiana, the State Homeland Security and Emergency Preparedness Agency;

WHEREAS, disaster preparedness assistance is provided by federal grants and through federal programs to

states designating an agency to plan and administer disaster preparedness programs and to improve and update disaster assistance plans, Public Law 93-288, Title II §201; 42 U.S.C.A. §5131, et seq.; and

WHEREAS, the Hazard Mitigation Team was originally established by executive order to ensure that homeland security and emergency preparations for the state of Louisiana are adequate to deal with such emergencies or disasters, to preserve the lives and property of the people of the state of Louisiana, and to respond to emergencies in the event a state of emergency or disaster is declared by either the Governor or the President;

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

SECTION 1: The State Hazard Mitigation Team (hereafter "Team") is reestablished and continued within the Military Department, Office of Homeland Security and Emergency Preparedness, Office of the Governor;

SECTION 2: The duties and functions of the Team shall include, but are not limited to, the following:

- A. identifying the state of Louisiana's vulnerability to hazards;
- B. reviewing existing mitigation plans and prioritizing recommendations;
- C. developing or updating Hazard Mitigation Plans required under 44 CFR Subpart M;
- D. developing a comprehensive strategy for the development and implementation of a State Mitigation Program;
- E. reviewing, assigning priority, and recommending mitigation actions for implementation, including measures to be funded under the Hazard Mitigation Grant Program or other federal grant programs; and
- F. seeking funding for implementation of mitigation measures.

SECTION 3: The Team shall be composed of representatives appointed from the following state agencies:

- A. the Military Department, Office of Homeland Security and Emergency Preparedness, Office of the Governor;
- B. the Department of Transportation and Development;
- C. the Department of Wildlife and Fisheries;
- D. the Department of Environmental Quality;
- E. the Department of Natural Resources, Office of Coastal Restoration and Management; and
- F. the Department of Agriculture and Forestry.

SECTION 4: The chair of the Team shall be the adjutant general of the Military Department, Office of Homeland Security and Emergency Preparedness.

SECTION 5: The Team shall meet quarterly and at the call of the chair.

SECTION 6:

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

B. Team members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel

expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

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

SECTION 7: Support staff, facilities, and resources for the Team shall be provided by the Military Department, Office of Homeland Security and Emergency Preparedness.

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#062

EXECUTIVE ORDER KBB 04-36

Homeland Security Advisory Council

WHEREAS, the ability to protect the citizens of the state of Louisiana from threats and acts of terrorism, particularly those which may incorporate Weapons of Mass Destruction, depends in part upon the adequacy of state and local community emergency preparedness and response capabilities, training and exercises, and equipment;

WHEREAS, Louisiana has significant infrastructure that makes it uniquely positioned as a focal point for homeland security activity, including the geographic location as the gateway to America's heartland, the critically important marine and transportation infrastructure, the national energy assets, the academic excellence in chemical and biological terrorism research, and the outstanding history of emergency preparedness and response;

WHEREAS, cooperation among federal, state, and local governments, universities, private industry, and the effective integration of available resources are essential for domestic preparedness; and

WHEREAS, in order to maximize the potential and efficiency of our homeland security community, including emergency responders, researchers, and many others, the best interests of the citizens of the state of Louisiana would be served by creating an advisory council to coordinate Louisiana's expertise in these critical areas;

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

SECTION 1: The Homeland Security Advisory Council (hereafter "Council") is hereby established within the executive branch, Military Department, Office of the Governor.

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

A. assessing homeland security needs and assets of the state of Louisiana by linking state and local government efforts, and leveraging education, industry, and private sector initiatives;

B. identifying inventory assets, recommending policy, and endorsing initiatives within all fields of expertise related to homeland security;

C. analyzing assets, tracking homeland security grants, and creating a link to the state's strategic plan for homeland security;

D. providing a process for analyzing the state's assets and responding to opportunities;

E. seeking opportunities which create economic growth in Louisiana based on homeland security;

F. supporting the United States homeland security and defense objectives; and

G. notifying the governor and educating the congressional delegation on homeland security initiatives which require congressional action.

SECTION 3: On or before March 15, 2005, the Council shall submit a detailed report to the governor, the Louisiana Legislature, and the U.S. Congressional Delegation which addresses the issues set forth in Section 2 of this Order.

SECTION 4: The Council shall be composed of seven (7) members appointed by, and serving at the pleasure of the governor, selected as follows:

A. The deputy secretary of the Department of Public Safety and Corrections, or the deputy secretary's designee;

B. The adjutant general of the Louisiana National Guard, or the adjutant general's designee;

C. The chair of the Senate Select Committee on Louisiana Homeland Security, or the chair's designee;

D. The chair of the House Select Committee on Louisiana Homeland Security, or the chair's designee;

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

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

G. The assistant secretary of the Department of Public Safety and Corrections, or the assistant secretary's designee.

SECTION 5: The adjutant general of the Louisiana National Guard and the deputy secretary of the Department of Public Safety shall serve as co-chairs of the Council.

SECTION 6: The Council shall also be composed of subcommittees that will report to and be governed by the Council. Council members shall serve as ex-officio members of each subcommittee. The duties of the subcommittees shall include, but are not limited to, the following:

A. Providing advice on various fields of subject expertise, consistent with the direction of the Council; and

B. Making recommendations on homeland security challenges, threats and opportunities and their effect on Louisiana.

SECTION 7: The Council shall meet at regularly scheduled intervals, and at the call of the co-chairs.

SECTION 8: Support staff, facilities, and resources for the Council shall be provided by the Office of Homeland Security and Emergency Preparedness.

SECTION 9:

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

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

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

SECTION 10: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Council in implementing the provisions of this Order.

SECTION 11: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#063

EXECUTIVE ORDER KBB 04-37

Louisiana Historical Records Advisory Board

WHEREAS, the evaluation and re-evaluation for historical purposes of the experiences of our nation, states, communities, and societal groups are dependent on proper documentation;

WHEREAS, the National Historical Publications and Records Commission (hereafter "National Commission") was created pursuant to 44 U.S.C. § 2501, et seq., to cooperate with, assist, and encourage federal, state, and local agencies and non-governmental institutions, societies, and individuals in collecting, preserving, editing, and publishing documents, including the papers of outstanding citizens of the United States, that may be important for an in-depth understanding and appreciation of the history of the United States;

WHEREAS, through a program established under 44 U.S.C. § 2504, based on the recommendation of the National Commission, state and local agencies, nonprofit organizations, institutions, and individuals may receive

grants from the Archivist of the United States for the collection, description, preservation, compilation, publication, and dissemination of records, photographs, and other materials significant to the history of the United States;

WHEREAS, as a prerequisite to a state's participation in the National Commission's grant program, the regulations of the entity which governs the National Commission, the National Archives and Records Administration, 44 U.S.C. § 2102, et seq., require the state to establish a historical records advisory board, 36 C.F.R. Part 1206; and

WHEREAS, the interests of the citizens of the state of Louisiana would be best served by the continuation of Louisiana Historical Records Advisory Board in order to coordinate and facilitate the efforts of the historical records repositories and other informational agencies within the state in the collection, preservation, and publication of the important historical documents of this state;

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

SECTION 1: The Louisiana Historical Records Advisory Board (hereafter "Board") is reestablished within the division of archives, records management, and history, Department of State (hereafter "State Archives").

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

A. Sponsoring and publishing surveys of the conditions and needs of historical records in this state;

B. Soliciting and/or developing proposals for historical records projects to be undertaken by institutions in this state or by the Board with grants from the National Commission;

C. Reviewing historical records projects proposed by institutions in this state and making recommendations thereon to the National Commission;

D. Developing, revising, and submitting the state's priorities for historical records projects to the National Commission in accordance with the guidelines developed by the National Commission;

E. Promoting an understanding of the role and the value of historical records and record-keeping;

F. Acting in an advisory capacity to State Archives and other statewide archival or records agencies; and

G. Reviewing, through reports and otherwise, the operation and progress of projects throughout the state which have been financed, in whole or in part, by grants from the National Commission.

SECTION 3: The Board shall consist of thirteen (13) members who shall be appointed by, and serve at the pleasure of, the governor. As much as practicable, Board members shall be broadly representative of public and private archives, records offices, and research institutions and organizations in the state. The membership of the Board shall be selected as follows:

A. The director of State Archives, or the director's designee;

B. Eight (8) members with expertise in one or more of the following fields:

1. Administration of government records;
2. Historical records; and

3. Archives;

C. One (1) representative of the Clerk of Court Association; and

D. Three (3) at-large members.

SECTION 4: The director of State Archives shall chair the Board and serve as the state historical records coordinator (hereafter "coordinator"). On the recommendation of the coordinator, a deputy state historical records coordinator (hereafter "deputy coordinator") shall be appointed by, and serve at the pleasure of, the governor. When practicable, the deputy coordinator shall be selected from the membership of the Board or the staff of the coordinator's agency. The membership of the Board shall elect all other officers.

SECTION 5: The duties of the coordinator shall include, but are not limited to, the following:

A. Preparing a comprehensive written report on the Board's activities to be submitted annually to the governor and the National Commission detailing the Board's activities during the previous year, assessing the Board's ongoing planning objectives, and providing all additional data and/or information necessary to comply with the National Commission's Guidelines for State Historical Records Coordinators and State Historical Records Advisory Boards (hereafter "the National Commission's guidelines");

B. Coordinating the Board's efforts to assess and monitor the conditions and needs of historical records in the state;

C. Serving as project director or providing administrative oversight for any grant projects carried out by the Board;

D. Assisting the Board in developing and sustaining statewide strategic planning, including the development and maintenance of a statement of priorities for historical records programs in the state, identifying particular priorities for board action and priorities for grant funding;

E. Soliciting and receiving applications for National Commission-funded grant projects, managing the grant review process at the state level, and forwarding rating sheets and summary recommendations to the National Commission;

F. Providing information about National Commission grants and Board activities and priorities to institutions and individuals within the state;

G. Serving as a liaison between the Board and the National Commission and as the initial point of contact for state and local officials and agencies on matters relating to records grants;

H. Reviewing, upon request by the National Commission and when practicable, grant proposals from other state historical records boards and applicants from outside of the state;

I. Fostering cooperation and communication among the historical records repositories, other information agencies within the state, and the National Commission; and

J. Participating with other state historical records coordinators in regional and national meetings to discuss the National Commission's work and the work of the state boards, and to seek solutions to common problems.

SECTION 6: The duties of the deputy coordinator shall include, but are not limited to, assisting the coordinator in executing the coordinator's duties as defined in Section 5

of this Order, and serving as an acting coordinator at the coordinator's discretion or upon the coordinator's resignation or inability to serve.

SECTION 7: The Board shall comply with the National Commission's guidelines.

SECTION 8: The Board shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 9: Support staff, facilities, and resources for the Board shall be provided by State Archives, Department of State.

SECTION 10:

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

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

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

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

SECTION 12: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 2nd day of September, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#064

EXECUTIVE ORDER KBB 04-38

Formosan Termite Task Force

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

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

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

WHEREAS, the interests of the citizens of the state of Louisiana would best be served by the continuation of the Formosan Termite Task Force designed to analyze the extent of Louisiana's infestation of Formosan termites and continue to recommend solutions for the containment of Formosan termites to areas already infested and the eradication of Formosan termites from those areas;

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

SECTION 1: The Formosan Termite Task Force (hereafter "Task Force") is hereby reestablished within the executive department, Office of the Governor.

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

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

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

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

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

SECTION 3: The Task Force shall submit a comprehensive written report to the governor and the commissioner of the Department Agriculture and Forestry on its research, analyses, and recommendations by April 1, 2005.

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

1. the governor, or the governor's designee;
2. the commissioner of the Department of Agriculture and Forestry, or the commissioner's designee;
3. the secretary of the Department of Health and Hospitals, or the secretary's designee;
4. the secretary of the Department of Environmental Quality, or the secretary's designee;
5. the secretary of the Department of Economic Development, or the secretary's designee;
6. two (2) members of the Louisiana State Senate designated by the president of the Senate;
7. two (2) members of the Louisiana House of Representatives designated by the speaker of the House of Representatives;

EXECUTIVE ORDER KBB 04-39

Louisiana Commission on Marriage and Family

- 8. the chancellor of the Louisiana State University Agriculture Center, or the chancellor's designee;
- 9. the president of Jefferson Parish, or the president's designee;
- 10. the presiding officer of the Jefferson Parish Council, or the presiding officer's designee;
- 11. the mayor of the city of New Orleans, or the mayor's designee;
- 12. the presiding officer of the New Orleans City Council, or the presiding officer's designee;
- 13. the executive director of the New Orleans Mosquito and Termite Control Board, or the executive director's designee;
- 14. the director of the Southern Regional Research Center, Agricultural Research Service, United States Department of Agriculture, or the director's designee;
- 15. the president of the Louisiana Farm Bureau Federation, or the president's designee;
- 16. one (1) homeowner in the Greater New Orleans Metropolitan Area;
- 17. one (1) French Quarter property owner; and
- 18. one (1) pest control industry specialist.

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

SECTION 6:

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

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

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

SECTION 7 Support staff, facilities, and resources for the Task Force shall be provided by the Department of Agriculture and Forestry.

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 2nd day of September, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#065

WHEREAS, marriage is more than a civil contract which transforms the contracting man and woman into a legally and publicly recognized partnership, as it is also a special form of social and legal dependence entered for the purpose of founding and maintaining a family;

WHEREAS, studies reveal that societal benefits result from marriage and two-parent families, as married men and women live longer, are often healthier, are less depressed, and have fewer heart attacks, diseases, and alcohol related problems than unmarried men and women and, as compared to children born to single and/or of divorced parents, children growing up in two-parent families are more likely to graduate from high school, less likely to have behavioral or emotional problems, less likely to be suspended or expelled from or drop out of school, less likely to contract childhood diseases and/or die, and boys are less likely to use drugs or alcohol or commit suicide, while girls are less likely to become sexually active at an early age;

WHEREAS, children growing up in two-parent families usually have an advantage over children with single-parents from their access to both parents for emotional, educational, spiritual, and moral support, additional family time, and reinforcement of discipline and family values;

WHEREAS, due to divorce and single-parent births, twenty-three million children in the United States are disadvantaged from growing up in a household without both their parents, including forty-five percent (45%) of the children born in the state of Louisiana and sixty-five (65%) born in the parish of Orleans to single parents in 1998;

WHEREAS, the future of the state of Louisiana is inextricably tied to the physical, intellectual, emotional, and moral growth of the children of this state and their future; and

WHEREAS, the interests of the citizens of the state of Louisiana will be best served by the continuation of the Louisiana Commission on Marriage and Family charged with the duty of advising the governor on the means to improve the social and personal well-being of the people of this state, especially the children, by strengthening marriages and/or family units and reducing the incidence of single-parenting;

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

SECTION 1: The Louisiana Commission on Marriage and Family (hereafter "Commission") is reestablished within the executive department, Office of the Governor.

SECTION 2: The duties of the Commission shall be as follows:

A. Collect and analyze data on the social and personal effects of marriage, two-parent child-rearing, and single-parent child-rearing, within the state of Louisiana;

B. Review and analyze all laws, rules and regulations, programs and/or policies of the state of Louisiana and/or any of the departments, commissions, boards, agencies, and/or offices in the executive branch

thereof, which pertain to taxes, public assistance or benefits, education, childcare and/or public services, for neutrality regarding the institution of marriage so that marriage is not discouraged, discriminated against and/or undermined;

C. Propose and analyze initiatives, programs, policies, and/or incentives that encourage and support the institution of marriage;

D. Propose and analyze programs, policies, curriculums, and/or initiatives, especially those that may be funded with Temporary Assistance for Needy Family ("TANF") funds, which encourage the formation of two-parent families, prevent and/or reduce the incidence of single-parent births, strengthen existing marriages that are in jeopardy, encourage postponing child-bearing until after both parents have attained a post-secondary education and/or post-secondary technical/job training; promote responsible fatherhood, and/or motivate fathers to be continuously involved in and supportive of their children and/or families;

E. Propose and analyze programs, policies, curriculums, and/or community-based partnerships that may be utilized and/or developed to strengthen families and teach marriage skills, anger/conflict management skills, money management skills, parenting skills, and/or about the differences in communication styles and emotional needs between men and women in marriage; and

F. Analyze the policy considerations and issues involved in encouraging and/or requiring counseling and/or mediation prior to divorce and providing such counseling and/or mediation with public funds.

SECTION 3: Commencing December 31, 2004, and each December 31st thereafter, the Commission shall submit a detailed annual report to the governor which addresses the issues set forth in Section 2 of this Order.

SECTION 4: The Commission shall be composed of a maximum of thirty (30) 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 secretary of the Department of Social Services, or the secretary's designee;

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

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

E. The commissioner of higher education, or the commissioner's designee;

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

G. The executive director of the Children's Cabinet, Office of the Governor, or the executive director's designee;

H. The executive director of the Office on Women's Policy, Office of the Governor, or the executive director's designee;

I. The director of TANF (Temporary Assistance for Needy Families), Office of the Commissioner, Division of Administration;

J. Two (2) members of the Louisiana State Senate, nominated by the president of the Senate;

K. Two (2) members of the House of Representatives, nominated by the speaker of the House of Representatives;

L. A representative of the Louisiana Women's Policy and Research Commission;

M. A member of the Board of Elementary and Secondary Education;

N. A citizen of the state of Louisiana representing the interests and concerns of two-parent families;

O. A citizen of the state of Louisiana representing the interests and concerns of single-parent families; and

P. Twelve (12) citizens of the state of Louisiana who have significant academic and/or professional expertise in one (1) or more of the following areas:

1. Marriage education and/or marriage skills training;

2. Marriage, family and/or juvenile counseling and/or mediation;

3. Education;

4. Law;

5. Public health;

6. Sociology, social science, and/or social work; and

7. Community programs and/or assistance.

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

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

SECTION 7:

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

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

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

SECTION 8: Support staff, facilities, and resources for the Commission shall be provided by the Department of Social Services.

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 3rd day of September, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0409#066

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Commercial Aerial Pesticide Applications Malathion and AsanaXL® (LAC 7:XXIII.145)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:3203, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations for the application of an ultra low volume insecticide to be applied to cotton fields infested with boll weevils.

The applications of insecticides in accordance with the current concentration regulations have not been sufficient to control or plant bugs. Failure to allow the concentrations in ultra low volume (ULV) Malathion and AsanaXL® applications (tank mixed) will allow the plant bugs the opportunity to destroy the cotton during the growing season, effectively destroying the cotton crop. The destruction of the cotton crop or a substantial portion of the cotton crop will cause irreparable harm to the economy of Northern Louisiana and to Louisiana Agricultural producers thereby creating an imminent peril to the health and safety of Louisiana citizens.

This Emergency Rule becomes effective on August 13, 2004 and shall expire at 11:59 p.m. on September 15, 2004.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

§145. Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications

A. - A.5.b.xxxvi. ...

c. Reserved.

d. malathion and AsanaXL® insecticide (tank mixed) shall be applied in accordance with specific label directions and with the following conditions to control plant bugs in cotton:

i. the commissioner hereby declares that prior to making any aerial application of ULV malathion and AsanaXL® (tank mixed) to cotton, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs ("DPEP") in writing. Upon notification, LDAF shall inspect the aircraft prior to any ULV applications;

ii. spray shall be applied, handled, and stored in accordance with all conditions specified by state or federal regulations, including the strict observance of any buffer zones that may be implied;

iii. aerial applicators shall strictly comply with any and all restrictions or mitigative factors, in regard to sensitive areas, including occupied buildings (churches,

schools, hospitals, and homes), lakes, reservoirs, farm ponds, parks, and recreation areas that may be identified by commissioner, and such restriction and mitigation are to be strictly complied with and observed by said aerial applicators;

iv. aerial applicators will adjust flight patterns, to the degree possible, to avoid or minimize flying over sensitive areas. This restriction does not apply to over flight between take-off and the commencement of spray operations, or over flight between termination of spray operations and landing;

v. aerial applicators shall be alert to all conditions that could cause spray deposit outside field boundaries and use their good faith efforts, including adjustment or termination of operations, to avoid spray deposit outside field boundaries;

vi. aerial spraying shall not be conducted when wind velocity exceeds 10 m.p.h.;

vii. aerial applicators will terminate application if rainfall is imminent;

viii. insecticide spray will not be applied in fields where people or animals are present. It is the applicator's responsibility to determine if people are present prior to initiating treatment;

ix. spraying shall not be conducted in fields where other aircraft are working;

x. all mixing, loading, and unloading will be in an area where an accidental spill can be contained and will not contaminate a stream or other body of water;

xi. all aerial applications of insecticide shall be at an altitude not to exceed five feet above the cotton canopy. However, in fields that are not near sensitive areas, if infield obstructions make the five-foot aerial application height not feasible, then the aerial height may be extended to such height above the cotton canopy as is necessary to clear the obstruction safely;

xii. the aircraft tank and dispersal system must be completely drained and cleaned before loading. All hoses shall be in good condition and shall be of a chemical resistant type;

xiii. insecticide tank(s) shall be leak-proof and spray booms of corrosion resistant materials, such as stainless steel, aluminum, or fiberglass. Sealants will be tested before use;

xiv. the tank(s) in each aircraft shall be installed so the tank(s) will empty in flight. Sight gauges or other means shall be provided to determine the quantity contained in each tank before reloading;

xv. a drain valve shall be provided at the lowest point of the spray system to facilitate the complete draining of the tanks and system while the aircraft is parked so any unused insecticide can be recovered;

xvi. a pump that will provide the required flow rate at not less than 40 pounds per square inch (psi) during spraying operation to assure uniform flow and proper functioning of the nozzles. Gear, centrifugal or other rotary

types, will be acceptable on aircraft with a working speed above 150 miles per hour;

xvii. ULV spraying systems with a pumping capacity that exceeds the discharge calibration rate shall have the bypass flow return to the tank bottom in a manner that prevents aeration and/or foaming of the spray formulation. Pumps utilizing hydraulic drive or other variable speed drives are not required to have this bypass, provided the pump speed is set to provide only the required pressure and the system three-way valve is used for on/off control at full throw position. Any bypass normally used to circulate materials other than the ULV will be closed for ULV spraying;

xviii. spray booms will be equipped with the quantity and type of spray nozzles specified by the Boll Weevil Eradication Program. The outermost nozzles (left and right sides) shall be equal distance from the aircraft centerline and the distance between the two must not exceed three-fourths of the overall wing span measurement. For helicopters, the outermost nozzles must not exceed three-fourths of the rotor span. For both fixed wing and helicopters, the program will accept the outermost nozzles between 60 percent and 75 percent of the wingspan/rotor span. Longer spray booms are acceptable provided modifications are made to prevent the entrapment of air in the portion beyond the outermost nozzle. Fixed wing aircraft not equipped with a drop type spray boom may require drop nozzles in the center section that will position the spray tips into smoother air to deliver the desired droplet size and prevent spray from contacting the tail wheel assembly and horizontal stabilizer. Most helicopters will be required to position the center nozzles behind the fuselage and dropped into smooth air in order to achieve the desired droplet size;

xix. nozzles, diaphragms, gaskets, etc. will be inspected regularly and replaced when there is evidence of wear, swelling, or other distortion in order to assure optimum pesticide flow and droplet size. Increasing pressure to compensate for restricted flow is unacceptable. A positive on/off system that will prevent dribble from the nozzles is required;

xx. a positive emergency shut-off valve between the tank and the pump, as close to the tank as possible. This valve shall be controllable from the cockpit and supplemented by check valves and flight crew training which will minimize inadvertent loss of insecticide due to broken lines or other spray system malfunction;

xxi. bleed lines in any point that may trap air on the pressure side of the spraying system;

xxii. an operational pressure gauge with a minimum operating range of 0 to 60 psi and a maximum of 0 to 100 psi visible to the pilot for monitoring boom pressure;

xxiii. a 50-mesh in-line screen between the pump and the boom and nozzle screens as specified by the nozzle manufacturer;

xxiv. aircraft equipped so nozzle direction can be changed from 45 degrees down and back to straight back when it is necessary to change droplet size;

xxv. all nozzles not in use must be removed and the openings plugged;

xxvi. nozzle tips for all insecticides shall be made of stainless steel;

xxvii. aircraft shall have an operational Differentially Corrected Global Positioning System (DGPS) and flight data logging software that will log and display the date and time of the entire flight from take-off to landing and differentiate between spray-on and spray-off;

xxviii. aircraft shall have a DGPS with software designed for parallel offset in increments equal to the assigned swath width of the application aircraft. Fixed towers, portable stations, satellite, Coast Guard, or other acceptable methods may provide differential correction. However, the differential signal must cover the entire project area. In fringe areas from the generated signal, an approved repeater may be used. The system shall be sufficiently sensitive to provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path with an error no greater than three feet. Systems that do not provide course deviation updates at one-second intervals or less will not be accepted;

xxix. a course deviation indicator (CDI) or a course deviation light bar (also CDI) must be installed on the aircraft and in a location that will allow the pilot to view the indicator with direct or peripheral vision without looking down. The CDI must be capable of pilot selected adjustments for course deviation indication with the first indication at three feet or less;

xxx. the DGPS must display to the pilot a warning when differential correction is lost, the current swath number, and cross-track error. The swath advance may be set manually or automatically. If automatic is selected, the pilot must be able to override the advance mode to allow respraying of single or multiple swaths;

xxxi. the DGPS must be equipped with a software for flight data logging that has a system memory capable of storing a minimum of three hours of continuous flight log data with the logging rate set at one second intervals. The DGPS shall automatically select and log spray on/off at one-second intervals while ferry and turnaround time can be two-second intervals. The full logging record will include position, time, date, altitude, speed in M.P.H., cross-track error, spray on/off, aircraft number, pilot, job name or number, and differential correction status. The flight data log software shall be compatible with DOS compatible PC computers, dot matrix, laser, or ink jet printers and plotters. The system must compensate for the lag in logging spray on/off. The system will display spray on/off at the field boundary without a sawtooth effect. Must be capable to end log files, rename, and start a new log in flight;

xxxii. the software must generate the map of the entire flight within a reasonable time. Systems that require five minutes or more to generate the map for a three-hour flight on a PC (minimum a 386 microprocessor with 4 MB of memory) will not be accepted. The flight path must clearly differentiate between spray on and off when viewed on the monitor or the printed hard copy. The software must be capable of replaying the entire flight in slow motion; stopping and restarting the replay at any point during the flight; zooming to any portion of the flight for viewing in greater detail and printing the entire flight or the zoomed-in portion. It must have a measure feature that will measure distance in feet between swaths or any portion of the screen and to be able to determine the exact latitude/longitude at any point on the monitor;

xxxiii. flight information software provided by the applicator must have the capability to interface with MapInfo (version 3.0 or 4.0). The interface process must be "user friendly", as personnel will be responsible to operate the system in order to access the information;

xxxiv. application of ULV malathion and AsanaXL® (tank mixed) shall be applied at an approved label rate;

xxxv. applications of ULV malathion and AsanaXL® (tank mixed) shall not be made prior to noon on August 13, 2004 and shall not be made after sunset on September 15, 2004;

xxxvi. applications of ULV malathion and AsanaXL® (tank mixed) shall be restricted to seven day intervals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 21:927 (September 1995), amended LR 26:1964 (September 2000), LR 30:

Bob Odom
Commissioner

0409#001

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Weights and Measures Commission

Petroleum Products Standards (LAC 7:XXXV.Chapter 3)

The Commissioner of Agriculture and Forestry adopts the following Emergency Rule relating to specifications for petroleum products, including motor vehicle fuels. This Rule is adopted in accordance with R.S. 3:4608, R.S. 3:4671, R.S. 3:4673, R.S. 3:4678, R.S. 3:4679, R.S. 3:4681, R.S. 3:4682, and R.S. 3:4683 and the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act. This Rule supersedes the Emergency Rule relating to petroleum products which was adopted on June 22, 2004. The only changes from the previous Emergency Rule are found in §303.A.5.

The use or adaptation of IP 227/99, "Determination of Corrosiveness to Silver of Aviation Turbine Fuels Silver Strip Method," to test gasoline for silver corrosion has raised safety concerns. The difference in volatility between aviation turbine fuel and automotive gasoline and the type of apparatus used in the testing increases the risk of fire or explosion. This creates a potential imminent danger of damage to property and injury to employees of the industry and the department conducting these tests. A superseding emergency rule is required to offer the industry and the department the option of immediately using a safer alternative method of testing gasoline and gasoline-oxygenate blends for silver corrosion.

Motor vehicle fuels are essential to the community, to industry including agriculture and forestry, and to the welfare of the citizens of Louisiana. The production, distribution and sale of petroleum products meeting established standards, including motor vehicle fuels, are necessary to protect the consumer and motoring public. Previously imposed environmental restrictions would have required that only reformulated gasoline may be sold in East Baton Rouge, West Baton Rouge, Ascension, Livingston and

Iberville parishes. While those restrictions are currently stayed, they may be re-imposed at any time. The potential imposition on short notice of the reformulated gasoline requirement mandates that the state adopt emergency regulations to update the petroleum product specifications for the state.

Additionally, gasoline was produced and sold recently within the state that contained excess levels of elemental sulfur. The excess levels of elemental sulfur corrode silver in motor vehicle fuel tank sensors resulting in erroneous readings and expensive vehicle repairs. Protection of motorists requires the state to adopt a standard for elemental sulfur and silver corrosion. The Commissioner of Agriculture and Forestry recognizes that the industry is considering a new test method for silver corrosion.¹ The new test method, which is proposed as a change to the ASTM D4814-04a "Standard Specification for Automotive Spark-Ignition Engine Fuel," is incorporated in this Emergency Rule to provide industry more flexibility in testing and to alleviate the hazards associated with the previous test method. The department intends to ultimately adopt the revised ASTM standard.

The Commissioner of Agriculture and Forestry finds that the circumstances described above constitute an imminent peril to the public welfare and that the adoption of a Rule upon shorter notice than that provided in R.S. 49:953(A) is therefore required.

These emergency regulations become effective upon signature, September 9, 2004, and will remain in effect for a period of 120 days, unless renewed, or until these regulations are promulgated as permanent regulations in accordance with the Administrative Procedure Act, whichever occurs first.

¹This test method is based on a copyrighted draft ASTM document which is presently in the ASTM balloting process and has not received final approval by ASTM. ASTM has granted limited permission for the use of this copyrighted material by the State of Louisiana in regard to this Emergency Regulation. Upon final approval by ASTM, the Department of Agriculture and Forestry will adopt the revised ASTM Standard 4814 and remove the copyrighted language in a timely manner.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 3. Petroleum Products

Subchapter A. Standards

§301. Definitions

A. As used in this Subchapter, the terms defined in this Section have the meanings herein given to them, except where the context expressly indicates otherwise.

ASTM or ASTM International The national voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials, products, systems, and services, and the promotion of related knowledge.

Antiknock Index or AKI The arithmetic average of the Research Octane Number (RON) and Motor Octane Number (MON): $AKI = (RON+MON)/2$. In addition to anti-knock index, this value is called by a variety of names including: octane rating, posted octane, and $(R+M)/2$ octane.

Automotive Fuel Rating The automotive fuel rating required under federal law.¹ The automotive fuel rating for gasoline is the antiknock index. The automotive fuel rating

for alternative liquid fuels consists of the common name of the fuel and the disclosure of the amount, expressed as a minimum percentage, by volume of the principal component of the fuel.

Automotive Gasoline or Automotive Gasoline-Oxygenate Blend A type of fuel suitable for use in automotive spark-ignition internal combustion engines and also commonly used in marine and non-automotive applications.

Aviation Gasoline A type of gasoline suitable for use as a fuel in an aviation spark-ignition internal combustion engine.

Aviation Turbine Fuel A refined middle distillate suitable for use as a fuel in an aviation gas turbine internal combustion engine.

Base Gasoline All components other than ethanol in a blend of gasoline and ethanol.

Biodiesel A blend consisting of diesel fuel and a substantial amount of esterified animal fats and/or vegetable oil(s).

Cetane Index An approximation of the cetane number of distillate diesel fuel, which does not contain a cetane improver additive, calculated from the density and distillation measurements.

Cetane Number A numerical measure of the ignition performance of a diesel fuel obtained by comparing it to reference fuels in a standardized engine test.

Diesel Fuel A refined middle distillate suitable for use as a fuel in a compression-ignition (diesel) internal combustion engine.

Distillate Any product obtained by condensing the vapors given off by boiling petroleum or its products.

EPA The United States Environmental Protection Agency.

E85 Fuel Ethanol A blend of ethanol and hydrocarbons of which the ethanol portion is nominally 75 to 85 volume percent denatured fuel ethanol.

Engine Fuel Any liquid or gaseous matter used for the generation of power in an internal combustion engine.

Engine Fuels Designed for Special Use Engine fuels designated by the commissioner as requiring registration. These fuels normally do not have ASTM or other national consensus standards applying to their quality or usability; common special fuels are racing fuels and those intended for agricultural and other off-road applications.

Ethanol or Denatured Fuel Ethanol Nominally anhydrous ethyl alcohol meeting ASTM D 4806 standards. It is intended to be blended with gasoline for use as a fuel in a spark-ignition internal combustion engine.

Fuel Oil Refined oil middle distillates, heavy distillates, residues of refining, or blends of these suitable for use as a fuel for heating or power generation, the classification of which shall be defined by ASTM D 396-02a.

Gasoline A volatile mixture of liquid hydrocarbons, generally containing small amounts of additives, suitable for use as a fuel in a spark-ignition internal combustion engine.

Gasoline-Alcohol Blend A fuel consisting primarily of gasoline and a substantial amount (more than 0.35 mass percent of oxygen, or more than 0.15 mass percent of oxygen if methanol is the only oxygenate) of one or more alcohols.

Gasoline-Oxygenate Blend A fuel consisting primarily of gasoline along with a substantial amount (more than 0.35 mass percent of oxygen, or more than 0.15 mass percent of oxygen if methanol is the only oxygenate) of one or more oxygenates.

Kerosene or Kerosine A refined middle distillate suitable for use as a fuel for heating or illuminating, the classification of which shall be defined by ASTM D 3699-03.

Lead Substitute An EPA-registered gasoline additive suitable, when added in small amounts to fuel, to reduce or prevent exhaust valve recession (or seat wear) in automotive spark-ignition internal combustion engines designed to operate on leaded fuel.

Lead Substitute Engine Fuel For labeling purposes, a gasoline or gasoline-oxygenate blend that contains a "lead substitute."

Leaded For labeling purposes, any gasoline or gasoline-oxygenate blend that contains more than 0.013 g of lead per liter (0.05 g lead per U.S. gal).²

Low Sulfur Low sulfur diesel fuel that meets ASTM D 975-03 standards, e.g., Grade Low Sulfur No. 1-D or Grade Low Sulfur No. 2-D.

Low Temperature Operability A condition that allows the uninterrupted operation of a diesel engine through the continuous flow of fuel throughout its fuel delivery system at low temperatures. Fuels with adequate low temperature operability characteristics have the ability to avoid wax precipitation and clogging in fuel filters.

Lubricity A qualitative term describing the ability of a fluid to affect friction between surfaces and wear to surfaces in relative motion under load.

M100 Fuel Methanol Nominally anhydrous methyl alcohol, generally containing small amounts of additives, suitable for use as a fuel in a compression-ignition internal combustion engine.

M85 Fuel Methanol A blend of methanol and hydrocarbons of which the methanol portion is nominally 70 to 85 volume percent.

Motor Octane Number or MON A numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D 2700 Motor Method engine test.

Oxygen Content of Gasoline The percentage of oxygen by mass contained in a gasoline.

Oxygenate An oxygen-containing, ashless, organic compound, such as an alcohol or ether, which can be used as a fuel or fuel supplement.

Reformulated Gasoline A volatile mixture of liquid hydrocarbons and oxygenates meeting the reformulated gasoline requirements of the Clean Air Act Amendments of 1990 and suitable for use as a fuel in a spark-ignition internal combustion engine.

Research Octane Number or RON A numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D 2699 Research Method engine test.

SAE The Society of Automotive Engineers, a technical organization for engineers, scientists, technicians, and others in positions that cooperate closely in the engineering, design, manufacture, use, and maintainability of self-propelled vehicles.

Substantially Similar—The EPA's "Substantially Similar" rule, Section 211 (f) of the Clean Air Act [42 U.S.C. 7545 (f)].

Thermal Stability—The ability of a fuel to resist the thermal stress that is experienced by the fuel when exposed to high temperatures in a fuel delivery system.

Total Alcohol—the aggregate total in volume percent of all alcohol contained in any fuel defined in this Subchapter.

Total Oxygenate—the aggregate total in volume percent of all oxygenates contained in any fuel defined in this Subchapter.

Unleaded, when used in conjunction with *engine fuel* or *gasoline*—any gasoline or gasoline-oxygenate blend to which no lead or phosphorus compounds have been intentionally added and which contains not more than 0.013 gram of lead per liter (0.05 g lead per U.S. gal) and not more than 0.0013 gram of phosphorus per liter (0.005 g phosphorus per U.S. gal).

Wholesale Purchaser Consumer—any person who is an ultimate consumer of gasoline, fuel methanol, fuel ethanol, diesel fuel, biodiesel, fuel oil, kerosene, aviation turbine fuel, or aviation gasoline and who purchases or obtains the product from a supplier and receives delivery of that product into a storage tank.

¹16 CFR Part 306, adopted pursuant to 15 U.S.C. 2801, et seq.

²NOTE: EPA defines leaded fuel as one which contains more than 0.0013 g of phosphorus per liter (0.005 g per U.S. gal), or any fuel to which lead or phosphorus is intentionally added.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§303. Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends

A. Gasoline and gasoline-oxygenate blends sold, offered for sale, or distributed in Louisiana shall meet the following requirements.

1. ASTM D 4814-03a, as approved November 1, 2003 and published December 2003 by ASTM International, "Standard Specification for Automotive Spark-Ignition Engine Fuel," except that volatility standards for unleaded gasoline blended with ethanol shall not be more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. Environmental Protection Agency.¹ Gasoline blended with ethanol shall be blended under any of the following three options:

a. the base gasoline used in such blends shall meet the requirements of ASTM D 4814-03a; or

b. the blend shall meet the requirements of ASTM D 4814-03a; or

c. the base gasoline used in such blends shall meet all the requirements of ASTM D 4814-03a except distillation, and the blend shall meet the distillation requirements of the ASTM specification.

2. Blends of gasoline and ethanol shall not exceed the ASTM D 4814-03a vapor pressure standard by more than 1.0 pounds per inch.

3. The Antiknock Index (AKI) shall not be less than the AKI posted on the product dispenser or as certified on the invoice, bill of lading, shipping paper, or other documentation.

4. The minimum motor octane number shall not be less than 82 for gasoline with an AKI of 87 or greater.

5. Silver corrosion. Silver strip classification of 0 or 1 according to the Table of Silver Strip Classifications [found at §303A.5.a.xi(b)] as determined by either the Energy Institute test method IP 227/99 "Determination of Corrosiveness to Silver of Aviation Turbine Fuels—Silver Strip Method," or as determined by the following test.

a. Test Method for Corrosiveness of Silver from Petroleum Products by Silver Strip Test²

i. Scope

(a). This test method covers the determination of the corrosiveness to silver of automotive gasoline having a vapor pressure no greater than 124 kPa (18 psi) at 37.8°C.

(b). The values stated in SI units are to be regarded as the standard. The values in parentheses are for information only.

(c). These regulations do not purport to address all of the safety concerns, if any, associated with the use of this test. It is the responsibility of the user of this standard test to establish appropriate safety and health practices and determine the applicability of regulatory requirements prior to use. Refer to subsection §303A.5.a.b. for specific warning statements

ii. Referenced Documents

(a). The following ASTM Standards are referenced in Paragraph §303.A.5:³

(i). D 3241 "Standard Test Method for Thermal Oxidation Stability of Aviation Turbine Fuels (JFTOT Procedure);"

(ii). D 4057 "Practice for Manual Sampling of Petroleum and Petroleum Products;"

(iii). D 4177 "Practice for Automatic Sampling of Petroleum and Petroleum Products;"

(iv). E 1 "Specification for ASTM Liquid-in-Glass Thermometers;"

(v). Color Standard for Tube Deposit Rating.

iii. Summary of Test Method: A polished silver strip is immersed in a specific volume of the sample being tested and heated under conditions of temperature and time. At the end of the heating period, the silver strip is removed, washed and the color and tarnish level assessed.

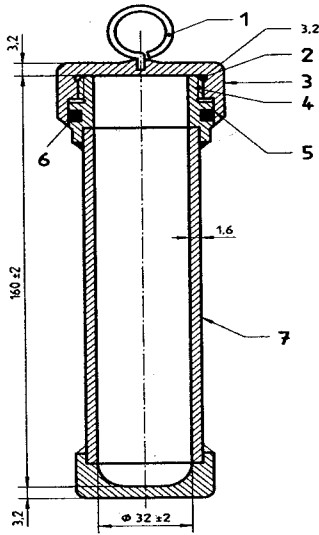
iv. Significance and Use: Crude petroleum contains sulfur compounds, most of which are removed during refining. However, of the sulfur compounds remaining in the petroleum product, some can have a corroding action on various metals and this corrosivity is not necessarily related directly to the total sulfur content. The effect can vary according to the chemical types of sulfur compounds present. The silver strip corrosion test is designed to assess the relative degree of corrosivity of a petroleum product.

v. Apparatus

(a).(i). Silver Strip Corrosion Pressure Vessel constructed from stainless steel according to the dimensions as given in §303.A.5.a.v.(a)(ii). The vessel shall be capable of withstanding a test pressure of 700 kPa gage (100 psi). Alternative designs for the vessel's cap and synthetic rubber gasket may be used provided that the internal dimensions of the vessel are the same as those shown in §303.A.5.a.v.(a)(ii). The internal dimensions of the pressure

vessel are such that a nominal 25-mm by 150-mm test tube can be placed inside the pressure vessel.

(ii). FIG. 1 Pressure Vessel for Silver Strip Corrosion Test



Key:

1. Lifting eye
2. Wide groove for pressure relief
3. Knurled cap
4. Twelve threads per inch NF thread or equivalent
5. Camber inside cap to protect "O" ring when closing pressure vessel
6. Synthetic rubber "O" ring without free sulfur
7. Seamless tube

Material: stainless steel
 Welded construction
 Maximum test gage pressure: 700 kPa
 Dimensions in millimeters.

All dimensions without tolerance limits are nominal values.

(b). Test Tubes, of borosilicate glass of nominal 25-mm by 150-mm dimensions. The internal dimensions shall be checked as acceptable by use of a silver strip (see 6.c.). When 30 mL of liquid is added to the test tube with the silver strip in it, a minimum of 5-mm of liquid shall be above the top surface of the strip.

(c). Test Bath:

(i). General. The test baths shall be able to maintain the test temperature to within $\pm 1^\circ\text{C}$ (2°F) of the required test temperature.

(ii). Liquid Bath Used for Submerging Pressure Vessel(s). The bath shall be deep enough to submerge one or more pressure vessels completely during the test. As the bath medium, use water or any liquid that can be satisfactorily controlled to the sample test temperature. The bath shall be fitted with suitable supports to hold each pressure vessel in a vertical position when submerged.

(d). Temperature Sensing Device (TSD), capable of monitoring the desired test temperature in the bath to within an accuracy of $\pm 1^\circ\text{C}$ or better. The ASTM 12C (12F) (see document E 1 referenced at §303.A.5.a.ii(a)) or IP 64C (64F) total immersion thermometers have been found suitable to use in the test. If either type of thermometer is used, no more than 10-mm (0.4-in.) of the mercury should extend above the surface of the bath at the test temperature.

(e). Polishing Vise, for holding the silver strip firmly without marring the edges while polishing. Any

convenient type of holder may be used provided that the strip is held tightly and that the surface of the strip being polished is supported above the surface of the holder.

(f). Viewing Test Tubes, flat glass test tubes, are convenient for protecting corroded silver strips for close inspection or storage. The viewing test tube shall be of such dimensions as to allow the introduction of a silver strip (see §303.A.5.a.vi.(c)) and made of glass free of striae or similar defects.

(g). Forceps, with either stainless steel or polytetrafluoroethylene (PTFE) tips, for use in handling the silver strips, have been found suitable to use.

(h). Timing Device, electronic or manual, capable of accurately measuring the test duration within the allowable tolerance.

vi. Reagents and Materials

(a). Wash Solvent, 2,2,4-trimethylpentane (isooctane) of minimum 99.75 percent purity. (Warning: extremely flammable, see §303.A.5.b.i.)

(b). Surface Preparation/Polishing Materials, Silicon carbide grit paper or cloth of varying degrees of fineness including 53 to 65- μm (240-grit) grade; also a supply of 105- μm (150-mesh) size silicon carbide grain or powder and absorbent cotton (cotton wool). A commercial grade is suitable, but pharmaceutical grade is most commonly available and is acceptable.

(c). Silver Strips Specification. Use strips 12.5 to 12.7-mm wide, 2.5 to 3.0-mm thick, and 17.0 to 19.0-mm long assaying at 99.9 percent (m/m) Ag minimum. The strips may be used repeatedly but should be discarded when the strip's surface shows pitting or deep scratches that cannot be removed by the specified polishing procedure, or when the surface becomes deformed.

(d). Ashless Filter Paper or Disposable Gloves, for use in protecting the silver strip from coming in contact with the individual during final polishing.

vii. Samples

(a). In accordance with ASTM D 4057 or D 4177, or both, it is particularly important that all types of fuel samples, that pass a low-tarnish strip classification, be collected in clean, dark glass bottles, plastic bottles, or other suitable containers that will not affect the corrosive properties of the fuel. Avoid the use of tin plate containers for collection of samples, since experience has shown that they may contribute to the corrosiveness of the sample.

(b). Fill the containers as completely as possible and close them immediately after taking the sample. Adequate headspace in the container is necessary to provide room for possible thermal expansion during transport. It is recommended that volatile samples be filled between 70 and 80 percent of the container's capacity. Take care during sampling to protect the samples from exposure to direct sunlight or even diffused daylight. Carry out the test as soon as possible after receipt in the laboratory and immediately after opening the container.

(c). If suspended water (that is, haze) is observed in the sample, dry by filtering a sufficient volume of sample through medium rapid qualitative filter paper, into the prescribed clean, dry test tube. Carry out this operation in a darkened room or under a light-protected shield. Contact of the silver strip with water before, during or after completion

of the test run will cause staining, making it difficult to evaluate the strips.

viii. Preparation of Test Strips

(a). Surface Preparation. Remove all surface blemishes from all six sides of the strip obtained from a previous analysis. Use silicon carbide paper or cloth of such degrees of fineness as are needed to accomplish the desired results efficiently. Finish with 53 to 65- μ m (240-grit) silicon carbide paper or cloth, removing all marks that may have been made by other grades of paper used previously. Immerse the strip in 2,2,4-trimethylpentane from which it can be withdrawn immediately for final preparation (polishing) or in which it can be stored for future use. Only final preparation (see §303.A.5.a.viii.(b)) is necessary for commercially purchased pre-polished strips. As a practical manual procedure for surface preparation, place a sheet of silicon carbide paper or cloth on a flat surface and moisten it with 2,2,4-trimethylpentane. Rub the strip against the silicon carbide paper or cloth with a circular motion, protecting the strip from contact with the fingers by using ashless filter paper or wearing disposable gloves. Alternatively, the surface of the strip can be prepared by use of motor-driven machines using appropriate grades of dry paper or cloth.

(b). Final Preparation. For strips prepared in accordance with §303.A.5.a.viii.(a) or new strips being used for the first time, remove a strip from the 2,2,4-trimethylpentane. To prevent possible surface contamination during final preparation, do not allow fingers to come in direct contact with the silver strips, by wearing disposable gloves or holding the strips in the fingers protected with ashless filter paper. Polish first the ends and then the sides with the 105-mm (150-mesh) silicon carbide grains picked up with a pad of cotton (cotton wool) moistened with 2,2,4-trimethylpentane. Wipe vigorously with fresh pads of cotton (cotton wool) and subsequently handle without touching the surface of the strip with the fingers. Forceps have been found suitable to use. Clamp in a vise and polish the main surfaces with silicon-carbide grains on absorbent cotton. Do not polish in a circular motion. Rub in the direction of the long axis of the strip, carrying the stroke beyond the end of the strip before reversing the direction. Clean all metal dust from the strip by rubbing vigorously with clean pads of absorbent cotton until a fresh pad remains unsoiled. When the strip is clean, immediately immerse it in the prepared sample.

(c). It is important to polish the whole surface of the strip uniformly to obtain a uniformly stained strip. If the edges show wear (surface elliptical), they will likely show more corrosion than the center. The use of a vise will facilitate uniform polishing.

(d). It is important to follow the order of preparation with the correctly sized silicon carbide material as described in §303.A.5.a.viii.(a) and (b). The final preparation is with 105- μ m silicon carbide powder. This is a larger grain size than the 53 to 65- μ m paper used in the surface preparation stage. The reason for this use of larger silicon carbide grains in the final preparation is to produce asperities (controlled roughness) on the surface of the silver, which act as sites for the initiation of corrosion reactions.

ix. Procedure

(a). Pressure Vessel Procedure: Place 30 mL of sample, completely clear and free of any suspended or

entrained water [see §303.A.5.a.vii(c)] into a chemically clean and dry 25-mm by 150-mm test tube. Within 1 min after completing the final preparation (polishing), slide the silver strip into the sample tube. Place the sample tube into the pressure vessel [§303.A.5.a.v.(ii)] and screw the lid on tightly. If more than one sample is to be analyzed at essentially the same time, it is permissible to prepare each pressure vessel in the batch before completely immersing each pressure vessel in the liquid bath at $50 \pm 1^\circ\text{C}$ ($122 \pm 2^\circ\text{F}$), provided the elapsed time between the first and last samples is kept to a minimum. After $3 \text{ h} \pm 5 \text{ min}$ in the bath, withdraw the pressure vessel and immerse for a few minutes in cool water (tap water). Open the pressure vessel, withdraw the test tube and examine the strip as described in §303.A.5.a.ix.(b).

(b). Strip Examination:

(i). Immediately withdraw the strip with forceps and immerse in 2,2,4-trimethylpentane. Withdraw the strip at once, dry it with ashless filter paper (by blotting not wiping) and inspect it for evidence of tarnishing or corrosion.

(ii). In handling the test strip during the inspection and comparison, the danger of marking or staining can be avoided if it is inserted in a flat glass tube, which can be stoppered with absorbent cotton.

x. Interpretation of Results

(a). Interpret the corrosiveness of the sample by comparing the appearance of the test strip with a freshly polished one to give a classification based on that given in Table Silver Strip Classifications found at §303.A.5.a.xi.(b). All surfaces, including the edges, shall be taken into account.

(b). The Color Standard for Tube Deposit Rating (referenced in ASTM D3241) shall be used to differentiate between the brown colorations mentioned in classifications 1 and 2. Any brown coloration less than No. 4 on the Color Standard shall be rated classification 1. Any coloration equal to or darker than No. 4 on the Color Standard shall be rated as classification 2 or higher.

xi. Report

(a). Report the corrosiveness in accordance with one of the classifications listed in Table Silver Strip Classifications found at §303.A.5.a.xi.(b). State the duration of the test and the test temperature in the following format:

Corrosion silver strip (Xh / Y°C), Classification Z
 where:
 X = test duration, in hours,
 Y = test temperature, °C,
 Z = classification category (0, 1, 2, 3, or 4).

(b). Table Silver Strip Classifications

Classification	Designation	Description
0	No Tarnish	Identical to a freshly polished strip, but may have some very light loss of luster
1	Slight Tarnish	Faint brown or white discoloration of strip (§303.A.5.a.x.(b))
2	Moderate Tarnish	Peacock colors such as blue or mauve or medium/dark straw or brown coloration (§303.A.5.a.x.(b))

Classification	Designation	Description
3	Slight Blackening	Spots and patches of black or gray on surface or uniform thin film of black deposit
4	Blackening	Uniform heavy blackening with or without scaling

xii. Precision and Bias

(a). The precision and bias of this test method has not been determined.

b. Warning Statements

i. Isooctane **C**harmful if inhaled. Vapors may cause flash fire. Keep away from heat, sparks, and open flame. Keep container closed. Use with adequate ventilation. Avoid build-up of vapors and eliminate all sources of ignition, especially non-explosion-proof electrical apparatus and heaters. Avoid prolonged breathing of vapor or spray mist. Avoid prolonged or repeated skin contact.

ii. Gasoline (Containing Lead) **C**harmful if inhaled. Keep away from heat, sparks, and open flame. Keep container closed. Use with adequate ventilation. Avoid build-up of vapors and eliminate all sources of ignition, especially non-explosion-proof electrical apparatus and heaters. Avoid prolonged breathing of vapor or spray mist. Avoid prolonged or repeated skin contact.

iii. Gasoline (White or Unleaded) **C**harmful if inhaled. Keep away from heat, sparks, and open flame. Keep container closed. Use with adequate ventilation. Avoid build-up of vapors and eliminate all sources of ignition, especially non-explosion-proof electrical apparatus and heaters. Avoid prolonged breathing of vapor or spray mist. Avoid prolonged or repeated skin contact.

6. Gasoline and gasoline-oxygenate blends sold as "leaded" shall contain a minimum of 0.013 gram of lead per liter (0.05 g per U.S. gal).

7. Gasoline and gasoline-oxygenate blends sold as "lead substitute" gasoline shall contain a lead substitute which provides protection against exhaust valve seat recession equivalent to at least 0.026 gram of lead per liter (0.10 g per U.S. gal).

a. Upon the request of the commissioner, the lead substitute additive manufacturer shall provide documentation to the commissioner that demonstrates that the treatment level recommended by the additive manufacturer provides protection against exhaust valve seat recession equivalent to or better than 0.026 gram per liter (0.1 g per U.S. gal) lead. The commissioner may review the documentation and approve the lead substitute additive before such additive is blended into gasoline. This documentation shall consist of:

i. test results as published in the Federal Register by the EPA Administrator as required in Section 211(f)(2) of the Clean Air Act; or

ii. until such time as the EPA Administrator develops and publishes a test procedure to determine the additive's effectiveness in reducing valve seat wear, test results and description of the test procedures used in comparing the effectiveness of 0.026 gram per liter lead and the recommended treatment level of the lead substitute additive shall be provided.

8. Blending. Leaded, lead substitute, and unleaded gasoline-oxygenate blends shall be blended according to the

EPA "substantially similar" rule or an EPA waiver for unleaded fuel.

9. Gasoline or gasoline-oxygenate blends sold or delivered to consumers in Louisiana shall meet all the foregoing specifications and, in addition, shall have on all retail pumps a posted Antiknock Index. The Antiknock Index of the gasoline or gasoline-oxygenate blend shall not be less than the Antiknock Index posted on the pump.

¹For referenced ASTM standards, visit the ASTM website, www.astm.org, or contact ASTM Customer Service at service@astm.org. For Annual Book of ASTM Standards volume information, refer to the standard's Document Summary page on the ASTM website. Copies of referenced ASTM standards may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959, Tel: (610) 832-9500, Fax: (610) 832-9555 or may be inspected at the Division of Weights and Measures, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806.

²This test method is based on Draft Revision to D4814-04A, Specification for Automotive Spark-Ignition Engine Fuel to include a "New Test Method for Corrosiveness of Silver from Petroleum Products by Silver Strip Test," Copyright ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pa. 19248. Used with permission. The text of the test method has been reformatted to comply with Louisiana Register guidelines.

³The listed standards are available from ASTM Headquarters. Order Adjunct No. ADJD3241. For referenced ASTM standards, visit the ASTM website, www.astm.org, or contact ASTM Customer Service at service@astm.org For the Annual Book of ASTM Standards volume information, refer to the standard's Document Summary page on the ASTM website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§305. Standard Fuel Specifications for Diesel Fuel

A. Diesel fuel sold, offered for sale, or distributed in Louisiana shall meet the following requirements:

1. ASTM D 975-03, "Standard Specification for Diesel Fuel Oils," approved May 10, 2003 and published July 2003 by ASTM International;¹

2. all diesel fuels identified on retail dispensers, bills of lading, invoices, shipping papers, or other documentation with terms such as premium, super, supreme, plus, or premier must conform to the following requirements:

a. Cetane Number. A minimum cetane number of 47.0 as determined by ASTM Standard Test Method D 613;

b. Low Temperature Operability. A cold flow performance measurement which meets the ASTM D 975-03 tenth percentile minimum ambient air temperature charts and maps by either ASTM Standard Test Method D 2500 (Cloud Point) or ASTM Standard Test Method D 4539 (Low Temperature Flow Test or LTFT). Low temperature operability is only applicable October 1-March 31 of each year;

c. Thermal Stability. A minimum reflectance measurement of 80 percent as determined by ASTM Standard Test Method D 6468 (180 minutes, 150 °C);

d. Lubricity. A maximum wear scar diameter of 520 microns as determined by ASTM D 6079. If a single test of more than 560 microns is determined, a second test shall be conducted. If the average of the two tests is more than 560 microns, the sample does not conform to the requirements of this Part.

¹For referenced ASTM standards, visit the ASTM website, www.astm.org, or contact ASTM Customer Service at service@astm.org. For Annual Book of ASTM Standards volume information, refer to the standard's Document Summary page on the ASTM website. Copies of referenced ASTM standards may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959, Tel: (610) 832-9500, Fax: (610) 832-9555 or may be inspected at the Division of Weights and Measures, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§307. Standard Fuel Specifications for Aviation Turbine Fuels

A. Aviation Turbine Fuels sold, offered for sale, or distributed in Louisiana shall meet the specifications of ASTM D 1655-03, "Standard Specification for Aviation Turbine Fuels," approved August 10, 2003 and published September 2003 by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§309. Standard Fuel Specifications for Aviation Gasoline

A. Aviation Gasoline sold, offered for sale, or distributed in Louisiana shall meet the specifications of ASTM D 910-03, "Standard Specification for Aviation Gasoline," approved July 10, 2003 and published August 2003 by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§311. Standard Fuel Specifications for Fuel Oils

A. Fuel Oils sold, offered for sale or distributed in Louisiana shall meet the specifications of ASTM D 396-02a, "Standard Specification for Fuel Oils," approved November 10, 2002 and published November 2002 by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§313. Standard Fuel Specifications for Kerosene

A. Kerosene (Kerosine) sold, offered for sale, or distributed in Louisiana shall meet the specifications of ASTM D 3699-03, "Standard Specification for Kerosine," approved June 10, 2003 and published August 2003 by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§315. Standard Specifications for Ethanol

A. Ethanol intended for blending with gasoline sold, offered for sale, or distributed in Louisiana shall meet the specifications of ASTM D 4806-03, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for

Use as Automotive Spark-Ignition Engine Fuel," approved June 10, 2003 and published August 2003 by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§317. Standard Fuel Specifications for Fuel Ethanol

A. E85 Fuel Ethanol sold, offered for sale, or distributed in Louisiana shall meet the specifications of ASTM D 5798-99, "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines" approved December 10, 1999 and published February 2000 by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§319. Standard Fuel Specifications for Fuel Methanol

A. M85 Fuel Methanol sold, offered for sale or distributed in Louisiana shall meet the specifications of ASTM D 5797-96, "Standard Specification for Fuel Methanol M70-M85 for Automotive Spark Ignition Engines," approved April 10, 1996 and published June 1996 by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§321. Classification and Method of Sale of Petroleum Products

A. When gasoline, gasoline-oxygenate blends, reformulated gasoline, M85 and M100 fuel methanol, E85 and E100 fuel ethanol, biodiesel, diesel fuel, kerosene, aviation gasoline, aviation turbine fuels, or fuel oils are sold, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery other than a retail sale. This documentation must identify the quantity, the name of the product, the particular grade of the product, the applicable automotive fuel rating, oxygenate type and content (if applicable), the name and address of the seller and buyer, and the date and time of the sale. This documentation must be retained at the retail establishment for a period not less than one year. The sale of any product under any grade name that indicates to the purchaser that it is of a certain Antiknock Index or ASTM grade shall not be permitted unless the Antiknock Index or ASTM grade indicated in the grade name is consistent with the value and meets the requirements of this Subchapter.

B. All retail dispensing devices must identify conspicuously the type of product, the particular grade of the product, and the applicable Antiknock Index (AKI). The device shall automatically show on its face the initial zero condition and the quantity delivered (up to the nominal capacity). However, the first 0.03 L (or 0.009 gal.) of a delivery and its associated total sales price need not be indicated. In the event of a power loss, the information needed to complete any transaction in progress at the time of the power loss (such as the quantity and unit price, or sales price) shall be determinable for at least 15 minutes at the dispenser or at the console if the console is accessible to the

customer. The device memory shall retain information on the quantity of fuel dispensed and the sales price totals during power loss. The primary indicating elements, and primary recording elements if the device is equipped to record, shall be readily returnable to a definite zero indication. However, a key-lock operated or other self-operated device may be equipped with cumulative indicating or recording elements, provided that it is also equipped with a zero-return indicating element. It shall not be possible to return primary indicating elements or primary recording elements beyond the correct zero position.

C. A computing or money-operated device shall be able to display on each face the unit price at which the device is set to compute or to dispense. Whenever a grade, brand, blend, or mixture is offered for sale from a device at more than one unit price, then all of the unit prices at which that product is offered for sale shall be displayed or shall be capable of being displayed on the dispenser using controls available to the customer prior to the delivery of the product. It is not necessary that all of the unit prices for all grades, brands, blends, or mixtures be simultaneously displayed prior to the delivery of the product. This Subsection shall not apply to fleet sales, other contract sales, or truck refueling sales (e.g., sales from dispensers used to refuel trucks).

D. A device shall be able to display conspicuously on each side the identity of the product being dispensed. A device designed to dispense more than one grade, brand, blend, or mixture of product also shall be able to display on each side the identity of the grade, brand, blend, or mixture being dispensed.

E. A computing device shall compute the total sales price at any single-purchase unit price (i.e., excluding fleet sales, other price contract sales, and truck stop dispensers used only to refuel trucks) for which the product being measured is offered for sale at any delivery possible within either the measurement range of the device or the range of the computing elements, whichever is less. The analog sales price indicated for any delivered quantity shall not differ from a mathematically computed price (quantity x unit price = total sales price) by an amount greater than the value in Paragraph E.1. The values of the graduated intervals representing money values on a computing type device shall be no greater than those in Paragraph E.1. Money-Value Divisions and Maximum Allowable Variations for Money-Value Computations on Mechanical Analog Computers. A computing type device with digital indications shall comply with the requirements of Paragraph E.1 and the total price computation shall be based on quantities not exceeding 0.05 L for devices indicating in metric units and 0.01 gal. intervals for devices indicating in inch-pound units. If a system is equipped with auxiliary indications, all indicated money value divisions of the auxiliary element shall be identical with those of the primary element.

1. Money-Value Divisions and Maximum Allowable Variations for Money-Value Computations on Mechanical Analog Computers

Unit Price		Money Value	Maximum Allowable Variation	
From	To and Including		Design Test	Field Test
0	\$0.25/liter or \$1.00/gallon	1¢	± 1¢	± 1¢
\$0.25/liter or \$1.00/gallon	\$0.75/liter or \$3.00/gallon	1¢ or 2¢	± 1¢	± 2¢
\$0.75/liter or \$3.00/gallon	\$2.50/liter or \$10.00/gallon	1¢ or 2¢	± 1¢	± 2¢
\$0.75/liter or \$3.00/gallon	\$2.50/liter or \$10.00/gallon	5¢	± 2 ½¢	± 5¢

F. When a product or grade is offered for sale at more than one unit price through a computing device, the selection of the unit price shall be made prior to delivery using controls on the device or other customer-activated controls except for dispensers used exclusively for fleet sales, other price contract sales, and truck refueling, e.g., truck stop dispensers used only to refuel trucks. A system shall not permit a change to the unit price during delivery of product. When a delivery is completed, the total price and quantity for that transaction shall be displayed on the face of the dispenser for at least five minutes or until the next transaction is initiated by using controls on the device or other customer-activated controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4672, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§323. Automotive Gasoline and Automotive Gasoline-Oxygenate Blends

A. All dispensing devices for automotive gasoline and automotive gasoline-oxygenate blends shall post the Antiknock Index in accordance with applicable federal regulations (16 CFR Part 306, adopted 44 FR 19169, as amended 58 FR 41372-4, 59 FR 48798, 61 FR 54549, and 61 FR 55840).

B. The term "leaded" shall only be used when the fuel meets specification requirements of §303.A.5.

C. Each dispensing device from which gasoline or gasoline-oxygenate blends containing a lead substitute is dispensed shall display the following legend: "Contains Lead Substitute." The lettering of this legend shall not be less than 12 mm (1/2 in) in height and the color of the lettering shall be in definite contrast to the background color to which it is applied.

D. Each dispensing device from which gasoline or gasoline-oxygenate blends that contain lead in amounts sufficient to be considered "leaded" gasoline or lead substitute engine fuel are sold shall be equipped with a nozzle spout having a terminal end with an outside diameter of not less than 23.63 mm (0.930 in).

E. It is prohibited to use specific terms to describe a grade of gasoline or gasoline-oxygenate blend unless it meets the minimum Antiknock Index requirement shown in Paragraph E.1: Minimum Antiknock Index Requirements.

1. Minimum Antiknock Index Requirements

Term	Minimum Antiknock Index
Premium, Super, Supreme, High	91
Midgrade, Plus	89
Regular Leaded	88
Regular, Unleaded	87

F. The retailer shall be provided at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of the predominant oxygenate or combination of oxygenates present in concentrations sufficient to yield an oxygen content of at least 1.5 mass percent in the fuel. Where mixtures of only ethers are present, the fuel supplier may identify either the predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent oxygen) or, alternatively, use the phrase "contains MTBE or other ethers." In addition, any gasoline containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol. This documentation is only for dispenser labeling purposes; it is the responsibility of any potential blender to determine the total oxygen content of the engine fuel before blending.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§325. Diesel Fuel

A. Diesel Fuel sold, offered for sale, or distributed in Louisiana shall be identified by grades No. 1-D, No. 1-D (low sulfur), No. 2-D, No. 2-D (low sulfur), or No. 4-D. Each retail dispenser of diesel fuel shall be labeled according to the grade being dispensed except the words "low sulfur" are not required.

B. These labels shall be located on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position, in a type at least 12 mm (1/2 in) in height and 1.5 mm (1/16 in) stroke (width of type).

C. Before or at the time of delivery of premium diesel fuel, the retailer or the wholesale purchaser consumer shall be provided on an invoice, bill of lading, shipping paper, or other documentation a declaration of all performance properties that qualifies the fuel as premium diesel fuel as required in §305.A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§327. Aviation Turbine Fuels

A. Aviation turbine fuels sold, offered for sale, or distributed in Louisiana shall be identified by Jet A, Jet A-1, or Jet B.

B. Each dispenser or airport fuel truck dispensing aviation turbine fuels shall be labeled in accordance with the "Standard for Aircraft Fuel Servicing," NFPA Standard 407, 2001 Edition.¹

C. Each aircraft fuel-servicing vehicle shall have a sign on each side and the rear to indicate the product. The sign shall have letters at least 3 inches (75 mm) high of color

sharply contrasting with its background for visibility. It shall show the word "FLAMMABLE" and the name of the product carried, such as "JET A," "JET B," "GASOLINE," or "AVGAS."

¹National Fire Protection Association. A copy of the standard may be obtained from the NFPA web page www.nfpa.org or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Ma. 02169-7471, Telephone (617) 770-3000, Fax (617) 770-0700.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§329. Aviation Gasoline

A. Aviation gasoline sold, offered for sale, or distributed in Louisiana shall be identified by Grade 80, Grade 100, or Grade 100LL.

B. Each dispenser or airport fuel truck dispensing aviation gasoline shall be labeled in accordance with the "Standard for Aircraft Fuel Servicing," NFPA Standard 407, 2001 Edition.¹

C. Each aircraft fuel-servicing vehicle shall have a sign on each side and the rear to indicate the product. The sign shall have letters at least 3 inches (75 mm) high of color sharply contrasting with its background for visibility. It shall show the word "FLAMMABLE" and the name of the product carried, such as "JET A," "JET B," "GASOLINE," or "AVGAS."

¹National Fire Protection Association. A copy of the standard may be obtained from the NFPA web page www.nfpa.org or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Ma. 02169-7471, Telephone (617) 770-3000, Fax (617) 770-0700.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§331. Fuel Oils

A. Fuel Oil sold, offered for sale, or distributed in Louisiana shall be identified by the grades of No. 1, No. 2, No. 4 (Light), No. 4, No. 5 (Light), No. 5 (Heavy), or No. 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§333. Kerosene (Kerosine)

A. Kerosene sold, offered for sale, or distributed in Louisiana shall be identified by the grades No. 1-K or No. 2-K.

B. Each retail dispenser of kerosene shall be labeled as 1-K Kerosene or 2-K Kerosene. In addition, No. 2-K dispensers shall display the following legend: "Warning-Not Suitable For Use In Unvented Heaters Requiring No. 1-K." The lettering of this legend shall not be less than 12 mm (1/2 in) in height by 1.5 mm (1/16 in) stroke; block style letters and the color of lettering shall be in definite contrast to the background color to which it is applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§335. Fuel Ethanol

A. Fuel ethanol sold, offered for sale, or distributed in Louisiana shall be identified by the capital letter E followed by the numerical value volume percentage of ethanol.

B. Each retail dispenser of fuel ethanol shall be labeled with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol", e.g., "E85 Ethanol."

C. Fuel ethanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§337. Fuel Methanol

A. Fuel methanol sold, offered for sale, or distributed in Louisiana shall be identified by the capital letter M followed by the numerical value volume percentage of methanol.

B. Each retail dispenser of fuel methanol shall be labeled by the capital letter M followed by the numerical value volume percent and ending with the word "methanol", e.g., "M85 Methanol."

C. Fuel methanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§339. Retail Storage Tanks

A. No water phase greater than 6 mm (1/4 in), as determined by an appropriate detection paste, is allowed to accumulate in any tank utilized in the storage of gasoline-alcohol blend, aviation gasoline, and aviation turbine fuel.

B. Water shall not exceed 50 mm (2 in) in depth when measured with water indicating paste in any tank utilized in the storage of biodiesel, diesel, gasoline, gasoline-ether blends, and kerosene sold at retail except as required in Subsection A.

C. The fill connection for any petroleum product storage tank or vessel supplying engine-fuel devices shall be permanently, plainly, and visibly marked as to the product contained.

D. When the fill connection device is marked by means of a color code, the color code shall be conspicuously displayed at the place of business.

E. Each retail location shall maintain on file a calibration chart or other means of determining the volume of each regulated product in each storage tank and the total capacity of such storage tank(s). This information shall be supplied immediately to the commissioner or his designee on request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4672, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§341. Sampling

A. The commissioner or his designee may obtain samples of any and all petroleum products provided for in this Subchapter that are sold, offered for sale, distributed, or used in this state. The samples may be taken from any commercial weighing or measuring device used in the sale or distribution of petroleum products, from any tank or other

container used in the transporting of such products, or from any tank or other container containing petroleum products intended for distribution or use in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4678, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§343. Nonconforming Product

A. When the analysis of a sample of a petroleum product performed in conformity with the provisions of this Subchapter discloses that the product from which the sample was taken does not conform to the specifications fixed by this Subchapter, it is the duty of the commissioner to immediately serve notice on the manufacturer, distributor or seller that the product must not be sold in the state. If the petroleum product is in the process of transportation and has not yet been delivered to the consignee or retailer, the commissioner or his designee may immediately notify the consignor of the result of the test and instruct said consignor to withdraw the product from sale in this state. Failure on the part of the consignor to obey these orders shall constitute a violation of this Subchapter.

B. If the petroleum product is not in the process of transportation, but is exposed or offered for sale or distribution, the commissioner or his designee may, by written order, stop the sale or distribution of this product. The retailer or distributor upon whom a stop-sale order is served is prohibited from exposing for sale, selling, or distributing this product until formally released by order of the commissioner. The stop-sale order given by the commissioner must apply only to that product and may not be extended to cover other petroleum products sold or distributed by a retail dealer or distributor which are found to conform to specifications fixed under the provisions of this Subchapter.

C. When the commissioner or his designee issues a written order to stop the offering for sale, sale, or distribution of a particular product which is maintained at a terminal or bulk plant facility, the terminal or bulk storage plant shall immediately notify all customers that received those product(s) and make any arrangements necessary to replace or adjust to specifications those product(s). The terminal or bulk storage plant shall also immediately notify the commissioner of those customers, their business locations, and the quantity of product delivered to each location. A release from a stop-sale order will be issued only after the commissioner or his designee has agreed upon final disposition of the product. Confirmation of disposition of products shall be made available in writing to the commissioner. Specific variations or exemptions may be made for fuels used for blending purposes or designed for special equipment or services and for which it can be demonstrated that the distribution will be restricted to those uses.

D. The commissioner or his designee may placard or seal any pump, dispenser, tank or container which contains a nonconforming product or which would dispense a petroleum product that does not conform to the appropriate specification in this Subchapter. No person shall deface, remove, or obscure any placard or seal posted or placed by the commissioner or his designee or act in any manner so as

to interfere with or obstruct the commissioner or his designee in the discharge of his duties under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4678, 4680, 4681, 4682, and 4683.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§345. Product Registration

A. All engine fuels designed for special use that do not meet ASTM specifications or standards set out in this Subchapter shall be registered with the commissioner, on forms prescribed by the commissioner, 30 days prior to when the registrant wishes to engage in sales. The registration form shall include all of the following information.

- 1. Identity **C**business name, address(es), and telephone number(s).
- 2. Address **C**mailing address if different than business address.
- 3. Business Type **C**type of ownership of the distributor or retail dealer, such as an individual, partnership, association, trust, corporation, or any other legal entity or combination thereof.
- 4. Signature **C**an authorized signature, title, and date for each registration.
- 5. Product Description **C**product brand name and product description.
- 6. Product Specification **C**a product specification sheet shall be attached.

- B. Registration is subject to annual renewal.
- C. Renewal of a registration is required 30 days prior to any changes in the information required by Subsection A.
- D. The commissioner may decline to register any product that actually or by implication would deceive or tend to deceive a purchaser as to the identity or the quality of the engine fuel.

E. Transferability **C**the registration is not transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4678, 4680, 4681, 4682, and 4683.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§347. Test Methods and Reproducibility Limits

A. ASTM Standard Test Methods referenced for use within the applicable Standard Specification shall be used to determine the specification values for enforcement purposes.

B. Reproducibility Limits

- 1. When determining the Antiknock Index acceptance or rejection of a gasoline sample, the AKI reproducibility limits as outlined in ASTM D 4814 Appendix X1 shall be utilized for enforcement purposes.
- 2. The reproducibility limits of the ASTM standard test method used for each test performed shall be utilized for enforcement purposes, except as indicated in Paragraph 1 above.

3. Dispute Resolution. In the event of a dispute over a reported test value, the guidelines presented in the specifications of ASTM D 3244, "Standard Practice for Utilization of Test Data to Determine Conformance with Specifications," shall be used to determine the acceptance or rejection of the sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

Bob Odom
Commissioner

0409#045

DECLARATION OF EMERGENCY

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

Scholarship/Grant Programs **C**Eligibility
(LAC 28:IV.301, 501, 504, 505, 509, 703, 803,1903, 2107, 2301, 2303, 2305, 2307, 2309, 2311, and 2313)

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

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

This declaration of emergency is effective August 12, 2004, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

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

Chapter 3. Definitions

§301. Definitions

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

Award Year **C**the academic year (college) or program year (non-academic Program) during which a TOPS award is paid.

Louisiana Resident **C**

a. - f. ...

g. effective for high school graduates of Academic Year (High School) 2001-2002 and 2002-2003, any dependent student who was continuously enrolled in a Louisiana public high school or nonpublic high school that is approved by BESE during his last two full years of high school whose parent or court ordered custodian:

- i. is a resident of a state that adjoins Louisiana; and
- ii. actually resides in a county that adjoins a Louisiana parish having a population greater than 41,600 and less than 42,400 according to the federal 2000 census; and

- iii. has filed a Louisiana state income tax return and complied with state income tax laws and regulations; or
- iv. is assessed ad valorem taxes on property owned in Louisiana. In order to qualify pursuant to this subsection, the student's high school transcript must reflect that the student earned credit for the last four semesters of high school immediately prior to graduation and graduated from an approved Louisiana high school.

* * *

Eligible Non-Graduate Ca student who has not graduated from high school or completed a home study program approved by BESE, but who meets all the criteria listed in §703.A.5.g.

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993 and 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), repromulgated LR 27:1842 (November 2001), amended LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330 and 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:0000 (September 2004), LR 30:

Chapter 5. Applications, Federal Grant Aid and ACT Test

§501. Application

A. - A.2.c. ...

B. Initial Application for a TOPS Award for High School Graduates and Home Study Completers of 2003-2004 and Thereafter and Eligible Non-Graduates.

1. - 2.f. ...

3. Eligible Non-Graduates must:

a. submit a Free Application for Federal Student Aid, (FAFSA); or

b. if the student can demonstrate that he does not qualify for federal grant aid because of his family's financial condition, submit the initial FAFSA after completing all applicable sections except those sections related to the income and assets of the student and the student's parents; or

c. complete an on-line application.

4. Applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards who submit the On-Line Application in lieu of the FAFSA or who do not complete all sections of the FAFSA will be ineligible for federal grant aid and federally guaranteed student loans.

5. In the event of a budgetary shortfall, applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards who submit the On-Line Application in lieu of the FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

C. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998),

repromulgated LR 24:1900 (October 1998), amended LR 26:1994 (September 2000), repromulgated LR 27:1846 (November 2001), amended LR 29:554 (April 2003), LR 29:2265 (November 2003), LR 30:

§504. Out-of-State and Out-of Country High School Graduates and Eligible Non-Graduates

A. A student who graduates from a high school outside the state of Louisiana or is an eligible non-graduate will not be considered for a TOPS award unless LASFAC receives the student's FAFSA information from the federal processor or On-Line Application and the student's ACT and/or SAT score(s). In order for a student who will graduate from a high school outside the state of Louisiana or an eligible non-graduate to assure that his FAFSA information and his ACT/SAT score(s) are received by LASFAC, he should:

1. enter a Louisiana postsecondary institution in the section of the FAFSA that asks the applicant to name the colleges he plans to attend; and

2. enter a Louisiana postsecondary institution and/or 1595 (code for the La. Tuition Opportunity Program/Students, Baton Rouge, LA) in the "score report choices" section of the ACT and/or 9019 (code for Tuition Opportunity Program for Students) in the "send scores" section of the SAT registration form.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 29:2267 (November 2003), LR 30:

§505. Application Deadlines for High School Graduates and Home Study Completers of 2004 and Later and Eligible Non-Graduates

A.1. To be considered for a TOPS award, students who graduate from high school or complete an approved home study program in 2004 or later and eligible non-graduates must:

1.a. - 3. ...

B. Deadline for Priority Consideration

1. In order for students who enroll for the first time as full-time students at an eligible college or university to ensure timely consideration and the earliest possible eligibility determination for the initial semester of enrollment, the FAFSA or the On-Line Application must be submitted so that it is received no later than May 1 of the year prior to the Academic Year (College) the student first enrolls in an Eligible College or University.

2. In order for Returning Students to ensure timely consideration and the earliest possible eligibility determination for the initial semester of enrollment at an Eligible College or University, the FAFSA or the On-Line Application must be received no later than May 1 prior to the Academic Year (College) the student first enrolls in an Eligible College or University.

B.3. - G ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), LR 30:

§509. ACT Testing Deadline

A.1. The student must take the official ACT Test (including National, International, Military or Special test

types) on or before the official April test date in the Academic Year (High School) in which the student graduates or completes a home study program approved by BESE.

2. An Eligible Non-Graduate must take the official ACT Test (including National, International, Military or Special test types) before the first day of the semester the student first enrolls in an Eligible College or University.

B.1. The student may substitute an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT) taken on or before the official April test date in the Academic Year (High School) in which the student graduates. In order to substitute a SAT score, the student must direct the College Board to send the score to LOSFA so that the score is electronically reported to LOSFA by the College Board within 45 days of the final test date allowed by Section 509. SAT scores received in any other manner shall not be considered.

2. An Eligible Non-Graduate may substitute an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT) taken before the first day of the semester the student first enrolls in an Eligible College or University. In order to substitute a SAT score, the student must direct the College Board to send the score to LOSFA so that the score is electronically reported to LOSFA by the College Board within 45 days of the final test date allowed by Section 509. SAT scores received in any other manner shall not be considered.

C. - C.1.c. ...

d. Tests taken by an Eligible Non-Graduate after the first day of the semester the student first enrolls in an Eligible College or University shall not be accepted.

C.2 - E. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 26:1995 (September 2000), amended LR 26:2000 (September 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), repromulgated LR 27:1847 (November 2001), amended LR 30:0000 (September 2004), LR 30:

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

§703. Establishing Eligibility

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

(b). Beginning with the graduates of Academic Year (High School) 2007-2008, at the time of high school graduation, an applicant must have successfully completed 17.5 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

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

1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for one unit; provided however, that such Agriscience unit shall not be considered a science elective for the purpose of the math or science elective requirement below)
1	An elective from among other math or science subjects listed in this core curriculum
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE) or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum). BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1 credit) Computer/Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (1/2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (1/2 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1 credit) Multimedia Productions (1 credit) Technology Education Computer Applications (1 credit) Telecommunications (1/2 credit) Web Mastering (1/2 credit) Word Processing (1 credit) Independent Study in Technology Applications (1 credit)

A.5.a.- c. ...

d.i.. successfully complete at the twelfth grade level a home study program approved by BESE; or

ii. if ever was enrolled in a Louisiana public or nonpublic school approved by BESE, successfully completed at least the eleventh and twelfth grade levels of a home study program approved by BESE; and

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

e. graduate from a high school defined in §1701.A.5 or successfully complete at the twelfth grade level a home study program approved by BESE and conducted outside the United States and its territories; or

f.i. for students graduating in Academic Years (High School) 2000-2001 and 2001-2002, successfully complete a minimum of ten units in honors courses graded on a 5.00 scale and graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3. and have completed the core curriculum defined in §703.A.5.a.i.; or

ii. for students graduating Academic Year (High School) 2002-2003 through 2005-2006, successfully complete a minimum of ten units in Honors Curriculum Courses used to satisfy the core curriculum requirement and graded on a 4.00 or higher scale and graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3. and have completed the core curriculum defined in §703.A.5.a.i.; or

g. beginning with the 2004-2005 Award Year, Eligible Non-Graduates who meet the following criteria:

i. be a United States citizen or be a permanent resident as defined by the United States Citizenship and Immigration Services and be eligible to apply for United States citizenship;

ii. meet the requirements of §703.A.3, above; and

iii. actually reside in Louisiana for at least two years prior to the student's first enrollment in an Eligible College or University; and

iv. as certified by a psychologist or psychiatrist licensed to practice in Louisiana, the student has a score that is at least in the superior range on the Wechsler Intelligence Scale for Children (Third Edition) or revised version of such instrument; and

v. as certified by a psychologist or psychiatrist licensed to practice in Louisiana, the student has a composite score that is at least at the ninetieth percentile at the twelfth grade level in the reading, mathematics, and written language portions of the Wechsler Individual Achievement Test (Second Edition) or revised version of such test; and

vi. prior to enrolling for the first time in an Eligible College or University, the student's score on the ACT must meet the requirements of §703.A.6.a., as specified for the respective award, or have an equivalent score on the Scholastic Aptitude Test; and

vii. before the student's nineteenth birthday:

(a). enrolls in an Eligible College or University and successfully earns twelve hours of course credits; and

(b). subsequently enrolls as a Full-Time Student in an Eligible College or University to pursue an academic undergraduate degree at the baccalaureate level; and

viii. after meeting all the requirements in §703.A.5.g.i. through vi, the student will qualify for a TOPS award.

6. Have achieved an ACT Score, as defined in §301 of at least:

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

i. the state's reported prior year ACT composite average, rounded, but never less than 20 for the Opportunity Award; or

ii. a 23 for the Performance Award; or

iii. a 27 for the Honors Award; or

A.6.b - H.3. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 and 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999 and 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219 and 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330 and 2332 (November 2002), LR 29:125 (February 2003), LR 30:0000 (September 2004), LR 30:

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.5.d.iii. ...

6. if qualifying under the terms of §803.A.5.a., at the time of high school graduation:

a. have successfully completed one of the following core curriculums:

i. 16.5 units of high school course work constituting the TOPS core curriculum as defined in §703.A.5. and documented on the student's official transcript as approved by the Louisiana Department of Education; or

ii. for students graduating in the 2000-2001 school year and thereafter, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-TECH core curriculum.

(a). Core Curriculum -TOPS-TECH Award

Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute one unit of Business English.
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II.
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Discrete Mathematics, or Probability and Statistics (two units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the three required math units.
1	Biology.
1	Chemistry or Applied Chemistry.
1	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for one unit).
1	American History.
1	World History, Western Civilization, or World Geography.
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic).

(b). Remaining core courses shall be selected from one of the following options.

Option 1	Total of 17 units.
1	Fine Arts Survey or substitute two units of performance courses in music, dance, or theater; or substitute two units of visual art courses; or substitute two units of studio art courses; or a course from the career and technical program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute one unit as an elective from among the other subjects listed in this core curriculum.
2	Foreign Language, Technical Writing, Speech I or Speech II.
1	One unit from the secondary computer education program of studies that is approved by the BESE.
or	
Option 2	Total of 19 Units
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

iii. or, for students graduating through the 2001-2002 school year, the TOPS-TECH core curriculum as follows:

(a). Core Curriculum **C**TOPS-TECH Award

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

6.b. - 10. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 29:554 (April 2003), LR 30:0000 (September 2004), LR 30:

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1903. Responsibilities of Postsecondary Institutions

A. - B.8. ...

9. Unless otherwise directed by the student, before applying a TOPS award to pay a student's tuition, institutions shall first apply the student's "out-of-pocket" payments, including student loans, toward tuition charges. In those cases when a student's tuition as defined in 26 U.S.C. 25A is paid from a source other than the TOPS award, the institution shall apply the TOPS award toward payment of expenses other than tuition which are described in the term "cost of attendance" as that term is defined in 20 U.S.C. 1087II, as amended, for the purpose of qualifying the student or his parent or custodian for the federal income tax credits provided for under 26 U.S.C. 25A.

C. - D2.b. ...

3. for tuition payment program for medical school students:

a. verify enrollment at one of the Louisiana State University Health Sciences Center medical schools or at the Tulane University School of Medicine, and

b. verify the recipient is in good standing, and

c. verify the student has continued to make satisfactory progress towards a medical degree in a primary care field.

4. release award funds by crediting the student's account within 14 days of the institution's receipt of funds or disbursing individual award checks to recipients as instructed by LASFAC. Individual award checks for the Rockefeller State Wildlife Scholarship, TOPS Teacher Award and Tuition Payment Program for Medical School Students must be released to eligible recipients within 30 days of receipt by the school or be returned to LASFAC.

E. - G. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:0000 (September 2004), LR 30:

Chapter 21. Miscellaneous Provisions and Exceptions §2107. Funding and Fees

A. - D. ...

E. Repealed.

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

HISTORICAL NOTE: Promulgated LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:1998 (September 2000). Repromulgated LR 27:1869 (November 2001), amended LR 28:449 (March 2002), LR 28:777 (April 2002), LR 28:2333 (November 2002), LR 30:

Chapter 23. Tuition Payment Program for Medical School Students

§2301. General Provisions

A. Legislative Authority. The Tuition Payment Program for Medical School Students was created by Act 281 of the 1997 Regular Session of the Louisiana Legislature and amended by Act 894 of the 2004 Regular Session of the Louisiana Legislature.

B. Description, History and Purpose. The tuition payment program for medical school students:

1. annually awards not more than ten monetary loans to eligible students attending a medical school of the Louisiana State University Health Sciences Center and not more than five monetary loans to eligible students attending the Tulane University School of Medicine who commit to practice the profession of medicine as a primary care physician, as defined herein, for at least five consecutive years in a rural or medically disadvantaged area in Louisiana designated by the Louisiana State University Health Sciences Center, acting jointly with the Tulane University School of Medicine, (hereinafter referred to as a "designated area"). When the individual receiving the award practices medicine in a designated area for five consecutive years as provided in these rules, the loans are forgiven in full;

2. was first funded for the 1998-99 award year;

3. the Legislature's purpose for this program is to bring about an adequate supply of doctors of medicine who will engage in the general practice of medicine in the rural or medically disadvantaged areas of the state by inducing a sufficient number of the graduates from the Louisiana State University Health Sciences Center and the Tulane University School of Medicine to remain in or relocate to Designated Areas of Louisiana to practice their profession, thus affording adequate medical care to the people of Louisiana.

C. Award Amounts

1. Loans for students enrolled at one of the Louisiana State University Health Sciences Center medical schools shall be made in an amount not to exceed the full tuition and room and board amount for that school. Loans for students enrolled at the Tulane University School of Medicine shall be made in an amount not to exceed the tuition and room and board amount for a student enrolled at the most expensive medical school of the Louisiana State University Health Sciences Center.

2. Recipients may receive funding for each year of enrollment at an eligible medical school, until awarded a doctorate degree in medicine.

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1460 (August 1999) amended LR 25:2177 (November 1999), repromulgated LR 27:1872 (November 2001), amended LR 30:

§2303. Establishing Eligibility

A. - A.3. ...

4. be enrolled at one of the Louisiana State University Health Sciences Center medical schools or in the Tulane University School of Medicine as a Full-Time Student in a course of study leading to a doctorate degree in medicine with the intent to enter a residency program leading to a specialization in a primary care field or has earned such a degree prior to commencement of residency. A "primary care field" shall include the following fields of medicine: family medicine, general internal medicine, general pediatrics, obstetrics/gynecology or a medical/pediatrics practice;

5. agree to the full time practice of the profession of medicine as a primary care physician in a Designated Area for at least five consecutive years after graduating from medical school and completing a residency program in a primary care field as defined in §2303.A.4, above; and

A.6. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15 and 17:3041.21-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999) LR 25:2177 (November 1999), LR 26:2754 (December 2000), LR 27:1220 (August 2001). Repromulgated LR 27:1872 (November 2001), LR 28:777 (April 2002), LR 28:2333 (November 2002), amended LR 30:

§2305. Application Process and Selection Criteria

A. The Louisiana State University Health Sciences Center and the Tulane University School of Medicine shall seek applications from medical students desiring to apply for a loan under this program and shall determine and report to the commission, no later than the date specified by the commission:

1. the academic standing of those applicants who meet the prerequisites of §2303.4 and 5. In determining the academic standing of applicants, the Louisiana State University Health Sciences Center and the Tulane University School of Medicine shall employ an evaluation system which is equitable to all applicants regardless of the medical school they attend; and

2. those applicants who have demonstrated an interest in primary care medicine through involvement in student activities which are supportive of the future practice of medicine as a primary care physician and which have been identified by the Louisiana State University Health Sciences Center or the Tulane University School of Medicine and approved by the administrator as meriting the award of extra points in the ranking of applicants.

B. From the lists of applicants submitted by the Louisiana State University Health Sciences Center and the Tulane University School of Medicine, the commission shall rank the applicants in order of merit and select no more than ten individuals to receive the award in any one year to attend one of the Louisiana State University Health Sciences Center medical schools and no more than five individuals to receive the award in any one year to attend the Tulane University School of Medicine (hereinafter "recipient(s)"). The applicant's order of merit shall be determined by the academic standing of the applicant as reported by the Louisiana State University Health Sciences Center or the

Tulane University School of Medicine and the extra points earned through student activities related to the practice of primary care medicine. The award shall be in the form of a loan to the recipient as described in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999), repromulgated LR 27:1872 (November 2001), amended LR 30: (September 2004).

§2307. Award Amount

A. The loan shall not exceed the full cost of tuition plus room and board, as those terms are defined herein.

B. The loan disbursement will be in two increments during each academic year based upon requests for disbursements submitted by the Louisiana State University Health Sciences Center or by the Tulane University School of Medicine, which are consistent in timing with the normal payment of tuition by medical school students.

C. ...

D. The cost of room and board included in an award under this section shall not exceed the cost allocated to room and board in the calculation of "cost of attendance" determined in accordance with 20 U.S.C. 1087 11 for the highest cost Louisiana State University Health Sciences Center medical school.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999), amended LR 26:2754 (December 2000), repromulgated LR 27:1873 (November 2001), amended LR 30:

§2309. Maintaining Eligibility

A. To continue receiving the tuition payment for medical school students, recipients must meet all of the following criteria:

1. have not graduated from medical school; and
2. be considered in good standing by the Louisiana State University Health Sciences Center or the Tulane University School of Medicine and continue to make satisfactory progress towards a medical degree in a primary care field or have completed studies in good standing; and
3. - 5. ...

B. Upon receiving a doctorate degree in medicine, an award recipient will be continued in a deferred payment status under the terms of the tuition payment program for medical students promissory note ("promissory note") as long as the recipient is enrolled in a residency program leading to a medical specialty in a primary care field. The recipient shall notify LASFAC of the place and duration of the recipient's residency program no later than the date the Recipient receives a doctorate in medicine. The notice shall include an endorsement from the Louisiana State University Health Sciences Center or its designee or from the Tulane University School of Medicine or its designee that the residency program is a program that will lead to the ability to practice as a primary care physician as defined herein. The Louisiana State University Health Sciences Center or the Tulane University School of Medicine shall make available to the recipient a list of designated areas. The recipient shall identify the designated area in which the recipient intends to practice medicine and include this

selection in the notice sent to LASFAC. By July 30 of each year following receipt of a doctorate degree in medicine, the recipient shall notify LASFAC of the recipient's current address and include in such notice an endorsement from an appropriate official of the residency program in which the Recipient is engaged that the recipient is making satisfactory progress in the program. The recipient shall notify LASFAC in writing of the completion of the residency program and the date the recipient will initiate practice in a designated area. Each year thereafter, on the anniversary of the date the recipient enters a primary care practice in a designated area, the recipient shall send a written confirmation to LASFAC that the recipient has practiced medicine during that year as required under the terms of the promissory note. The written confirmation shall be in the form of an affidavit executed before a notary public and shall be endorsed by the Louisiana Department of Health and Hospitals, affirming that the recipient has practiced in a designated area. Failure of the recipient to send any of the notices required under the terms of the promissory note in a timely manner shall cause the Recipient to be placed in a repayment status.

C. Students who fail to maintain eligibility for a subsequent year of the loan will be placed in a repayment status six months from the date of their loss of eligibility, unless granted an exception for cause by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999), LR 26:2754 (December 2000), repromulgated LR 27:1873 (November 2001), amended LR 28:777 (April 2002), LR 30:

§2311. Completion of Promissory Note and Acceptance of Award

A. Prior to receiving an award, the recipient must agree to the terms and conditions contained in and execute the tuition payment program for medical students promissory note ("promissory note"). The promissory note obligates the recipient to initiate a primary care practice in a designated area upon the completion of a primary care residency program. The recipient shall complete the primary care residency program within four years of the date of graduation from medical school and shall initiate the full-time practice of medicine as a primary care physician in a designated area within six months from the date of completion of the residency program. The designated area in which the recipient initiates practice shall be that area designated in the notice required by §2309.B, above, or such other designated area chosen by the recipient, upon completion of the residency program. The promissory note shall provide that if the area chosen in the notice provided for in §2309.B, above, is no longer a "designated area" at the time the recipient finishes the residency program, it shall continue to be considered a designated area for purposes of discharge of the loan amount under these rules. The recipient shall be deemed to be in a full-time primary care practice if the recipient performs direct patient care for an average of at least 36 hours per week in a normal annual work schedule. Should a recipient fail to enter into the practice of medicine on a full-time basis as a primary care physician within the time specified herein, the loan shall be placed in a repayment status and double the amount of the loans shall be repaid together with all accrued interest and any collection costs

incurred by the commission, as specified in the promissory note and as required by §2313, below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999), repromulgated LR 27:1874 (November 2001), amended LR 30:

§2313. Discharge of Obligation

A. The loan may be discharged by engaging in a full-time primary care medical practice in a designated area for a period of five years, by monetary repayment or by cancellation.

B. - B.1. ...

2. practice as a primary care physician on a full time basis for a period of at least five consecutive years in a designated area.

C. ...

D. Discharging the Promissory Note by Monetary Repayment. Recipients who elect not to discharge the obligation by practicing medicine as required in these rules and the promissory note and who are not eligible for discharge by cancellation must immediately repay double the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

D.1. - E.1.c. ...

2. Upon determination that a recipient has entered repayment status, LASFAC will send written notice of the recipient's repayment status including the total amount of tuition that must be repaid, the amount of interest accrued and instructions for repayment.

3. The recipient must repay double the amount of the total tuition disbursed no later than thirty days from the date of the written notice of the recipient's repayment status. Accrued interest may be amortized in accordance with §2313.E.4.

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

a. the amount necessary to amortize the accrued loan interest, together with accruing interest, within five years; or

b. \$5,000 per year or the unpaid balance, whichever is less;

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

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

7. the period of time for completion of repayment will be extended by a period of time equal to the length of time the recipient is in deferment status.

F. Cancellation. The obligation to repay any remaining unpaid balance of the promissory note shall be canceled in the event either of the following occurs:

1. upon submission to LASFAC of a sworn affidavit from a qualified physician that the recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

2. upon submission to LASFAC of a death certificate or other evidence conclusive under state law, that the recipient is deceased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999), amended LR 25:2177 (November 1999), repromulgated LR 27:1874 (November 2001), amended LR 30:

George Badge Eldredge
General Counsel

0409#009

DECLARATION OF EMERGENCY

Tuition Trust Authority Office of Student Financial Assistance

Student Tuition and Revenue Trust
(START Saving) Program Refunds
(LAC 28:VI.107 and 311)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend Rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.).

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

This Declaration of Emergency is effective August 12, 2004, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part VI. Student Financial Assistance Higher Education Savings

Chapter 1. General Provisions

Subchapter A. Student Tuition Trust Authority

§107. Applicable Definitions

Deposits The actual amount of money received from an account owner for investment in an education savings account. Deposits do not include earnings on deposits nor earnings enhancements or interest earned thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:

Chapter 3. Education Savings Account
§311. Termination and Refund of an Education Savings Account

A. - C.1. ...

2. All other requests for refund will result in the termination of the account and in the refund of:

a. the deposits invested in fixed earnings, if the account has been open for less than twelve months;

b. the redemption value, if the account has been open for twelve or more months;

c. the deposits or the current value (less earning enhancements allocated to the account and earnings thereon) of an account invested in variable earnings, whichever is less, if the account has been open for less than twelve months;

d. the current value (less earning enhancements allocated to the account and earnings thereon) of an account invested in variable earnings, if the account has been open for twelve or more months.

C.3 - J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:

George Badge Eldredge
General Counsel

0409#007

DECLARATION OF EMERGENCY

Office of the Governor
Board of Examiners for the New Orleans and
Baton Rouge Steamship Pilots

Mandatory Rest Period (LAC 46:LXX.6653)

The Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, pursuant to the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), adopts the following rule on an emergency basis. The Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, and shall become effective September 10, 2004, and shall remain in effect for the maximum period allowed under the Act, or until adoption of a permanent Rule, whichever occurs first.

In order to provide for the continued safe and efficient pilotage of vessels along the Mississippi River, as well as to prevent any imminent peril to public health, safety and welfare, the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots finds that it is necessary that all pilots perform their duties while adequately and completely rested. To that end, the Board of Examiners finds an immediate need to provide rules and regulations regarding a mandatory rest period for New Orleans and Baton Rouge Steamship Pilots.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXX. River Pilots

Subpart 7. Board of Examiners for the New Orleans and
Baton Rouge Steamship Pilots

Chapter 66. Standards of Conduct

§6653. Mandatory Rest Period

A. All New Orleans-Baton Rouge Steamship Pilots shall have a minimum six hour rest period between turns.

B. For the purpose of this rule, the "rest period" begins at the termination of the allotted travel time at the completion of one turn and ends at the time of dispatching for the next turn.

C. For the purpose of this rule, a "turn" is the time period from dispatch to the termination of the allotted travel time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:

Henry G. Shows
President

0409#079

DECLARATION OF EMERGENCY

Office of the Governor
Office of Financial Institutions

Repossession Agents
(LAC 10:XV.1301-1321)

Under the authority of the Louisiana Administrative Procedures Act, R.S. 49:950 et seq., and particularly R.S. 49:953(B) relative to emergency rulemaking, and in accordance with R.S.6:965, et seq., as amended by Acts 191 and 814 of the 2004 Regular Session of the Louisiana Legislature, the Office of Financial Institutions proposes to enact Rules regarding licensure and regulation of repossession agents, and for assessments and fees on such agents. These assessment and fees are necessary in order to effectively discharge its duty of ensuring that these regulated persons are properly overseen by the office to ensure compliance with the above referenced statutory provisions, and to allow for the licensure of repossession agents in conjunction with the effective date of the above referenced 2004 legislation. Repossession agents are individuals who physically obtain possession of collateral for a secured party and engage in the business or accept employment to locate and recover collateral pursuant to the Louisiana Additional Default Remedies Act, R.S. 6:965, et seq.

Therefore, I, in accordance with R.S.49:953(B) and the provisions of R.S.6:965, et seq., as amended, hereby adopt this Declaration of Emergency. Accordingly, this Emergency Rule shall become effective on the commissioner's or his designee's signature, September 13, 2004, and shall remain effective for a maximum of 120 days, or until the final Rule is promulgated, whichever occurs first.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part XV. Other Regulated Entities

Chapter 13. Repossession Agents

§1301. Definitions

A. The following terms as used in this Chapter shall have the following meaning.

Apprentice A trainee who works under the direct supervision of a repossession agent.

Approved Association The National Finance Adjusters, Inc., Allied Finance Adjusters Conference, Inc., Time Adjusters Conference, Inc., the American Recovery Association, Inc. or a Louisiana association of duly licensed repossession agents recognized as a viable association by the commissioner, and who meet any additional qualifications for licensure established by the commissioner.

Change of Control For purposes of Section 1305 (B) means:

a. a change in beneficial ownership of 50 percent or more of the repossession agency's outstanding shares of stock or 50 percent or more of the combined voting power of the repossession agency; provided that any transfer to a person or entity who was a shareholder as of the later of the date the repossession agency was originally licensed or the date of the repossession agency's last approved change of control shall be disregarded;

b. a change in individuals who constitute the voting power of the board of directors, or other governing board of the repossession agency as of the later of the date the repossession agency was originally licensed or the date of the repossession agency's last approved change of control cease to comprise more than 50 percent of the voting power of such board of directors, board of managers, or other board; or

c. a change in the general partner or manager of the repossession agency or a change of control with respect to such general partner or manager; or

d. any merger or consolidation if a change of control has occurred based upon the surviving entity being considered to be a continuation of the repossession agency that was the party to the merger or consolidation transaction.

Collateral A motor vehicle including any motor driven car, van, or truck required to be registered which is used, or is designated to be used, for the transporting of passengers or goods for public, private, commercial, or for hire purposes; but does not include those vehicles which are commonly known as motor homes, mobile homes, trailers, semi-trailers, boat trailers, or motorcycles.

Combustibles Any substances or articles that are capable of undergoing combustion or catching fire, or that are flammable, if retained.

Commissioner The Commissioner of Financial Institutions.

Control Solely for purposes of determining whether a repossession agency controls, is controlled by, or is under common control with another person means:

a. the power or authority, whether exercised directly or indirectly, to direct or cause the direction of management and/or policies of a legal entity by contract or otherwise; or

b. to directly or indirectly own of record or beneficially hold with the power to vote, or hold proxies

with discretionary authority to vote, 50 percent or more of the then outstanding voting securities issued by a repossession agency, when such control is used with respect to a specified person or legal entity;

c. for all other purposes, control means the power or authority, whether exercised directly or indirectly, to direct or cause the direction of management and/or policies of a repossession agency by contract or otherwise.

Dangerous Drugs Any controlled substances as defined in The Uniform Controlled Dangerous Substances Law, R.S. 40:961, et seq.

Deadly Weapon Any instrument or weapon of the kind commonly known as a blackjack, slingshot, bill, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or revolver, or any other firearm; any knife having a blade longer than five inches; any razor with an unguarded blade; and any metal pipe or bar used or intended to be used as a club.

Individual A natural person.

Office The Office of Financial Institutions.

Person A natural person, corporation, partnership, trust, association, joint venture pool, syndicate, unincorporated organization, limited liability company, or any other form of entity not specifically listed herein.

Personal Effects Movable property not covered by a security agreement, which is contained in or on collateral at the time it is repossessed.

Qualifying Agent The responsible officer or executive employee of a repossession agency designated as qualifying agent and who meets the requirements of a repossession agent.

Repossession Agency Any person who through a designated repossession agent engages in business or accepts employment to locate or recover collateral registered under the provisions of the Louisiana Vehicle Certificate of Title Law, R.S. 32:701 et seq., which has been sold under a security agreement or used as security in a loan transaction, including any secured party which utilizes its employees to repossess collateral.

Repossession Agent An individual who physically obtains possession of collateral for a secured party and engages in business or accepts employment to locate or recover collateral registered under the provisions of the Louisiana Vehicle Certificate of Title Law, R.S. 32:701 et seq., which has been sold under a security agreement or used as security in a loan transaction, including a secured party's employee who repossess collateral pursuant to the Additional Default Remedies Act R.S. 6:965, et seq.

Repossessor The repossession agency, qualifying agent, or repossession agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:

§1303. Licensing Requirements and Qualifications

A. No person shall engage in business as a repossession agency, qualifying agent or repossession agent in this state without first filing an application, paying a non-refundable application fee, and obtaining a license from the commissioner. Every application for a license shall contain such information as the commissioner may require when determining if the applicant meets the qualifications and requirements for a license. Each license expires December 31 and must be renewed annually by the licensee.

B. Repossession Agency

1. No license shall be issued unless the commissioner, upon investigation, finds that the financial responsibility, character, and fitness of the applicant's qualifying agent/manager, owners, partners if the applicant is a partnership, members if the applicant is a limited liability company, officers and directors if the applicant is a corporation, and the applicant if a sole proprietorship are such as to warrant a belief that the business shall be conducted honestly and fairly within the purposes of this Chapter and they each meet the following requirements:

a. be eighteen years of age or older and a citizen of the United States or a resident alien holding proper documentation to work in the United States;

b. be of good character and fitness; and

c. not been convicted of a felony in the previous 10 years, notwithstanding that the conviction was expunged, set aside, or received a first offense pardon. The only felony conviction which shall not be considered for purposes of this Chapter is one which received a governor's pardon or president's pardon. The commissioner may require fingerprint cards be submitted with the application.

2. A repossession agency, or its qualifying agent, shall have and maintain a surety bond covering all of its agents and employees of not less than \$1,000,000 issued by an insurer licensed to conduct business in the state of Louisiana by the Louisiana Department of Insurance or a client protection bond approved by the commissioner which has been issued by an association.

3. A repossession agency must have commercial general liability insurance covering personal injury and property damage with per occurrence, general aggregate and comprehensive aggregate limits of \$1,000,000; garage liability insurance covering any motor vehicle per accident limits of \$1,000,000; and garage keepers legal insurance with limits of \$300,000 direct primary coverage. The Office of Financial Institutions shall be named as the certificate holder and as an additional insured on all required insurance policies.

4. A repossession agency shall designate an individual as its qualifying agent who shall be licensed by the commissioner as a qualifying agent.

5. No license shall be issued in any name other than its legal name. No license shall be issued in any name which may be confused with or which is similar to any federal, state, parish, or municipal governmental function or agency, or in any name which may tend to describe any business function or enterprise not actually engaged in by the applicant, or in any name which is the same as or so similar to that of any existing repossession agency as would tend to deceive the public, or in any name which would otherwise tend to be deceptive or misleading.

6. Failure to respond to any request by the office for additional information or documentation within 45 days of the request will result in the application being withdrawn from consideration and will require the filing of a new application and payment of an additional licensing fee.

C. Qualifying Agent

1. To obtain a license as a qualifying agent the applicant shall meet the following requirements:

a. be eighteen years of age or older and a citizen of the United States or a resident alien holding proper documentation to work in the United States;

b. be of good character and fitness;

c. not have been convicted of a felony in the previous ten years, notwithstanding that the conviction was expunged, set aside, or received a first offense pardon. The only felony conviction which shall not be considered for purposes of this Chapter is one which received a governor's pardon or presidential pardon. The commissioner may require fingerprint cards be submitted with the application.

d. be employed on a full time basis by the repossession agency;

e. be a member of an approved association;

f. have three years experience as a repossession agent within the previous five years; and

g. have received a designation as a certified recovery specialist from a recognized national certification program.

2. The qualifying agent shall be designated by the repossession agency. No licensing fee will be assessed for a qualifying agent.

3. The commissioner shall issue to each qualifying agent, an identification card which shall include at a minimum his name, the name of the repossession agency with which he is employed, an identification number assigned by the commissioner, and his driver's license number.

4. Failure to respond to any request by the office for additional information or documentation within 45 days of the request will result in the application being withdrawn from consideration and will require the filing of a new application and payment of additional licensing fee.

D. Repossession Agent

1. To obtain a license as a repossession agent the applicant shall meet the following requirements:

a. be eighteen years of age or older and a citizen of the United States or a resident alien holding proper documentation to work in the United States;

b. be of good character and fitness;

c. not have been convicted of a felony in the previous ten years, notwithstanding that the conviction was expunged, set aside, or received a first offense pardon. The only felony conviction which shall not be considered for purposes of this Chapter is one which received a governor's pardon or president's pardon. The commissioner may require fingerprint cards be submitted with the application.

d. have two years experience as a repossession agent or apprentice within the previous three years; and

e. have received a designation as a certified recovery specialist from a recognized national certification program.

2. The commissioner shall issue to each repossession agent an identification card which shall include at a minimum his name, the name of the repossession agency with which he is employed, an identification number assigned by the commissioner, and his driver's license number.

3. Failure to respond to any request by the office for additional information or documentation within 45 days of the request will result in the application being withdrawn

from consideration and will require the filing of a new application and payment of additional licensing fee.

E. Apprentice

1. A licensed repossession agency may apply for the licensing of a previously unlicensed individual as an apprentice by providing to the commissioner a letter of intent to sponsor and accept responsibility for the apprentice applicant.

2. Upon receipt of a letter of intent to sponsor, an application completed by the apprentice, and the non-refundable fee, the commissioner shall issue a letter of approval, provided the apprentice applicant satisfies the qualification requirements of §1303.D.1.a, b and c.

3. No repossession agency shall sponsor more than two apprentices at any one time.

F. Previous Experience as a Repossession Agent

1. A year's experience shall consist of not less than 2,000 hours of actual compensated work performed by the applicant with a repossession agency preceding the filing of an application.

2. An applicant shall substantiate the claimed hours of qualifying experience and the exact details as to the character and nature thereof by written certifications from the employer, subject to independent verification by the commissioner as he may determine. In the event of inability of an applicant to supply the written certifications from the employer in whole or in part, applicants may offer other written certifications from persons other than employers substantiating employment for consideration by the commissioner.

G. Continuing Education

1. Each qualifying agent, repossession agent, and apprentice shall complete a minimum of eight hours of collateral recovery education prior to license renewal.

2. Each qualifying agent and repossession agent shall submit with his renewal application documentation which provides the name and address of the education provider, the name of the course, and the date and number of hours attended.

3. The commissioner may determine if a continuing education course is not acceptable and require an additional continuing education course be taken within a specified period of time.

H. Request for a Hearing. Upon written request, an applicant may seek a hearing on the question of his qualification for a license if the commissioner has notified the applicant in writing that his application has been denied. A request for a hearing may not be made more than thirty days after the applicant has received the written notification that the application was denied and stating the commissioner's findings in support of the denial of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:

§1305. Renewal Application; Change of Control; Change of Location; Change of Name

A. Annually by November first each repossession agency, qualifying agent, repossession agent, and apprentice shall file a renewal application and with the exception of the qualifying agent pay a non-refundable renewal fee.

1. An annual renewal application received by the commissioner postmarked after December first shall be accompanied by a late filing fee, in addition to the annual renewal fee.

2. If the annual renewal application and renewal fee are not received postmarked by December thirty-first, the license shall lapse without a hearing or notification, and the license shall not be reinstated; however, the person whose license has lapsed may apply for a new license. No new license shall be issued upon the filing of a new application by any person against whom any penalty or late fee has been imposed unless and until such penalty or late fee previously accrued under this Section has been paid, and the commissioner has determined that the applicant has the requisite qualifications for a license.

B. No license shall be sold or otherwise transferred.

1. No person shall acquire or control a repossession agency license through the acquisition or control of fifty percent or greater ownership interest in a repossession agency without first filing a change of control application for approval by the commissioner and paying a non-refundable change of control fee. The change of control application shall be in a form prescribed by the commissioner. The commissioner shall consider the same factors and the applicant shall meet the same requirements as were required for the initial license application.

2. A repossession agency shall notify the commissioner of any anticipated change in any individual with power to direct the management or policies of a person regulated by this Chapter, including but not limited to any officer, director, member or manager. The commissioner shall have the authority to remove any person who does not meet the requirements of §1303.B.1.

3. A repossession agency, in the event of an anticipated change of control, shall at least 60 days prior to the anticipated effective date file with the commissioner a change of control application, along with any legal documents which transfer ownership or control. Unless additional information is required, the commissioner shall review the application and information submitted and shall issue either an approval or denial of the change of control within 60 days of the receipt of the application.

4. Upon written request, a change of control applicant may seek a hearing on the question of his qualification for a license if the commissioner has notified the applicant in writing that his application has been denied.

5. A request for a hearing may not be made more than thirty days after the applicant has received the written notification that the application for change of control was denied and stating the commissioner's findings in support of the denial of the application.

6. Any person who acquires controlling interest in a repossession agency license without first filing an application and obtaining the commissioner's approval shall be deemed to be operating without proper authority under this Chapter.

C. A repossession agency shall make application to the commissioner and pay a fee prior to a change of its qualifying agent.

D. A repossession agency shall give the commissioner 30-day prior written notice of any name change or location change and pay a non-refundable fee.

E. A repossession agency shall notify the commissioner in writing within thirty days after ceasing to do business in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:

§1307. Fees

- A. All fees are non-refundable.
 1. License Application Fee
 - a. Repossession agency (which includes qualifying agent) ~~C~~\$1500
 - b. Repossession agent ~~C~~\$400
 - c. Apprentice ~~C~~\$400
 2. License Renewal Application Fee and Late Payment Penalty
 - a. Repossession agency (which includes qualifying agent) ~~C~~\$1,000; late fee ~~C~~\$500
 - b. Repossession agent ~~C~~\$300; late fee ~~C~~\$150
 - c. Apprentice ~~C~~\$300; late fee ~~C~~\$150
 3. Repossession Agency Change of Control Application Fee
 - a. \$1,000
 - b. Penalty for late notice ~~C~~\$500
 4. Change of Designated Qualifying Agent
 - a. \$500
 - b. Penalty for late notice ~~C~~\$250
 5. Change of Location; Change of Name
 - a. \$300
 - b. Penalty for late notice ~~C~~\$150
 6. Replacement identification card
 - a. \$500
 - b. Penalty for failure to return identification card when employment ceases for any reason ~~C~~\$1,000
 7. Examination Fee
 - a. \$50 per hour, per examiner
 - b. Penalty for failure to pay examination fee within 30 days of billing ~~C~~\$500

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:

§1309. Conduct of Business

- A. Repossession Agency
 1. A repossession agency shall at all times be responsible for those actions of its employees, including its qualifying agent, performed in violation of state law and this Chapter when acting within the course and scope of his or her employment.
 2. A repossession agency shall maintain a file or record of the name, address, commencing date of employment, and position of each employee, and the date of termination of employment when an employee is terminated. The file and records, together with usual payroll records, shall be available for inspection by the commissioner or his designee, and copies thereof, and information pertaining thereto or contained therein, shall be submitted to the commissioner upon request.
 3. A repossession agency shall publicly display the repossession agency's license and qualifying agent's license at its place of business.
 4. A repossession agency shall give written notice within 5 business days following the termination of a

repossession agent or apprentice and reasons for the termination.

B. A repossession agent shall notify the appropriate law enforcement agency at the time of collateral repossession and shall provide to the law enforcement agency a description of the collateral, vehicle license plate number, vehicle identification number, name of debtor, name of secured party, and address at which the repossession is occurring.

C. A repossession agent shall at all time, during the repossession of collateral, carry his identification card issued by the commissioner, along with his pictured driver's license. He shall also have documentation from the secured party authorizing repossession of the collateral and a copy of the repossession notice sent by the secured party to the debtor.

D. A repossession agent may make multiple attempts to repossess collateral without the necessity of an additional notice from the secured party to the debtor which is required in R.S. 6:966(A)(2).

E. No charge shall be made for services incurred in connection with the recovery, transportation, and storage of collateral, including repair work, except under terms agreed to in writing by the responsible party at the time of the repossession authorization or specifically agreed upon at a subsequent time.

F. Within seven days after a violent act has occurred involving a repossession agency or any officer, partner, qualifying agent, repossession agent, apprentice or any other repossession agency employee, while acting within the course and scope of his or her employment, which results in a police report or bodily harm or bodily injury, the repossession agency, qualifying agent, repossession agent, or apprentice or any other repossession agency employee, shall mail or deliver to the commissioner a notice concerning the incident upon a form provided by the commissioner. A copy of the notice shall be provided to the secured creditor.

G. Every advertisement by a repossession agency, soliciting or advertising business, shall contain the repossession agency's name, address, and license number as they appear in the records of the office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:

§1311. Personal Effects

A. If personal effects not covered by a security agreement, are contained in or on collateral at the time it is recovered, the effects shall be removed from the collateral subject to the security interest, a complete and accurate inventory shall be made, and the personal effects shall be stored in a labeled container by the repossession agency at a location agreed to by the repossession agency and the secured party.

B. The inventory shall be in writing, shall state the date and time that it was made, shall include the name, address, business hours, and phone number of the person at the repossession agency to contact for recovering the personal effects and an itemization of all personal effect storage charges that shall be made by the repossession agency and shall be signed by the repossession agency employee who performs the inventory.

C. The following items of personal effects are items determined to present a danger or health hazard when

recovered by the repossession agency and shall be disposed of in the following manner:

1. deadly weapons and dangerous drugs shall be turned over to a local law enforcement agency for retention. These items shall be entered on the inventory and a notation shall be made as to the date and the time and the place the deadly weapon or dangerous drug was turned over to the law enforcement agency, and a receipt from the law enforcement agency shall be maintained in the records of the repossession agency;

2. combustibles shall be inventoried and noted as "disposed of, dangerous combustible," and the item shall be disposed of in a reasonable, safe, and legal manner; and

3. food and other health hazard items shall be inventoried and noted as "disposed of, health hazard," and disposed of in a reasonable, safe, and legal manner.

D. Any personal effects remaining unclaimed after 30 days reverts to the secured lender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:

§1313. Examination and Record Keeping

A. The commissioner shall have the power to examine all books, records, and accounts of all persons regulated under this Chapter.

B. Each repossession agency required to be licensed under this Chapter shall maintain in its offices such books, records, and accounts of its repossession activities as the commissioner may prescribe by policy as required to determine whether such repossession agency is complying with the provisions of this Chapter and the rules, regulations, and policies promulgated under the provisions of the Additional Default Remedies Act, R.S. 6:965, et seq.

C. Such books, records, and accounts shall be maintained separate and apart from any other business which the agency is involved. If the repossession agency's books, records, and accounts are located outside the state, the agency, at the commissioner's option, shall make them available to the commissioner at a location within the state convenient to the commissioner, or pay the reasonable and necessary expenses for the commissioner or his representatives to examine them at the place where they are maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:

§1315. Prohibitions

A. A repossession agency shall not:

1. use a name other than that which is on its license;

2. contract with a secured party for self-help repossession who is not authorized by the Additional Default Remedies Act to use the provisions of that Act;

3. allow an unlicensed person to repossess collateral; or

4. allow an apprentice to repossess collateral without on-site supervision of a repossession agent.

B. A repossession agent and apprentice under his supervision shall not:

1. repossess collateral as agent for anyone other than the repossession agency with which he is employed and licensed;

2. identify himself with a name or repossession agency other than the one with which he is licensed;

3. carry a dangerous weapon on his person or in his vehicle when repossessing collateral;

4. repossess collateral while under the influence of alcohol or a dangerous drug;

5. wear any clothing, badge, insignia, or any other item usually identified with law enforcement officers;

6. remove any personal effects from a repossessed automobile for personal use; or

7. fail to return his identification card to the commissioner within ten days from ceasing employment with the repossession agency with which he is licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:

§1317. Powers of the Commissioner

A. The commissioner shall have the power to issue subpoenas to any person for the purpose of discovering violations in this Chapter and to require the attendance of witnesses or the production of documents, conduct hearings in aid of any investigation or inquiry, administer oaths, and examine under oath any person in connection with the repossession activities of a repossession agency, qualifying agent, repossession agent, or apprentice. Service of any notice, order, or subpoena may be made by personal service or certified mail.

B. The commissioner shall have the power to issue cease and desist orders to protect the public's welfare.

C. After notice and opportunity to be heard as provided in the Administrative Procedure Act, the commissioner may revoke the license of a repossession agency, qualifying agent, or repossession agent that:

1. violates, in substance or in form, any of the provisions of this Chapter or any rule, regulation, or policy promulgated, or any order, including a cease and desist order, issued pursuant to the Additional Default Remedies Act;

2. has knowingly provided or caused to be provided to the commissioner any false or fraudulent misrepresentation of material fact or any false or fraudulent financial statement, or has suppressed or withheld from the commissioner any information which if submitted by him would have resulted in denial of the license application;

3. refuses to permit an examination by the commissioner of his books and affairs or has refused or failed within a reasonable time, as determined by the commissioner, to furnish any information or make any report that may be required by the commissioner under the provisions of this Chapter;

4. fails to maintain records as required by the commissioner after being given written notice and thirty days within which to correct the failure. The commissioner may grant, on good cause shown, up to two thirty-day extensions within which to correct the recordkeeping violations;

5. continues in office or employment any individual with power to direct the management or policies of a person regulated by the Chapter, including but not limited to any officer, director, or manager, if such individual is convicted of, pleads guilty to, or enters a plea of *nolo contendere* of any felony under any state or federal law;

6. violates any provision of a regulatory or prohibitory statute and has been found to have violated such statute by the governmental agency responsible for determining such violations;

7. knowingly engages in any transaction, practice, or course of business which perpetrates a fraud upon any person in connection with any collateral repossession;

8. fails to pay any fee or assessment imposed by this Chapter or by any rule, regulation, or policy promulgated in accordance with the Additional Default Remedies Act; or

9. fails, after notice and without lawful excuse, to obey any order or subpoena issued by the commissioner.

D. The commissioner may report egregious violations to the attorney general or to the district attorney of the appropriate parish, who may institute the proper proceedings to enjoin the violation and enforce the penalties provided for by this Chapter.

E. The commissioner may make public any administrative action instituted against a repossession agency, repossession agent, or apprentice for a violation of this Chapter or LSA-R.S. 6:965 et seq., including cease and desist orders, civil money penalty assessment, license suspension, revocation or application denial.

F. The commissioner may issue advisory opinions and interpretations regarding this Chapter, and such advisory opinions and interpretations shall not be considered rules requiring compliance with the rulemaking process of the Louisiana Administrative Procedure Act. The commissioner and the employees of the Office of Financial Institutions shall have no liability to any person with respect to an advisory opinion or interpretation issued in connection with this Chapter.

G. All grounds for suspension or revocation listed in this Chapter are violations of the Additional Default Remedies Act and may serve as the basis for any other enforcement action provided to the commissioner by said Act.

H. The commissioner may enter into cooperative and reciprocal agreements with the regulatory authorities of the federal government or of any state for the periodic examination of persons engaging in the business of collateral repossession and may accept reports of examination and other records from such authorities in lieu of conducting his own examinations. The commissioner may enter into joint actions with other regulatory bodies having concurrent jurisdiction or may enter into such actions independently to carry out his responsibilities under this Chapter and assure compliance with the laws of this state.

I. In addition to any other authority conferred upon the commissioner by this Chapter or the Additional Default Remedies Act, the commissioner may impose a penalty not exceeding one thousand dollars per violation, per day which the violation continues, upon any person who he has determined to have violated this Chapter or any law in connection with self-help repossession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:

§1319. Notification or Service

A. Whenever a person becomes licensed by the commissioner, pursuant to this Chapter, such person shall provide a physical address to the commissioner that may be used as a basis for service or notification of any order or

other issuance or communication by the commissioner to such person. Whenever such person changes his physical address, he shall notify the commissioner at least thirty days prior to the change. Notification or service of any order, notice, or other issuance or communication by the commissioner by certified mail to the address most recently provided to him by the person shall satisfy all requisites of service required for any registration, administrative enforcement, or other action, undertaken by him pursuant to the Louisiana Administrative Procedure Act or otherwise, in connection with such person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:

§1321. Severability

A. If any provision or item of this regulation, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation which can be given effect without the invalid provisions, items, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:

John Ducrest, CPA
Commissioner

0409#096

DECLARATION OF EMERGENCY

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

Dental Services Reimbursement Increase (LAC 50:XV.6903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends LAC 50:XV.6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage and reimbursement of dental services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay. As the result of the allocation of additional funds by the Legislature during the 2004 Regular Session, the bureau proposes to increase the reimbursement rates for certain dental procedures and to add a new procedure for retreatment of previous root canal therapy anterior. This action is being taken to promote 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. It is estimated that implementation of this

Emergency Rule will increase expenditures for EPSDT dental services by approximately \$4,384,191 for state fiscal year 2004-2005.

Effective for dates of service on or after September 1, 2004 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby adds coverage for retreatment of previous root canal therapy-anterior and increases reimbursement for certain procedures.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment Program

Chapter 69. Dental Services

§6903. Reimbursement

A. The reimbursement fees are as follows for certain designated procedure codes. The procedure codes comply with the Health Insurance Portability and Accountability Act.

Code	Description	Fee

D0272	Radiograph-Bitewings, Two Films	\$ 13

D1120	Prophylaxis-Child	\$ 15
D1351	Sealant, Per Tooth	\$ 19

D2140	Amalgam, One Surface, Primary or Permanent	\$ 40 / \$ 47 [^]
D2150	Amalgam, Two Surfaces, Primary or Permanent	\$ 55 / \$58 [^]
D2160	Amalgam, Three Surfaces, Primary or Permanent	\$ 70 / \$74 [^]
D2161	Amalgam, Four or More Surfaces, Permanent	\$ 108
D2330	Resin-Based Composite, One Surface, Anterior	\$ 65
D2331	Resin-Based Composite, Two Surfaces, Anterior	\$ 75
D2332	Resin-Based Composite, Three Surfaces, Anterior	\$ 85
D2335	Resin-Based Composite, Four or More Surfaces, Anterior	\$ 108
D2390	Resin-Based Composite Crown, Anterior	\$ 104
D2930	Prefabricated Stainless Steel Crown, Primary Tooth	\$ 108
D2931	Prefabricated Stainless Steel Crown, Permanent Tooth	\$ 108
D2932	Prefabricated Resin Crown	\$ 104

D3346	Retreatment of previous root canal therapy-anterior	\$ 212
D4341	Periodontal Scaling and Root Planning, Per Quadrant	\$ 81
D4355	Full Mouth Debridement	\$ 61

D7140	Extraction, Erupted Tooth or Exposed Root	\$ 46

D8070	Comprehensive Orthodontic Treatment, Transitional Dentition	Maximum Fee \$ 4,050**
D8080	Comprehensive Orthodontic Treatment, Adolescent Dentition	Maximum Fee \$ 4,050**
D8090	Comprehensive Orthodontic Treatment, Adult Dentition	Maximum Fee \$ 4,050**

^ Fee for the permanent tooth.		

* Rate for each subsequent tooth in the same arch.
 ** Manually-priced maximum fee.
 Refer to the Dental Services Manual for a complete maximum fee schedule of authorized services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:176 (February 2003), amended LR 30:252 (February 2004), LR 30:

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.

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

0409#019

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Gaming Control Board**

Self-Exclusion (LAC 42:III.303)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), and R.S. 27:15 and 24, the Gaming Control Board finds that this emergency amendment to the rules applicable to excluded persons is necessary to prevent imminent peril to the public health, safety and welfare.

Prior to enactment of R.S. 27:27.1, August 15, 2001 and adoption of LAC 42:III.301 et seq., September 20, 2002 the Louisiana State Police Casino Gaming Division maintained lists of persons who had voluntarily sought to be excluded from casino gaming establishments.

R.S. 27:21.1 required the Gaming Control Board to promulgate rules specifically relative to the Board Self-Exclusion list. This Rule requires completion of forms and notarized statements agreeing to certain terms and conditions. Persons excluded prior to the effective date of the referenced Rule was placed on self-exclusion lists for limited periods of time, and it is uncertain whether and how the provisions of the new law and rules apply to such persons. Attempts were made to notify such persons of the new law, rules and requirements. However a number of persons failed to respond and submit the required application and notarized statements.

Accordingly it is deemed necessary that those persons excluded prior to September 20, 2002 be placed on the board exclusion list subject to notice and due process in the form of an administrative hearing.

This Rule change is hereby adopted and shall remain in effect for 120 days.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 3. Compulsive and Problem Gambling

§303. Persons Required to be Excluded

A. - J.2. ...

K. Transfer of Self-Excluded Persons to Board Exclusion List

1. The Division shall provide written notice to all persons who were placed on any self-excluded list by the division prior to September 20, 2002, the effective date of LAC 42:III, Chapter 3, Compulsive and Problem Gambling. The notice shall be sent by certified mail to the last known address of the self-excluded person. The notice shall advise the self-excluded person that he or she shall be placed on the board's exclusion list as provided for in R.S. 27:27.2 and in accordance with LAC 42:III.303.E.

2. Any person referred to in §303.K.1 who objects to being placed on the board exclusion list shall request a hearing within 15 days of receipt of the notice. The request for hearing shall be forwarded to the Louisiana Gaming Control Board Hearing Office, Attn: Camille Meagher, 224 Florida Street, Suite 202, Baton Rouge, LA 70801.

3. Any self-excluded person who fails to timely request a hearing shall be placed on the board exclusion list and shall be subject to all applicable provisions of LAC 42:III, Chapter 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:1988 (September 2002), LR 30:

H. Charles Gaudin
Chairman

0409#013

DECLARATION OF EMERGENCY
Department of Revenue
Office of Alcohol and Tobacco Control

Self-Service Checkout of Alcohol and Tobacco
(LAC 55:VII.201 and 3115)

Under authority of R.S. 26:793, 26:90 and 47:833 and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, is issuing an emergency rule to adopt LAC 55:VII.201 and LAC 55:VII.3115 to provide age verification requirements for alcoholic beverage and tobacco product sales unattended self-checkout registers.

This Emergency Rule is necessary to adopt additional safeguards against the unlawful sale of alcoholic beverages and tobacco products to persons under the legal age of consumption of these beverages and products and to protect the safety, welfare, health, peace, and morals of the people of the state. This Emergency Rule is effective August 18, 2004, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or adoption of the permanent Rule, whichever occurs first.

Title 55

PUBLIC SAFETY

Part VII. Alcohol And Tobacco Control

Subpart 1. Beer And Liquor

Chapter 2. Alcoholic Beverage Permits

§201. Prohibited Acts By Retailer

A. No retailer may sell or deliver beer, spirits, wine or any other alcoholic beverage, whether high or low alcoholic

content, in a retail establishment to any person through any unattended or self-service checkout counter or mechanical device unless the purchaser submits to a clerk a valid driver's license, selective service card, or other lawful identification which on its face establishes the age of the person as 21 years or older and there is no reason to doubt the authenticity and correctness of the identification.

B. Violation of this Section by a retail dealer's agent, associate, employee, representative, or servant will be considered the retail dealer's act for purposes of suspension or revocation of a permit.

C. Violation of this Section subjects the retail dealer to penalties provided in R.S. 26:90, including but not limited to suspension or revocation of his permit and penalty provisions in R.S. 26:171.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:90.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office Alcohol and Tobacco Control, LR 30:

Subpart 2. Tobacco

Chapter 31. Tobacco Permits

§3115. Age Verification Requirements

A. Before a seller mails, ships, or otherwise delivers cigarettes cigars, pipe tobacco, chewing tobacco, smokeless tobacco, or any other tobacco product of any kind in connection with a sale, the seller must verify the consumer's age through electronic or written communication.

B. Persons accepting purchase orders for delivery sales may request that prospective consumers provide their e-mail addresses.

C. No retailer may sell or deliver cigarettes, cigars, pipe tobacco, chewing tobacco, smokeless tobacco, or any other tobacco product of any kind in a retail establishment to any person through any unattended or self-service checkout counter or mechanical device unless the customer submits to a clerk a valid driver's license, selective service card, or other lawful identification that on its face establishes the age of the person as 18 years or older and there is no reason to doubt the authenticity and correctness of the identification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:833.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office Alcohol and Tobacco Control, LR 30:

Murphy J. Painter
Commissioner

0409#012

DECLARATION OF EMERGENCY
Department of Social Services
Office of Family Support

Temporary Assistance for Needy Families
(TANF) Maintenance of Effort Funds
(LAC 67:III.5545, 5549, 5563, and 5573)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend Sections 5545, Remediation and Tutoring Programs; 5549, OCS Child Welfare Programs; 5563, Substance Abuse Treatment Program for Needy Families; and 5573, Community Supervision Program effective August 16, 2004.

This emergency rule will remain in effect for a period of 120 days.

Section 263.2(b)(2) of the Temporary Assistance for Needy Families (TANF) regulations indicates that benefits or services count as Maintenance of Effort (MOE) only if the eligible family "includes a child living with a custodial parent or other adult caretaker relative." MOE funds cannot be claimed on benefits or services provided to a family that includes a child living with a legal guardian, unless that legal guardian is the parent or other caretaker relative. Therefore, the agency is amending §§5545, 5549, 5563, and 5573 to remove language referencing legal guardians in the criteria for eligibility.

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 US Department of Health and Human Services, Administration for Children and Families.

**Title 67
SOCIAL SERVICES**

Part III. Family Support

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

Chapter 55. TANF Initiatives

§5545. Remediation and Tutoring Programs

A. - B. ...

C. Eligibility for services is limited to families which include a minor child living with a custodial parent or an adult caretaker relative. A family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch is eligible.

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.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), amended LR 30:

**§5549. OCS Child Welfare Programs
(Effective April 12, 2002)**

A. OFS shall enter into a Memorandum of Understanding with the Office of Community Services (OCS), the state child welfare agency, for collaboration in identifying and serving children in needy families who are at risk of abuse or neglect. Subsequent to the authorization of the U.S. Department of Health and Human Services, Administration for Children and Families, regarding TANF Maintenance of Effort funds, the agency will identify eligible services retroactive to January 1, 2002. The methods of collaboration include:

1. ...

2. *Family Services* comprises services to a child or children and their parents or adult caretaker relatives, after an allegation of child neglect or abuse has been validated, to assist in preventing the removal of a child from his care giver or, where temporary emergency removal has already occurred in validated abuse and/or neglect cases, to help

reunite the family by returning the child. Services are also provided to a family who requests protective services on its own when it is believed that a child in the family would be at risk. Elements of Family Services include problem identification, family assessment, risk assessment, safety planning, case planning, counseling, problem resolution, provision of or arrangements for needed services, and/or concrete aid through the Preventive Assistance Fund.

B. ...

C. Financial eligibility for those services attributable to TANF/Maintenance of Effort funds is limited to needy families which include a minor child living with a custodial parent or an adult caretaker relative. 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 Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), or Supplemental Security Income (SSI).

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR:2374 (November 2002), amended LR 30:

§5563. Substance Abuse Treatment Program for Needy Families

A. - B. ...

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

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:190 (February 2003), amended LR 30:

§5573. Community Supervision Program

A. - D. ...

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

F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:2511 (November 2003), amended LR 30:

Ann Silverberg Williamson
Secretary

0409#097

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2004 Red Snapper Commercial Season Closure

The spring commercial season for the harvest of red snapper in Louisiana state waters closed at 12 noon, August 10, 2004. The season was scheduled to re-open on September 1, 2004 if the commercial quota for red snapper in the Gulf of Mexico had not been harvested. The secretary has been informed that the commercial quota for red snapper has been harvested, and therefore the spring commercial season will not re-open in federal waters off the state of Louisiana.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its resolution of January 8, 2004 to close the 2004 spring commercial red snapper season in Louisiana state waters when he is informed that the designated portion of the commercial red snapper quota for the Gulf of Mexico has been filled, or is projected to be filled, the secretary hereby declares:

The commercial fishery for red snapper in Louisiana waters closed at 12 noon August 10, 2004 and will remain closed until 12 noon October 1, 2004. Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen once the recreational season opens. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Effective with closure, no person shall possess red snapper in excess of a daily bag limit, which may only be in possession during the open recreational season as described above. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing red snapper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by National Marine Fisheries Service that the commercial red snapper season in Federal waters of the Gulf of Mexico closed at 12 noon August 10, 2004, and the season will not re-open until October 1, 2004. Closing the season in state waters is necessary to provide effective rules and efficient

enforcement for the fishery, and to prevent over-fishing of this species in the long term.

Dwight Landreneau
Secretary

0409#028

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2004-2005 Waterfowl Seasons

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

The hunting season for ducks, coots and geese during the 2004-2005 hunting season shall be as follows:

Ducks and Coots: (60 days)

West Zone: November 13 - December 5
December 18-January 23

East Zone:

(Including November 20-December 5
Catahoula Lake) December 18 - January 30

Pintail Season Dates: (30 days)

West Zone: November 13 - November 21
December 18-January 7

East Zone: November 20 - November 28
December 18-January 7

Canvasback Season Dates: (30 days)

Statewide: December 18 - January 16

Youth Waterfowl Weekend: November 6-7 in

West Zone, November 13-14 in East Zone

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

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

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

GEESE: LIGHT GEESE (SNOW, BLUE and ROSS) and WHITE-FRONTED GEESE

Statewide: (86 days) November 6-December 5
December 18-February 11

Daily bag limit on light geese (snow, blue and Ross): 20

Possession limit on light geese (snow, blue and Ross): None

Daily Limit on white-fronted geese: 2

Possession Limit on white-fronted geese: 4

CANADA GEESE: Closed in the Area Described Below

January 15 - January 23

Daily Limit on Canada geese: 1

Possession limit on Canada geese: 2

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

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

CONSERVATION ORDER FOR LIGHT GEESE (SNOW, BLUE AND ROSS'S)

Statewide: December 6 - December 17
February 12 - March 13

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

RAILS: November 13 - January 12

KING AND CLAPPER: Daily bag limit 15 in the aggregate, Possession 30.

SORA AND VIRGINIA: Daily bag and possession 25 in the aggregate.

GALLINULES: November 13 - January 12

Daily bag limit 15, Possession limit 30

SNIPE: November 6 - February 20

Daily bag limit 8, Possession limit 16

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

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

The aforementioned season dates, bag limits and shooting hours will become effective November 1, 2004 and extend through one-half hour after sunset on March 13, 2005.

Dwight Landreneau
Secretary

0409#029

DECLARATION OF EMERGENCY

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

Large Coastal Shark Season 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., August 15, 2004, the commercial fishery for large coastal sharks in Louisiana waters, as described in LAC 76:VII.357.B.2, (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark and tiger shark) will close until January 1, 2005. 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, possess, purchase, exchange, barter, trade, sell or attempt to purchase, exchange, barter, trade or sell large coastal sharks or fins thereof, whether taken from within or without Louisiana waters. Also effective with the closure, no person shall possess large coastal sharks in excess of a daily bag limit whether taken from within or without Louisiana waters, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale of fish 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 is projected to be reached on or before August 15, 2004 and that the federal season closure is necessary to ensure that the established quotas are not exceeded.

Dwight Landreneau
Secretary

0409#005

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 111 **C** Louisiana School, District,
and State Accountability System
(LAC 28:LXXXIII.514, 703,
1505, 1701, 3101, and 3109)

Editor's Note: The following Rule is being repromulgated to correct typographical errors. This Rule may be viewed in its entirety on pages 1619-1620 of the August 2004 edition of the *Louisiana Register*.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted revisions to *Bulletin 111 C The Louisiana School, District, and State Accountability System* (LAC 28:LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. The changes more clearly explain and refine existing policy as follows: school performance scores; subgroup performance scores; exiting school improvement; and appeals process.

Title 28

EDUCATION

Part LXXXIII. Bulletin 111 **C** Louisiana School, District, and State Accountability System

Chapter 5. Calculating the NRT Index

§514. Subgroup Performance Scores (GPS)

A.1. A Growth GPS is calculated using one year of data (CRT, NRT, attendance, and for schools with grades higher than grade 6, dropouts)

2. A Baseline GPS, except in cases involving new schools (Chapter. 33), is calculated using two years of data.

3. The Growth GPS minus the Baseline GPS determines if the subgroup made adequate growth for the school to be considered for exemplary academic growth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004).

Chapter 7. Subgroup Component

§703. Inclusion of Students in the Subgroup Component

A. - C. ...

1. In calculating the subgroup component for a school, the alternate academic achievement standards for students participating in LAA will be used, provided that the percentage of proficient LAA students at the district level does not exceed 1.0 percent of all students in the grades assessed. If the district exceeds the 1.0 percent proficient cap, the district shall request a waiver. If the district fails to request the waiver or if the district requests the waiver but it

is determined by LDE that ineligible students were administered LAA, the students that exceed the cap or that are ineligible shall be assigned a zero on the assessment and considered nonproficient.

C.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004).

Chapter 15. School Improvement (formerly called Corrective Actions)

§1505. Exit from School Improvement

A. A school shall exit school improvement when the fall accountability results indicate:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004).

Chapter 17. Requirements for Schools in School Improvement (SI)

§1701. School Improvement 1 Requirements

A. - B.4.(Note) ...

C. School Improvement 1 Requirements

1. A Revised or New School Improvement Plan. All Louisiana schools were required to have a school improvement plan in place by May of 1998. Within 90 days of initial identification, those schools placed in School Improvement 1 (SI 1) shall be required to review and either revise or completely rewrite their plan, with the assistance of a district assistance team, according to the guidelines established by the Louisiana Department of Education, and submit it to the Division of School Standards, Accountability, and Assistance.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:2746, amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004).

Chapter 31. Data Correction and Appeals/Waivers Procedure

§3101. Appeals/Waivers Process

A. ...

B. The LDE shall review appeal/waiver requests and make recommendations to the SBESE within 60 days, beginning the last day of the appeals/waiver filing period. Within this interval, the LDE shall notify LEAs of its recommendations and allow them to respond in writing. The LDE's recommendations and LEA responses will be forwarded to SBESE for final disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), amended LR 30:1620 (August 2004), repromulgated LR 30:1996 (September 2004).

§3109. Criteria for Appeal

A. LEA superintendents shall notify the LDE in writing of any changes to existing school configurations, changes to option status for alternative schools or pair/share status during the LDE accountability status verification process prior to the calculation of the school performance scores and subgroup component scores. Appeal recalculations shall be made using the information provided to the LDE in the following instances:

A.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2752 (December 2003), amended LR 30:1620 (August 2004), repromulgated LR 30:1997 (September 2004).

Weegie Peabody
Executive Director

0409#016

RULE

Board of Elementary and Secondary Education

Bulletin 1872 Extended School Year Program Handbook

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted *Bulletin 1872 Extended School Year Program Handbook*. Bulletin 1872 will be printed in codified format as Part LVII of the Louisiana Administrative Code. This document replaces any previously advertised versions. The *Extended School Year Program (ESYP) Handbook* is the regulatory guidance for the provision of special education and related services to students with disabilities in accordance with an Individualized Education Program beyond the normal school year of the LEA and at no cost to the parents of the student. The publication as a rule is necessary because the handbook has been codified. Louisiana's Extended School Year Handbook provides information regarding guidelines related to the eligibility of students for extended school year programming and planning considerations, and district responsibilities. The legal basis for extending the school year for certain students with disabilities is stated in §447 of *Bulletin 1706 Regulations for Implementation of the Children with Exceptionalities Act* (R.S.17:1941 et seq.) and the Individuals with Disabilities Education Act (IDEA) §300.309.

These decisions have reaffirmed the federal legislative intent to ensure an appropriate education based on the student's needs and on the individually designed educational program to meet those needs.

Title 28

EDUCATION

Part LVII. Bulletin 1872 Extended School Year Program Handbook

Chapter 1. Purpose

§101. Introduction

A. Extended School Year Program (ESYP) is the provision of special education and related services to students with disabilities in accordance with an IEP beyond the normal school year of the LEA and at no cost to the parents of the student. The legal basis for extending the school year for certain students with disabilities is stated in §447 of *Bulletin 1706 Regulations for Implementation of the Children with Exceptionalities Act* (R.S.17:1941 et seq.) and in court decisions relative to the 180-day rule. These decisions have reaffirmed the federal legislative intent to ensure an appropriate education based on the student's needs and on the individually designed educational program to meet those needs.

B. The Louisiana Department of Education and the Advocacy Center for the Elderly and Disabled concluded the *Laura I. Consent Decree* in 1994. As a result of the *Laura I. Consent Decree*, the Louisiana Department of Education established program standards for extended school year services. All local education agencies must utilize specific eligibility criteria to determine the need for ESYP and program planning guidelines to design, implement and evaluate the extended school year program.

C. The ESYP eligibility criteria were developed to ensure that students have equal access to extended school year services. These criteria were effective as of October 1, 1990. The ESYP planning guidelines were developed to ensure that ESYP services are based on the individually identified needs of students with disabilities. The program standards were effective as of January 1, 1991.

D. This handbook, Extended School Year Program, consolidates Bulletins 1870: Determining Eligibility for Extended School Year Programs (April 2, 1990), and 1871: Program Standards for Extended School Year Program (January 1, 1991). This consolidated handbook also includes revisions made during the spring of 1994 once all local education agencies had exited from the consent decree. Further revisions were made during the summer of 2002 and 2004. The current handbook provides the guidelines on eligibility determination, design, implementation, and evaluation of the extended school year program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1997 (September 2004).

Chapter 3. Program Standards

§301 Overview

A.1. The extended school year program standards must be used in the development, implementation, and evaluation of ESYP. The standards encompass four major components of extended school year programming:

- a. eligibility determination;

- b. planning;
- c. implementation; and
- d. evaluation.

2. Components and accompanying standards are listed on the next page.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1997 (September 2004).

§303. Eligibility Determination [Component One]

A. Local education agencies shall ensure that ESYP screening procedures and eligibility determinations are completed in accordance with State eligibility criteria guidelines. [Standard 1]

B. Parents shall be advised of and involved in the ESYP screening process. [Standard 2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1998 (September 2004).

§305. Planning [Component Two]

A. Local education agencies shall ensure that the ESYP Program of each student is individually designed, reflects high priority needs, and includes services necessary to conduct the program. [Standard 1]

B. Parents shall be given opportunities to be involved actively in the design and implementation of the ESYP. [Standard 2]

C. Local education agencies shall ensure that there is ongoing communication between regular school year staff and ESYP staff sufficient to ensure program continuity. [Standard 3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1998 (September 2004).

§307. Implementation [Component Three]

A. Local education agencies shall continue to address LRE factors, including integration with non-disabled persons, in the implementation of the ESYP program. [Standard 1]

B. Local education agencies shall ensure that the services listed on the ESYP IEP are provided. [Standard 2]

C. Local education agencies shall ensure that instructional activities conducted during ESYP are documented. [Standard 3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1998 (September 2004).

§309. Evaluation [Component Four]

A. Local education agencies shall ensure that instructional personnel measure and report student outcomes. [Standard 1]

B. Local education agencies shall evaluate ESYP outcome data to determine program effectiveness. [Standard 2]

C. Local education agencies shall report ESYP data in accordance with state mandated procedures. [Standard 3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1998 (September 2004).

Chapter 5. Eligibility Determination Procedures

§501 Overview

A. The ESYP Eligibility Criteria must be used in determining eligibility for extended school year services. Students who meet the following conditions prior to the ESYP screening date must be screened annually to determine their eligibility for ESYP: are ages 3-21¹, are classified with a disability according to the *Pupil Appraisal Handbook*; have a current evaluation; and have a current IEP.

B. Students must be screened for the ESYP every year, regardless of previous participation or nonparticipation in the ESYP. The flow chart on the following page indicates how the screening, eligibility determination, programming, and implementation process takes place. NOTE: Students on Interim IEPs must be screened for ESYP based on the suspected disability.

C. As indicated by the ESYP flow chart, the screening process is actually the ongoing process of instruction and assessment of student performance and/or data collection throughout the regular school year. The IEP team, (teacher, speech-language pathologist, OT, PT, parent, social worker, etc.), provides instruction and collects data on the student's performance. These data are used to determine whether there is a need for the ESYP. Regular data collection is necessary to provide a clear and accurate picture of the student's performance.

¹The student's 3rd birthday is prior to the screening date or their 22nd birthday is after the screening date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1998 (September 2004).

§503. Annual IEP

A. The IEP team discusses all pertinent criterion/criteria that the student may qualify for ESYP. The team identifies at least one of criterion as a possible area under which the student may need ESYP. Below are some guidelines to guide this decision:

1. Regression-Recoupment Criterion should be considered for any student expected to have a problem with regression-recoupment of skills. A regression-recoupment problem exists if there is a pattern of regression without timely recoupment, following breaks in instruction, in the performance of objectives most essential to the student's overall functioning. The Regression Recoupment Criterion may be used for any student receiving special education services but must be used for students classified with certain disabilities.

2. Critical Point of Instruction (CPI) 1 Criterion should be considered for students for which there is reason to suspect that there will be a loss of general education class(es)/time or increase in special education service time because of a lack of academic or social skill development.

3. Critical Point of Instruction (CPI) 2 Criterion should be considered for students for which there is reason to suspect that there will be a loss of significant progress

made toward the acquisition and/or maintenance of a critical self-help, community access, or social/behavioral skill.

NOTE: CPI (1 and/or 2) is typically selected by default if the team does not suspect a need for ESYP along any of the other criterion. The teacher/instructional team is not prohibited from reviewing student performance (i.e., screening) for CPI or other criterion that were not originally targeted.

4. Self-Injurious Behavior Criterion should be considered for students who exhibit self-injurious behavior that is persistent, regular, and continuous.

5. Employment Criterion should be considered for students who are 16-21 years old and who are engaged in or expected to have paid employment prior to the ESYP screening date.

6. Transition Criterion should be considered for students who have a transition services plan and who are expected to exit the local education agency at the end of the school year.

7. Excessive Absences Criterion should be applied to students expected to have documented absences in excess of 25 days without the provision of hospital/homebound services because of a diagnosed health condition and as a result is expected to fail to make projected progress. It may not be possible to anticipate these conditions but this criterion should be considered during screening for students with 25 or more absences.

8. Late Entry Criterion should be applied to students who enter special education after January 1st (but prior to the ESYP screening date)

9. All applicable criterion/criteria must be checked in the ESYP block on the IEP.

B. If Regression-Recoupment, Critical Point of Instruction (1 and 2) and/or Self-Injurious Behavior Criteria are selected:

1. The IEP Team decides which objectives to target (i.e., the "Determination of Essential Skills" checklist assists the team in determining the most important objectives for the student).

2. The IEP team discusses ways of collecting data and strategies for team functioning. The method of data collection will depend on the individual objective(s). Data may take the form of task analyses, checklists, grades in teacher gradebook, teacher/parent observation logs, etc.

C. In addition to these criterion specific action steps, the following actions must also be performed at every IEP.

1. The parent(s) is given a copy of the ESYP Fact Sheet and indicates receipt of this sheet by checking the "Parent Decisions" box on the Placement/Least Restrictive Environment page of the IEP.

2. The ESYP screening date is checked in the ESYP block on the Program/Services page of the IEP. If the student's initial IEP date is after January 1 but prior to the screening date, he or she has two screening dates (i.e., the current and subsequent school years).¹

¹For children transitioning from ChildNet to Part B Services who have spring birthdays, the teacher/instructional staff must consider all applicable criteria including regression/recoupment, critical point of instruction, late entry into school, and extenuating circumstances. The need for information to determine ESYP eligibility should be addressed on or before the mandated transition meeting, which must be held 90 days before the child's third birthday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1998 (September 2004).

§505. Ongoing Data Collection [Refer to the Specific Data Requirements and Criteria for the ESYP Criterion (Ia) Selected at the IEP]

A. Student performance on goals and objectives on the IEP is monitored on an ongoing basis throughout the school year. The data collected (e.g., grades, progress reports, behavior checklists, task analyses, teacher observation logs, etc.) should indicate the progress the student makes toward acquisition of his or her goals and objectives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1999 (September 2004).

§507. Screening and Decisions Regarding ESYP Eligibility [Did the Student Meet Criteria for ESYP?]

A. The teacher collects data relevant to make a determination for ESYP eligibility. Prior to the screening date, if other team members have data that support the student's need for the ESYP, they must submit the data to the teacher with primary responsibility for IEP development.

B. The teacher/instructional personnel may begin to make eligibility decisions no earlier than March 15 each year; the last date for making eligibility decisions is the screening date (the first Friday after Easter). The ESYP screening date is the date by which all screening must be completed and eligibility decisions must be made. Between March 15 and the ESYP screening date (the Friday after Easter) the student's teacher and/or instructional personnel examine student performance data and determine whether the student meets criteria for ESYP eligibility or not.

C. In addition to student data indicating a need for eligibility, many criterion areas require that ESYP would have a positive impact student performance/progress. A description of the impact of providing and withholding ESYP should be included with the documentation to support ESYP eligibility.

D. Review the sections of this handbook related to each criterion area for information regarding additional specific criteria requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1999 (September 2004).

§509. Required Documentation

A. Each criterion has a number of required elements that must be provided for any student determined eligible under that criterion. Please refer to the section for each criterion for all required documentation and information. Any data and/or information related to the eligibility decision should be in the student's file and/or provided to the LEA office regardless of whether the student met eligibility or not.

B. There are four mandatory forms:

1. ESYP-IEP;
2. ESYP Fact Sheet provided to the parents at the annual IEP meeting;
3. ESYP Screening Determination Form. The teacher should complete and submit the ESYP Screening

Determination Form to the Director/Supervisor of Special Education by the ESYP screening date; and

4. the Regression-Recoupment Summary Form (used for students considered under Regression-Recoupment criterion).

C. If the local education agency requires the Student Eligibility Review form, the teacher should complete it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1999 (September 2004).

§511. Parental Notification and ESY-IEP

A. The teacher should send the parents written notification of the screening results within 5 business days of the ESYP screening date.

B. For students found eligible for the ESYP, an ESY IEP is scheduled (not necessarily held) within 15 business days after the ESYP screening date. Every effort must be made to obtain parental participation. The same procedures are followed as for a review IEP (*Bulletin 1706*, §442 and §443). If parental participation cannot be obtained, the ESY IEP is developed and the parent(s)/guardian are notified and sent copies of documents.

C. For students found ineligible for ESYP, and the parent(s) disagrees with the decision, a meeting of the IEP team should be held to review the eligibility decision. If the data indicate the student is eligible or there is insufficient data to make a determination, the ESY-IEP should be developed. If the data supports the initial decision of ineligibility, the parent has the right to appeal the decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2000 (September 2004).

§513. Implementation of ESYP

A. An ESY program should be implemented in accordance with the student's ESY-IEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2000 (September 2004).

§515. After ESYP

A. All ESY Instructional data and progress information should be reported to the regular school year IEP team. All appropriate data should be sent to the LEA Supervisor/Director of Special Education and/or the LEA representative responsible for submitting ESYP summary outcome data into LANSER. LANSER data should be entered by October 15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2000 (September 2004).

§517. Eligibility Criteria

A. Seven criteria are used to determine a student's need for ESYP: Regression-Recoupment; Critical Point of Instruction; Self-Injurious Behavior; Employment; Transition; Excessive Absences; and Late Entry.

B. There may be unusual situations or circumstances in which a student classified with a disability and enrolled in

special education may need the ESYP but does not meet any of the eligibility criteria. In this case the teacher/instructional personnel may consider "Extenuating Circumstances." The purpose is to catch the student who meets the spirit, but not the letter, of the existing criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2000 (September 2004).

§519. Regression-Recoupment Criterion

A. Students to be Considered

1. All students with disabilities enrolled in special education

2. This criterion must be used to screen students who have a classification of: moderately mentally disabled, severely mentally disabled, profoundly mentally disabled, deafblind, autism, multi-disabled, traumatic brain injury, and preschool students with disabilities.

3. The IEP team decides whether or not to use the Regression-Recoupment criterion for preschool students whose only classification is Speech or Language Impairment.

NOTE: The decision is made at the IEP meeting. The Regression-Recoupment criterion may be used to screen any other student classified with a disability at the discretion of the IEP team.

B. Why Regression-Recoupment? A student who exhibits a pattern of regression-recoupment problems (i.e., reverts to a lower level of functioning after a break in instruction and fails to regain the skill level in a reasonable length of time) may need ESYP to maintain his or her skill level to avoid having to restart a sequence of instruction after instructional breaks.

C. Why target objectives? Regression-Recoupment problems are demonstrated by looking for a pattern. The pattern may be across various skill areas or in only one skill area. By selecting a minimum of four objectives across educational need areas most essential to the student's overall functioning and well-being, the IEP team will get a picture of whether or not there is a pattern of regression-recoupment problems in areas most important for that student.

D. Why collect data? Data must be collected to determine a student's performance on objectives. Examining the data before and after instructional breaks allows instructional personnel to determine whether the student has reverted to a lower level of functioning and to observe how long it takes the student to return to the previous functioning level.

E. Why over two breaks? By collecting data over two breaks, the teacher/instructional personnel will determine whether there is a pattern and whether the pattern is consistent over time.

F. Definitions

Regression To revert to a lower level of functioning after a break in instruction.

Recoupment To regain the level of functioning prior to the break in instruction.

Target Objectives Objectives on the student's IEP; data collected on these objectives must be examined in determining whether a pattern of regression-recoupment problems exist. A minimum of four objectives across the educational need areas most essential to the student's overall functioning must be targeted.

Break in Instruction A break of at least five consecutive instructional days.

Holiday Break A break of five or more instructional days (e.g., summer break, Thanksgiving, Christmas, Easter, spring break).

Imposed Break A break of five instructional days. When imposing a break, the IEP team must ensure the following:

- a. the student's health/well being is not endangered; and
- b. the break is based on the need to determine whether or not the student would retain the skill without daily intervention.

Pre-Break Average The average of three data points immediately before the break. If data are being collected two times/week, data collection could span a two-week period.

Highest Post-Break Score The highest level of performance the student attains within five data points following the break indicates whether the student has recouped the skill or has problems with regression-recoupment.

G. Steps to applying the R-R Criterion

1. Annual IEP

a. The IEP team identifies the Regression-Recoupment Criterion as one possible area under which the student may qualify for ESYP.

b. The IEP team targets a minimum of four objectives that are the most essential to the student's overall functioning (the "Determination of Essential Skills" checklist assists the team in determining the most important objectives for the student). The number of each objective targeted for Regression-Recoupment is circled on the IEP Instructional Plan page(s).

c. When possible, an objective from each educational need area is targeted.

d. The IEP team discusses ways of collecting data and strategies for team functioning.

2. Ongoing Data Collection/Screening [Refer to the Regression-Recoupment Summary Form and Directions on File at the Department]

a. Student performance data are examined before and after a minimum of two instructional breaks (i.e., a break of at least five consecutive instructional days). The method of data collection will depend on the individual objective(s). Data may take the form of task analyses, checklists, grades in teacher gradebook, teacher/parent observation logs, etc.

b. Specifically, three data points prior to each break and five data points following each break will determine whether the student has any Regression-Recoupment problems.

NOTE: Examining a student's regression-recoupment performance over a summer break is not mandated, but is recommended. If the IEP team uses the summer break as one of the instructional breaks the difference of a 4 - week period is allowed to assess recoupment, since it is a much longer break.

3. Determine Whether There Is A Regression-Recoupment Problem such that the highest of the five post-break scores is lower than the average of the three pre-break scores.

a. Does it take longer than five data points to get back to the pre-break average?

i. No. If the student reached the pre-break average on any day within the first five data points, the student has recouped that skill. If normal/ongoing data collection for this skill/objective is two times/week, the recoupment period would span three weeks after the break.

ii. Yes. If the highest (or all five) post-break score(s) are lower than the pre-break average.

iii. The question asked on the Regression-Recoupment Summary Form is, "Was the highest post-break score lower than the pre-break average?"

4. Is the Student Eligible for ESYP?

a. Fill out the Regression-Recoupment Summary Form. Look at the RECOUPMENT question, and base the decision as to whether there is a pattern of regression-recoupment problems on the following:

i. YES. One objective has "yes" checked for RECOUPMENT over both breaks; and/or

ii. YES. There are the same or greater number of "yes" than "no" responses checked for Regression-RECOUPMENT problems across all skills and breaks.

iii. NO. Otherwise the student is not eligible for ESYP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2000 (September 2004).

§521. Critical Point of Instruction Criterion

A. Students to be Considered

1. All students with disabilities enrolled in special education

B. Definitions

1. Students with disabilities may be eligible for the ESYP if there is evidence that extended service(s) is needed to allow the students to achieve a critical point of instruction in order to preclude one or more of the following from occurring:

a. Critical Point 1 (CPI-1). Any loss of general education class(es)/time or increase in special education service time because of a lack of academic or social skill development;

b. Critical Point 2 (CPI-2). A loss of significant progress made toward the acquisition and/or maintenance of a critical self-help, community access, or social/behavioral skill.

NOTE: In very simple terms, a *critical point of instruction* for these self-help, community access, and social/behavioral skills refers to the point at which a student has almost achieved the skill. The Educational Needs codes on the IEP form may or may not match the areas described above (i.e., "giving the cashier the correct amount of money" might be coded as Academic or Vocational, but the skill is aimed at enabling the student access to the community).

C. Steps to Applying the Critical Point of Instruction Criterion

1. Annual IEP

a. The IEP team identifies Critical Point of Instruction (CPI) Criterion as a possible area under which the student may need the ESYP.

b. The IEP team discusses all of the components of the criterion, different ways to collect data, and strategies for team functioning.

2. Ongoing Data Collection/Screening

a. The student's performance on goals and objectives on the IEP is monitored on an ongoing basis throughout the school year. The data collected (e.g., grades, progress reports, behavior checklists, task analyses, teacher observation logs, etc.) should indicate the progress the student makes toward acquisition of his or her goals and objectives.

3. Is the Student Eligible For ESYP?

a. Critical Point 1

i. The teacher/instructional personnel reviews all relevant data and determines whether there is a possibility that the student may be in danger of the loss of general education class time because of lack of academic or social skill development. In other words, any increase in special education service time must be examined.

(a). Is there any reason to suspect that the student is in danger of losing general education time for either academic or social reasons? Example1: the student may not be keeping up with work in the general education class and there may be the need for more special education support in the general education class. Example2: the student may be exhibiting behavior(s) that interfere with class participation; removing him/her because of the disruptive behaviors is being considered.

ii. Review Student Performance, Progress

(a). What do the data indicate? The teacher/instructional personnel should look at whether the student demonstrates adequate performance, is able to perform at grade level, is able to perform in reading related areas, or is exhibiting behavior that interferes with class participation, etc.

(b). Do other team members see the same performance pattern?

iii. Decision Making

(a). Is it possible that the ESYP could prevent the loss of time in general education class(es) or the increase in special education support/service(s) time?

(b). Why does the teacher/instructional personnel think the ESYP could prevent this loss of time? Why does the teacher/instructional personnel think the ESYP could not prevent this loss of time? Example1: could intensive work in specific need areas (drill in math, study and organization skills, phonics skill building, social skills training, etc.) make the difference? Example2: the ESYP may not make a difference because of the fact that the student is three grade levels below in reading, or the student has a lack of interest/motivation.

b. Critical Point 2

i. The teacher/instructional personnel reviews all relevant data and determines whether there is a possibility that the student may be in danger of losing significant progress made toward acquisition and/or maintenance of a critical self-help, community access, or social/behavioral skill.

(a). Are there any objective(s) on the student's IEP in the area of self-help skills (e.g., taking care of self and personal needs such as, toileting, dressing, body care/hygiene), community access (e.g., skills necessary for independent functioning in community situations such as, crossing streets, buying items at a store, using the telephone for information/emergency service), social/behavioral skills (e.g., communicating with others for needs/wants,

controlling unacceptable behavior, such as hitting others or screaming in social/educational situations.)?

(b). Has the student almost achieved any of the objectives/skills in these areas?

ii. Review student performance, progress

(a). What do the data indicate? The student is *about at criterion*, or *almost has it*, or the student is *not close to criterion*.

(b). Do other team members have data on these skill areas? Are the skill(s) considered critical?

iii. Decision making

(a). Is the skill critical? Does the student need to acquire or maintain the skill now?

(b). Is the skill crucial because of the student's age?

(c). Is the skill important because it limits future program options?

(d). Is the skill significant because it limits future living/community integration opportunities?

(e). Based upon his or her past performance (rate) could the student acquire or maintain the self-help, community access, or social/behavioral skill(s) during the ESYP? Would the ESYP make a difference?

4. Required Documentation

a. Critical Point 1:

i. a description of the present conditions that make it likely that the student will lose time in general education class(es) or that the student will need an increase in special education support/service time; and

ii. an explanation of how ESYP services are likely to prevent the student from losing the general education class(es) time or increasing special education service time.

b. Critical Point 2:

i. a list of the skill(s)/objective(s) considered to be crucial or important for the student (*The Determination of Essential Skills Checklist*, on file at the department, contains list of skills);

ii. the student's current performance on the un-mastered skill(s)/objective(s);

iii. information describing the crucial nature of the skill(s)/objective(s) and the impact of both providing and withholding the ESYP; and

iv. data/information which support the probability that the student could master/maintain the skill(s)/objective(s) during the ESYP.

NOTE: Critical point of instruction documentation form found on file at the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2001 (September 2004).

§523. Self-Injurious Behavior

A. Students to be Considered All students with disabilities who are enrolled in special education and who exhibit self injurious behavior(s)

B. Definitions

1. Self-injurious behavior(s) is self-directed and negatively impacts the health and well-being of the student: (e.g., banging one's head, severely scratching oneself, pinching oneself, biting oneself, etc.) The behavior inflicts injury on self.

2. The self-injurious behavior(s) is consistent in nature (i.e., persistent, regular, or continuous).

3. Self-injurious behavior(s) requires intervention to ensure that there is a reduction in the behavior(s) or that appropriate social behavior is achieved or maintained.

4. Students who exhibit a self-injurious behavior(s) should have a goal(s) and objective(s) on the IEP to address the reduction and/or elimination of the self-injurious behavior(s).

NOTE: There may be instances when a self-injurious behavior is exhibited and no goal(s) and objective(s) are on the IEP to address the behavior. Documentation should describe the behavior, the baseline data, the intervention plan, results, and any revisions to the intervention, etc. However, it must be emphasized that these needs should be addressed on the student's IEP.

C. Steps to Applying Self-Injurious Behavior Criterion

1. Annual IEP

a. The IEP team identifies *Self-Injurious Behavior Criterion* as an area under which the student may need ESYP. The IEP team and/or the teacher/instructional personnel should use this criterion for the student who exhibits self-injurious behavior that is persistent, regular, and continuous.

b. There is a plan for conducting a functional behavioral assessment and developing a positive behavioral support plan.

2. Ongoing Data Collection/Screening

a. The behavior is clearly defined or described.

b. Baseline data are collected, including data pertaining to the frequency and/or duration of the behavior.

c. A positive behavioral support/intervention plan is designed and implemented by the IEP team.

d. The teacher/instructional personnel and/or parent(s) collect data to verify the success or failure of the intervention plan (e.g., frequency count, duration check).

e. Evaluate. If the data collected indicate that the intervention plan is not working to reduce the self-injurious behavior (usually about two weeks), the intervention plan should be revised. The teacher should go back to steps 3 and 4.

3. Is the Student Eligible for ESYP?

a. By the ESYP screening date, the teacher/instructional personnel reviews all of the data related to the behavior and considers the following:

i. Questions

(a). Does the behavior result in self-injury?

(b). Is continued intervention necessary to reduce the self-injurious behavior(s)?

(c). Is continued intervention necessary to ensure that appropriate behavior is achieved or maintained?

ii. Review Student Performance, Progress

(a). What do the data indicate? Has the self-injurious behavior decreased, or is the student in need of continued intervention?

(b). Do other team members see the same pattern of behavior?

b. Decision Making

i. If the data indicate the student is in need of continued intervention to maintain appropriate behavior or reduce self-injurious behavior, the student is eligible for the ESYP.

4. Required Documentation

a. A description/definition of the behavior

b. Baseline data

c. A description of the intervention plan

d. Intervention data

e. If necessary, the revised intervention plan(s)

NOTE: Self-Injurious Behavior Documentation Form found on file at the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2002 (September 2004).

§525. Employment

A. Students to be Considered

1. All students with disabilities enrolled in special education ages 16-22 who are employed by the screening date.

B. Definitions

Paid Employment—That the student is paid commensurate/minimum wage or has an alternate wage certificate from the Department of Labor to be paid at a reduced level. In cases in which the student is paid a stipend (e.g., JTPA funds, cleaning tables in the teachers' lounge for \$0.25), the student is not eligible for the ESYP.

a. The student is employed at a job site, prior to the screening date, and that employment is expected to continue throughout the summer months.

b. There are vocational or employment goal(s) and objective(s) on the student's current IEP.

c. There is documented evidence that the student is in need of support in order to maintain paid employment.

C. Steps to Applying Employment Criterion

1. Annual IEP. The IEP team determines that the student may qualify for the ESYP via the Employment Criterion. This criterion is applied to students who are 16-22 years old and who are engaged in paid employment prior to the ESYP screening date. The job is expected to continue through the summer months.

2. Ongoing Data Collection/Screening. The student's performance on goals and objectives on the IEP is monitored on an ongoing basis throughout the school year. The data collected on the vocational/employment goal(s) and objectives may take the form of task analyses, job performance checklists, information from job coach/supervisor, etc.

3. Is the Student Eligible for ESYP?

a. Questions

i. Does the student's current IEP address vocational/employment goals and objectives?

ii. Did the student begin paid employment prior to the ESYP screening date?

iii. Do the performance data indicate that the student will need support to maintain the paid employment throughout the summer?

b. Review Student Performance/Progress

i. What do the data indicate? How is the student's performance on the job? Is the student able to perform the job with or without support? What type of support is needed?

c. Decision Making

i. If the data indicate the need for support for the student to maintain the paid employment, then the student is eligible for ESYP.

4. Required Documentation

a. Documentation (i.e., job performance data) that the student is in need of support to maintain the paid employment.

b. Written statement from the employer indicating the intention to employ the student throughout the summer months.

c. A current IEP with vocational/employment goals and objectives.

NOTE: Employment criterion documentation form found on file at the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2003 (September 2004).

§527. Transition

A. Students to be Considered

1. All students with disabilities who are enrolled in special education, who have a transition services page on the IEP, and who are expected to exit the local education agency at the end of the school year

B. Definitions

1. Individualized Transition Services Page. The first page of the IEP lists the action steps that a person will need to accomplish in order to live, work, and recreate as an adult as independently as possible. It must be written by the time the student is age 16, or earlier if appropriate, and revised annually until the student exits the local education agency. Participants of the transition services page include the student, family members, and representatives of other agencies responsible for providing or paying for transition services.

2. Action Steps. Activities designed to promote movement from school to post school activities, including post-secondary education, vocational training, integrated employment, continuing and adult education, adult services, independent living, or community participation

C. Steps to Applying Transition Criterion

1. Annual IEP

a. The IEP team identifies the Transition Criterion as one possible area under which the student may qualify for the ESYP. This criterion is for students who have a transition services plan and who are expected to exit the local education agency at the end of the school year.

b. Local education agency transition services action steps are addressed in the IEP objectives. The IEP team discusses different ways of collecting data and strategies for team functioning.

2. Ongoing Data Collection/Screening

a. Throughout the school year, the teacher/instructional personnel monitors the transition services page and corresponding objectives on the IEP.

b. Prior to the ESYP screening date, the teacher/instructional personnel reviews the student's transition services page to determine whether there are any local education agency action steps which will not be completed by the end of the normal school year.

3. Is the student eligible for ESYP?

a. Questions

i. Are there local education agency transition services page action steps that will not be completed by the end of the school year?

ii. Does the student need transition services during the summer months?

b. Review Student Performance/Progress

i. What do the data indicate? Is the student completing all local education agency action steps and corresponding objectives? Are there some local education agency action steps and corresponding objectives that are not complete?

c. Decision Making

i. The student is eligible for ESYP if s/he is in need of service(s) to complete action steps that are the responsibility of the local education agency.

4. Required Documentation

a. A list of the incomplete action steps and corresponding objectives that are the responsibility of the local education agency.

b. Information describing the student's need for transition services during the summer months.

NOTE: Transition Documentation Form found on file at the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2004 (September 2004).

§529. Excessive Absences

A. Students to be Considered

1. Students classified with a disability who are absent during the school year for more than 25 days for health related reasons without provision of hospital/homebound services.

B. Definitions

1. Health-related conditions listed in Standard 2.055.06 of *Bulletin 741 Louisiana Handbook for School Administrators* are as follows:

a. extended personal physical or emotional illness as verified by a physician or dentist,

b. extended hospital stay as verified by a physician or dentist,

c. extended recuperation from an accident as verified by a physician or dentist,

d. extended contagious disease within a family as verified by a physician or dentist.

C. Steps to Applying Excessive Absences Criterion

1. Annual IEP

a. The IEP team discusses the student's general health, past health, current health condition, etc., and in the event they:

i. anticipate student absences because of a diagnosed health condition in excess of 25 days without the provision of hospital/homebound services, and

ii. believe these absences will result in the student failing to make projected progress, he or she may qualify for ESYP.

2. Ongoing Data Collection/Screening

a. The IEP team collects data throughout the school year (e.g., grades, behavior checklists, task analyses, teacher observation logs). The data should indicate the progress (or lack of) the student is making toward acquisition of his or her goals and objectives.

b. The teacher documents absences caused by a diagnosed health condition(s) (e.g., verification from

physician, certification from child welfare and attendance personnel that the absences were health related) or the provision of hospital/homebound services.

3. Is the student eligible for ESYP?

D. Questions

1. Has the student been absent for more than 25 days, because of a diagnosed health condition, without the provision of hospital/homebound services?

2. Has the student failed to master high priority (i.e., essential to the student's overall functioning and continued educational progress) skills/objectives as a direct result of the health-related absences?

3. Will failure to acquire these skills seriously jeopardize the overall educational progress of the student?

4. Could the ESYP have a significant impact on the student's ability to make continued progress toward the acquisition of high priority goals and objectives absolutely necessary for his or her continued progress in school?

b. Review Student Performance/Progress

i. Do data indicate lack of progress, or has the student kept up with school work in spite of the health-related absences?

c. Decision Making

i. If the health-related absences have negatively affected the student's educational progress and the ESYP could help the student get back on track, then the student is eligible for ESYP.

4. Required Documentation

a. Verification of health-related absences

b. Description of student's lack of progress on high priority skills/objectives because of health-related absences

c. Description of the impact of providing and withholding the ESYP on the student's ability to master high priority goals and objectives

NOTE 1: It is possible that excessive absences will not be indicated on the IEP as a criterion area, since the student's eligibility is based on the student having missed the days by the ESYP screening date. It is the responsibility of the teacher/instructional personnel to screen students who meet the conditions stated above for the ESYP.

NOTE 2: Excessive absences/late entry documentation form found on file at the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2004 (September 2004).

§531. Late Entry Into School

A. Students to be Considered

1. Students who enroll after January 1st and prior to the screening date and have insufficient records/documentation to determine eligibility; there is usually insufficient time to collect all instructional data necessary to determine eligibility via other criteria.

B. Definitions

1. Late Entry. The student enrolls between January 1st and the ESYP screening date.

C. Steps to Applying Late Entry Criterion

1. Annual IEP

a. The IEP team discusses

i. the student enters special education between January 1st and the ESYP screening date,

ii. whether the student has accompanying records/performance information,

iii. whether the student is expected to be enrolled for insufficient time for the IEP team to collect adequate data to make an eligibility decision, and

iv. in the event the student fails to make the progress projected on the IEP, the student may qualify for ESYP.

2. Ongoing Data Collection

a. If possible, accompanying records from the previous instructional setting are secured.

i. Data are collected on an ongoing basis (e.g., grades, behavior checklists, task analyses, teacher observation logs).

3. Is the student eligible for ESYP?

a. Questions

i. Did the student enter the program between January 1st and the screening date with insufficient time and data necessary to determine eligibility via any of the other criteria?

ii. Is the student failing to make the projected progress on his or her high priority goals and objectives?

iii. Is there evidence that the ESYP could have a significant impact upon the student's ability to master high priority (i.e., objectives/skills essential to overall functioning and continued educational progress) goals and objectives?

b. Review Student Performance/Progress

i. Data indicate the student has adapted and is making progress in the program or data indicate that the student is having trouble adjusting and is not making progress.

c. Decision Making

i. If the student is not making the progress expected and/or there was insufficient time to collect data to determine eligibility for ESYP and the teacher/instructional personnel feels that the ESYP could have a significant impact on the student being able to meet high priority goals and objectives, then the student is eligible for the ESYP.

4. Required Documentation

a. Documentation that the student entered between January 1st and the screening date (indicated by the date of the IEP).

b. Description of the student's inability to make the progress projected.

c. Description of the impact of providing and withholding the ESYP on the student's ability to master high priority goals and objectives.

NOTE: Excessive absences/late entry documentation form found on file at the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2005 (September 2004).

§533. Extenuating Circumstances

A. There may be unusual situations or circumstances in which a student classified with a disability and enrolled in special education may need the ESYP, but does not meet any of the eligibility criteria. The intent of Extenuating Circumstances is to identify the student who meets the spirit, but not the letter, of the existing criteria.

1. The teacher/instructional personnel must use professional judgement and make the ultimate decision whether the student needs the ESYP to receive a free and appropriate public education (FAPE). In other words, the

teacher/instructional personnel must answer the question: Will a break in instruction negatively impact him/her or cause the student to lose skills that will restrict his or her ability to function as independently as is possible?

B. Steps

1. The teacher/instructional personnel must screen the student using all the ESYP criteria that apply.

2. If the student does not qualify, but the teacher/instructional personnel believes there is a need for ESYP, an ESYP IEP meeting must be convened.

C. Required Documentation

1. The teacher/instructional personnel must describe the student's need for the ESYP based on the instructional data and the most closely applicable ESYP criteria. This description/narrative is written on the ESYP IEP, or on another page, and attached to the ESYP IEP.

D. Examples

1. A student has 20 health related absences by the screening date and the teacher/instructional personnel expects s/he will be absent at least six more days because of a diagnosed health condition. The teacher/instructional personnel must determine whether the health-related absences have impeded the student's progress on high priority goals and objectives and whether the ESYP could have a significant impact on his or her educational program (The Excessive Absences Criterion).

2. A student in a self-contained class setting may be able to increase his or her time in the general education class if s/he receives some assistance during the ESYP (CPI-1 criterion).

NOTE: this placement does not indicate that students may receive the ESYP to pass a class or remediate a deficit.

3. A student was addressing the critical social objectives/skills [e.g., demonstrating appropriate peer/adult interactions (90 percent of interactions), following school and classroom rules (95 percent of rules/day)] on his or her IEP and started to make progress on them late in the school year. S/he is now at 50 percent and 60 percent of the criterion level in those skill areas (i.e., not near criterion).

4. A student has an assistive technology device and it is essential for that student to use the system/technology through the summer to maintain his/her functioning level of the device.

5. The skills are deemed crucial for the student to continue to participate in the general education setting. Now that the student has begun to make significant progress on the critical skills, the teacher/instructional personnel agree that the ESYP would have a significant impact on the student's ability to master/maintain these critical skills (CPI-2 criterion).

6. A student does not show a pattern of regression-recoupment problems on the objectives targeted for regression-recoupment data collection. However, there are other objectives on the IEP which were not targeted and the data indicate there is a regression-recoupment problem with these objectives. The teacher/instructional team decides these are essential skills for the student and that these skills need to be maintained. The team indicates the student qualifies for ESYP via the regression-recoupment criterion. (Regression-Recoupment Criterion).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2005 (September 2004).

§535. Review of Screening/Eligibility Determination

A. At the IEP meeting, the teacher should

1. Explain and give the parent(s)/legal guardian the ESYP Fact Sheet and document receipt of it on the Placement/LRE page of the IEP;

2. Discuss the applicable criterion/criteria for screening and for determining the student eligible and then check the applicable criterion/criteria on the Program Services page of the IEP; and

3. Tell the parent(s)/legal guardian the ESYP screening date(s) and check the date(s) on the Program Services page of the IEP.

B. During the school year, the teacher should:

1. collect student performance information/data;

2. review the student's progress/lack of progress regularly; and

3. if applicable, complete the Regression-Recoupment Summary Form.

B. Between March 15 and the ESYP screening date, the teacher should:

1. review the student's performance information/data and IEP objectives to determine whether the student is in need of an extended school year program;

2. once the decision has been made, the teacher should:

a. by the fifth business day after the ESYP screening date, send the parent(s)/legal guardian a written notice of whether the student is eligible or ineligible (sample letters on file at the department);

b. for eligible students, by the 15th business day after the ESYP screening date, send the parent(s)/legal guardian a notice to schedule the ESYP IEP meeting. The meeting does not have to be held by the 15th business day, but it must be scheduled (sample letter on file at the department). The ESYP IEP meeting must be held prior to the beginning of the student's ESYP program;

c. every effort must be made to gain parent(s)/guardian participation in the ESYP IEP meeting. If the parent(s)/guardian cannot attend the ESYP IEP, the teacher should follow the same procedures used for a review IEP meeting (*Bulletin 1706*, §442 and §443). The ESYP IEP is developed and copies of the document are sent home to the parent(s)/guardian;

d. the teacher should complete the ESYP Screening Determination Form and submit it to the Director/Supervisor of Special Education by the screening date.

D. For eligible students, the IEP team should hold the ESYP IEP meeting (Next section Information and Directions).

E. For students determined ineligible and for whom the parents/legal guardian have questions or disagree, the teacher should schedule and hold a meeting with the IEP team to review the decision. This should be documented on the ESYP IEP by indicating whether the meeting was requested either by the parent or by school personnel to review or determine eligibility for extended school year services. The IEP team should indicate the student's ESYP eligibility status. If the parent continues to disagree with the LEA decision they may exercise their rights by initiating

procedures in Louisiana's Educational Rights of Children with Exceptionalities in Public Schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2006 (September 2004).

Chapter 7. ESYP Program Planning Guidelines

§701. Overview

A. Extended School Year IEP. The ESYP Planning Guidelines section of the handbook provides assistance to IEP teams in the development of an individualized extended school year program. Included in this section are instructions for completing the mandated ESYP IEP form and guidelines for the IEP team to follow in making decisions regarding the:

1. selection of goals and objectives for the ESYP;
2. duration and setting of the ESYP; and
3. personnel needed to implement the identified services.

B. The extended school year program is to be an extension of the regular school year program for students who have been determined to need this program to prevent them from losing significant skills that will impact their future life options. Therefore, the extended school year program is not to be an isolated summer program or a program designed to accelerate or remediate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2007 (September 2004).

§703. ESYP Planning Guidelines

A. This section of the handbook provides specific information on the development of Individualized Educational Programs (IEPs) for the extended school year program (ESYP).

B. For the student who qualifies for the extended school year, the ESYP IEP team must meet to develop the ESYP IEP. The ESYP IEP meeting is similar to the regular school year IEP meeting in many ways. Participants at the ESYP IEP must include the student's teacher(s), parent(s), the local education agency's officially designated representative (ODR), and the student if appropriate. Others who have insight into the student's needs (e.g., Speech-Language Pathologist, OT, PT, Case Manager, Counselor) may also attend the meeting. If possible, the teacher who will be teaching the ESYP should attend the ESYP IEP meeting.

C. The ESYP IEP team is responsible for designing the extended school year program for the student. In developing an extended school year program for a student, the ESYP IEP team must consider the student's educational needs according to the criterion/criteria by which that student qualified for ESYP. Throughout the planning phase, the team is involved in a very individualized decision-making process based on the student's specific needs identified throughout the regular school year data collection and screening.

D. Following are some examples of what the focus of a student's ESYP program would be, based on the needs identified through the screening process and the criterion/criteria by which the student qualified:

1. Regression-Recoupment Criterion. The emphasis will be on the maintenance of the essential skill(s) with which the student has regression-recoupment problems.

a. Students qualifying under this criterion may benefit from three to four sessions per week for nine weeks. Three to four sessions per week should be enough to ensure maintenance. Also, with a nine-week program, there is not much time between the end of the school year and the beginning of the next. In this way, the instructional break time in which the student could regress is reduced.

2. Critical Point of Instruction 1 (CPI-1). The emphasis will be on the skill(s) the student needs to prevent loss of general education time or to provide an increase in special education service time. One instance might be the student who is in danger of losing time in general education because s/he is not keeping up in reading class. The ESYP-IEP team believes that with intensive vocabulary drill and directed instruction on passage reading s/he would be able to continue in the general education class.

a. In this case, the ESYP for this student might be four or five sessions a week for several weeks for intensive teaching and drill.

3. Critical Point of Instruction 2 (CPI-2). The emphasis is on acquisition or maintenance of critical skill(s), such as the high school student who has almost mastered the skills related to grocery shopping (community access). His or her ESYP program would focus instruction on achieving/maintaining the skills related to grocery shopping.

a. The number of sessions per week will be dependent upon whether the specific student needs acquisition or maintenance. Acquisition programs are usually shorter with more sessions per week, while maintenance programs are often longer in duration with fewer sessions per week.

4. Late Entry. The emphasis of the program is upon mastery of high priority goal(s) and objective(s). A student entered the program in February and has failed to make the progress expected because of adjustment problems.

a. In this case, the sessions/week and duration of the extended school year program will depend upon which and how many high priority goals and objectives have been identified. These objectives must be those identified as necessary to help ensure s/he will be on track in the fall towards the accomplishment of her/his long term educational goal.

E. The ESYP Planning Guidelines sections include directions for the completion of the actual ESYP IEP form (on file at the department). Also included are strategies to assist the ESYP IEP team in decision making about instruction, programming, and services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2007 (September 2004).

§705. Extended School Year Individualized Education Program (ESYP IEP): Instructions for Use of the ESYP IEP

A.1. The ESYP IEP is to be written prior to the student beginning the extended school year program. Before the

ESY IEP meeting begins, the teacher should ensure that the parent(s)/student has:

- a. received a copy of the ESYP Fact Sheet and a copy of their educational rights;
- b. had an opportunity for an oral explanation of each; and
- c. received answers to any questions they may have.

2. The ESYP Fact Sheet must be given to the parent(s) once a year; this step should occur at the annual IEP meeting. If the parent(s) received the ESYP Fact Sheet at the annual IEP, then he or she does not have to be given another copy.

B. The ESY IEP team must keep in mind that the major purpose of ESYP is to extend instruction from the regular school year. An extended school year program should not attempt to remediate all areas of deficit.

NOTE: In planning the student's extended school year program, reasonableness, flexibility, and professional judgement must be exercised.

C. The numbers below correspond to the numbers on the ESY IEP form on file at the Department.

1. System
 - a. The name of the local education agency (LEA) developing the ESY IEP
2. Student's Name
 - a. The student's full name
3. ID#
 - a. A student's identification number or computer code number assigned to the student: it must be the same number as that recorded on the regular school year IEP.
4. DOB
 - a. The student's date of birth
5. Homebased School
 - a. The name of the school the student attended during the current school year (If the student was not served in a school, the current environment-such as home, hospital, or detention facility-is identified.)
6. Primary Exceptionality
 - a. The primary exceptionality, as indicated on the student's evaluation report: it must be the same as that recorded on the regular school year IEP.
7. Secondary Exceptionality
 - a. Any secondary exceptionality(ies) as indicated on the evaluation report: it must be the same as that recorded on the regular school year IEP.
8. ESYP Screening Date
 - a. The actual date the screening decision/determination of eligibility was made (Since screening can begin March 15 every year, this date will be between March 15 and the annual screening date/first Friday after Easter.)
9. ESYP Meeting Date
 - a. The actual date(s) the ESY IEP meeting(s) was held to design the extended school year program
10. Check only if Applicable
 - a. If the ESY IEP meeting was requested either by the parent or by school personnel to review or determine eligibility for extended school year services, check the statement that applies. If there was no request for a meeting to review or determine eligibility, this item is left blank.
11. Eligibility Determined
 - a. The criterion or criteria by which the student qualified for ESYP

NOTE: If a student qualified according to the Critical Point of Instruction Criterion, either the number 1 or 2 is the appropriate component.

b. In cases in which an ESY IEP meeting was held to review and/or determine eligibility (Paragraph 10 above):

i. If the student is determined *ineligible*, *Ineligible* is checked and the reason this determination was made is to be documented. (This description/narrative is written on the ESY IEP or on another page and attached to the ESY IEP.) Blocks 1 through 11 are to be completed, participants of the meeting are to sign as participants in block 12, and the parent is to sign block 31 indicating agreement with the decision.

(a). If the student is found *ineligible* and the parent disagrees, indicate in the COMMENTS section or on another page and attach to the ESY IEP, the reason the parent disagrees.

(i). The parent(s) must be informed of his or her due process rights and procedures.

(b). If the student is determined *Eligible*, check the criterion/criteria by which s/he qualified.

c. In cases in which an ESY IEP meeting is held to make an Extenuating Circumstances decision, see below.

i. If the student is determined *ineligible*, *Ineligible* is checked and the reason this determination was made is explained. (This description/narrative is written on the ESY IEP or on another page and attached to the ESY IEP.) Blocks 1 through 11 are to be completed, participants of the meeting are to sign as participants in block 12, and the parent is to sign block 31 indicating agreement with the decision.

(a). If the student is found *ineligible* and the parent(s) disagrees, indicate in the Comments section or write on another page and attach to the ESY IEP the reason the parent disagrees.

(i). The parent(s) must be informed of his or her due process rights and procedures.

(b). If the student is determined *eligible*, *Extenuating Circumstances* is checked. The narrative explanation must be written on the ESY IEP or on another page and attached to the ESY IEP.

12. ESY IEP Participants

a. ESY IEP team members who attend the conference sign and state their positions such as principal, coordinator, supervisor, physical therapist, assessment teacher, etc. Signatures in this section indicate attendance at the meeting, not agreement with the IEP. Participants must include the student's regular-school-year and ESYP teacher(s), parent(s), ODR, and student unless the parent(s) waives that right.

13. ESYP Needs

a. Describe the specific areas of current performance and specific needs the student has for instruction and services during the ESYP based on the criterion/criteria by which the student qualified. For example, the student may need to use a calculator, respond to specific reinforcers, need certain prompts or cues, etc.

14. Selection of Goal(s) and Objective(s)

a. The regular school year IEP and the criterion/criteria by which the student qualified for the ESYP are the basis upon which the ESY IEP is written. There is a specific process to use in making decisions about the goal(s) and objectives(s) for the ESYP, dependent upon the

eligibility criterion/criteria used in determining the student eligible. Refer to the instructions for identifying goal(s) and objective(s) according to areas of eligibility before completing these blocks:

- i. regression-recoupment;
- ii. critical point of instruction;
- iii. self-injurious behavior;
- iv. employment;
- v. transition;
- vi. late entry;
- vii. excessive absences;
- viii. extenuating circumstances.

b. There is no minimum or maximum number of goal(s) and objectives to be identified for ESY instruction. The number of objectives identified for the ESY instruction is based on individual student need. The IEP team should carefully consider the purpose of extended school year services and the criterion/criteria under which the student qualified for ESY. The major purpose of the ESY is to extend instruction from the regular school year. The ESY is not a program aimed at remediating all areas of deficit.

i. If the ESY IEP team identifies goal(s) and objective(s) from the regular school year IEP, write the educational needs code [i.e., A/C (Academic/Cognitive), B (Behavior), S (Social), H (Self-Help), C (Communication), M (Motor) and V (Vocational)] and objective number; then paraphrase the objective. Include enough specificity so that the skills and criterion level are evident.

ii. If the ESY IEP team determines that specific new goal(s) and/or objective(s) must be written, follow the process below.

(a). Write the education needs code [i.e., A/C (Academic/Cognitive), B (Behavior), S (Social), (Self-Help), C (Communication), M (Motor) and (Vocational)].

(b). Write a goal to be completed in the ESY; then write complete objective(s) to meet the goal and number them. This goal(s) and objective(s) are for only the duration of the ESY.

NOTE: If more space is needed when writing objectives, use another ESY IEP form. Indicate page ___ of ___ on each page of the form and complete all identifying blanks at the top of the page especially #1-9.

15. Integration Important

a. The decision about the need for integration is based on each individual objective.

b. For example, it would be important to have integration with non-disabled persons to achieve an objective regarding grocery shopping at a local store. This objective would be implemented in the community where integration will take place. Write Yes in the Integration Important block on the ESY IEP.

c. On the other hand, it may not be important to have integration in order to achieve objectives related to mathematical computations. This objective does not necessitate the presence of non-disabled peers/persons to work on mathematical problems. Write No in the Integration Important block.

d. Write "yes" or "no" for each objective to indicate whether it is important for the student to be integrated with non-disabled persons to achieve that objective.

16. Personnel Responsible

a. There is no rule as to the personnel who must implement an objective. That decision is made based on each objective.

b. Who is needed to work on the objective?

i. With integrated IEPs and team collaboration, it may be that the teacher can work on certain communication and motor skills during the ESY and there is no need for the speech-language pathologist or OT to assist; or it may be that only the speech- language pathologist or OT is needed. It may be that the teacher needs consultation with the therapist, but there is no need for direct service. The decision is made objective by objective. Personnel responsible may be different for each objective.

c. Parent(s)/family/caregiver(s) should be involved in the student's ESY program. The family/caregiver involved can be written in as personnel responsible in addition to the local education agency personnel. Consider the following questions.

i. Would the home environment facilitate functional practice?

ii. What is the child's usual summer environment during the instructional day (e.g., home, child care center)?

iii. Is the family/caregiver available and able to participate in the reinforcement of skills?

d. For each objective, write the title of the person(s) who will be responsible or implementing each objective(s) (classroom teacher, speech language pathologist, APE teacher, counselor, OT, PT, etc.). Abbreviations may be used, such as cl. tch., SLP, APE tch.

17. Settings

a. The ESY IEP team discusses the setting or settings where the extended school year program should take place. The team determines the best setting to implement the ESY IEP objectives. One or more settings may be selected, depending on the ESY objectives.

b. For example, an objective related to grocery shopping must be carried out in the community, whereas, an objective related to mathematical computation may be carried out in the home or at school.

c. The site selected must be reasonable. For example, if the parent(s) works, and there is nobody in the home, then home would not be a reasonable place to provide services.

d. The settings are numbered according to primary (1), secondary (2), etc. If a student will receive services in only one setting, the numeral one or a check (✓) is to be entered.

e. Examples

i. For a student who will receive services on the regular school campus, the numeral one or a check (✓) is to be entered.

ii. For a student who will be at school (most of the time) and in the community (2x/wk, or less time than at school), the numeral one is entered for "Regular School Campus" and the numeral two is entered for "Community." If time between the two settings will be about the same, it does not matter which is indicated as one or two.

18. Date ESY to Begin

a. The ESY IEP team should discuss things that may occur that will interfere with the student's attendance at

the ESYP. There may be a family vacation scheduled, surgery may be scheduled at a certain time, or the student may be going to visit family out of state, etc. This information can then be taken into account in scheduling the ESYP.

b. The amount or duration of ESYP services cannot be unilaterally limited for all students. However, when planning for many students it may be appropriate to consider the local education agency's summer calendar. The local education agency's summer calendar may not be available at the time of the ESYP IEP meeting, so the team may estimate the date to begin based on the duration of services determined to be needed by the student (#22 below).

c. For example, the team does not know the exact dates the local education agency will be open during the summer months, but school ends on May 31st and starts again in the fall on August 22nd. They have determined that a given student needs a program six weeks long to acquire identified skills. (Regression-recoupment is not a concern.) Considering the need for a short break, the team indicates the date to begin as June 17th.

d. A different student in the same local education agency has serious regression-recoupment problems after a two week break in instruction (indicated by data collected during the regular school year); therefore, the team indicated the date to begin as June 10th (only a one week break in order to avoid serious regression).

e. Date ESYP To End

1. To continue with the students used in the examples above,

2. The team indicated that the date to end the ESYP for the first student would be July 26th, thus giving that student a six-week program.

3. For the second student mentioned above, the team indicated August 8th as the date to end the ESYP so there would not be more than a two week break before the next school year began and little time for regression-recoupment problems.

19. Progress Report(s)

a. Indicate the intervals (e.g., every two weeks, four weeks, or a check (✓) at the end of the ESYP) at which time progress reports will be sent home. At a minimum, progress reports must be sent to the parent(s) within ten business days after the completion of the ESYP.

20. Instructional Resources Needed For ESYP

a. The team now determines the service(s) the student will need to receive during the ESYP. The ESYP IEP team has already determined the personnel needed to provide the service(s) (see # 17 above) and now the service(s) is indicated on the ESYP IEP.

b. If the teacher is the only person needed to implement the ESYP IEP objective(s), then only the Special Education Instruction section will be completed.

c. If the teacher and physical therapist are needed to implement the ESYP IEP objectives, then *Special Education Instruction* and *Physical Therapy* (written in a blank space) are completed.

d. Spaces for Special Education Instruction, Speech/Language Therapy, and Adapted Physical Education are included on the form. Other services needed, such as Physical Therapy, must be written in a blank space provided on the form.

21. Duration

a. The team will determine the number of weeks needed to address the objectives and needs of the student. Indicate duration in weeks of how long each service will last. In making this determination, the following should be considered.

i. What is the longest period of time the student can go without instruction to avoid negative impact on his or her current skill level? (Use student performance data to make this determination such as, the Regression-Recoupment Summary Form data.)

ii. The student may need to acquire skills necessary to keep him/her in the least restrictive environment and needs only a few weeks to accomplish those skills.

iii. Refer to Paragraph 24 below regarding instructional focus of acquisition/fluency and maintenance.

b. Not all students need the same program length. The IEP is an individual, student-based decision.

c. There may be cases in which students must remain at a site longer than the time indicated on the ESYP IEP because of transportation difficulties. For example, the local education agency may not be able to run buses every 30 minutes to an hour in order to accommodate the various ESYP programs of all the students. If this is the case, the student must be supervised. The need to remain at the site because of transportation difficulties is indicated in the comments section.

22. Individual/Group

a. When applicable, indicate whether services will be delivered on an individual basis or in a group.

23. Minutes/Session

a. The team will determine the amount of time per day needed to provide instruction on the ESYP objectives.

b. Consider these questions.

i. How long will it take to provide instruction on the ESYP objective(s)?

ii. If the community is a setting, how much time is needed to travel to instructional site(s)?

iii. What is the longest instructional period that will hold the student's attention?

c. For example, for three objectives for mathematical computation, the team decides the objectives can be addressed in 60 minutes. For one objective involving grocery shopping for five to ten lunch items, the team decides the objective can be addressed in 90 minutes.

d. Indicate the number of minutes per session it will take to work on the objective(s) identified for the ESYP. The number of minutes per session may be different for each service based on the amount of time needed to address the various objectives.

24. Sessions/Week

a. The team determines the number of sessions per week needed for the student to complete his or her ESYP program.

b. Consider the following questions.

i. Is the instructional focus acquisition/fluency?

(a). If yes, consider an intensive instructional schedule that provides an opportunity for sufficient repeated practice to master the identified skills.

ii. Is the instructional focus maintenance?

(a). If yes, consider an instructional schedule that provides for periodic assessment of the student's skill performance over a longer period of time to assure and check for maintenance. For example, a student qualified under regression-recoupment, and the team determined that a schedule of two sessions/week for seven weeks could allow for maintenance of the skills/objectives and ensure against regression-recoupment problems, since there would not be a lengthy break between the time school ends (spring) and before the next school year begins (fall).

c. Indicate the number of sessions per week for each service the student requires to meet the objectives. The sessions per week may be different for each service based on individual student need. Note frequency and duration of services.

i. It is the responsibility of the special education administration to schedule the specific days of the week and beginning and ending date options to accommodate each student's program. To any student that needs an extensive program, the local education agency must make available at a minimum a program such that the total length of breaks at the end of the school year and before the beginning of the next school year cannot exceed three weeks. This is not to be interpreted as a limit on the length of ESYP programs but a minimum length of program to consider for a student who requires an extensive program. As indicated throughout this process, duration is based on the individual needs of the student.

25. Location

a. The location where services will be provided. (both direct and related services.) Setting should reflect location.

26. Primary Service Provider

a. The professional who will provide each listed service by title: e.g., teacher, speech-language pathologist, nurse, PT, social worker, counselor, etc.

27. Comments

a. This block should be used to add additional information needed to clarify issues concerning the student's ESYP IEP.

b. Examples:

i. The student will remain on campus longer than specified on the ESYP IEP (minutes per day), in supervised activities, because of transportation issues.

ii. The parent(s) declined services because they are going on vacation, or are not happy with services, etc.

28. Procedural Safeguards

a. The parent/legal guardian places a check (✓) indicating s/he has received copy of the procedural safeguards.

29. Officially Designated Representative

a. The officially designated representative (ODR) of the local education agency must date and sign his or her name indicating the local education agency will provide the services agreed to on the ESYP IEP.

30. Parent Approves ESYP IEP

a. The parent/guardian/surrogate parent/competent major/student accepts the ESYP and signs and dates to indicate "fully informed consent."

31. Parent Declines ESYP

a. If the parent declines the extended school year program, write the reason the parent declined service(s) in the comments section and have the parent sign.

NOTE: If a parent indicates early in the ESYP IEP meeting that s/he does not want the student to attend the ESYP, the teacher with primary responsibility must complete only 1-12 and write the reason for declining. The parent must sign the form.

b. If the parent(s) is not satisfied with ESYP IEP programming decisions and consensus cannot be reached, the parent(s) must be informed of his or her due process rights and procedures.

32. Transportation

a. Just as during the regular school year, transportation must be offered in cases in which it is necessary. As with other services, the IEP team should recommend transportation services in the least restrictive, most appropriate mode available. The transportation recommended must be reasonable and at no cost to the parent(s).

b. For example, it would not be reasonable for the only offer of transportation to be parental reimbursement if the parent works or does not have a car. Mileage reimbursement may be used as a transportation option only if the parent(s) is willing to transport his or her son/daughter.

c. Circle "yes" if transportation is to be provided for the student and describe the type (e.g., school bus, contracted carrier, parental reimbursement).

d. Circle "no" if there is no need to provide transportation (e.g., the student chooses to walk to school).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2007 (September 2004).

§707. Selection of Goal(s) and Objective(s) for Students Eligible by Regression-Recoupment Criterion

A. The ESYP IEP team must remember that the intent of regression-recoupment criterion is to provide instruction to students who regress to a lower level of educational functioning because of the interruption in the educational program and for whom the reacquisition of these lost skills is slow. In identifying objectives for ESYP instruction for students who meet the criterion, the ESYP IEP team must keep in mind that the focus of this criterion is on the maintenance and/or reacquisition of skills.

B. The ESYP IEP team should follow this sequence to select objectives for ESYP instruction:

1. Look at the targeted/circled objectives. If the student has not mastered or maintained these objectives, the ESYP IEP team must determine whether instruction on these objectives should be continued during ESYP.

2. Look at other objectives on the regular school year IEP that the student has not mastered and which require instruction for the student to continue his or her educational program without the loss of essential skills. The ESYP IEP team should carefully review the student's pattern of regression-recoupment problems and determine which of these objectives should be addressed during the ESYP. For example, did the student regress in a particular curricular

area (e.g., communication, self-help, motor)? The team may decide to identify other essential objectives in that area.

3. If the student has mastered all objectives on his or her regular school year IEP since the screening date, and if the ESYP IEP team feels that ESYP instruction is necessary because of a pattern of regression-recoupment problems, an objective(s) that focuses on maintenance of essential skills during the ESYP must be written.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2011 (September 2004).

§709. Selection of Goal(S) and Objective(S) for Students Eligible by Critical Point of Instruction Criterion

A. For students who qualify according to the Critical Point of Instruction Criterion, the ESYP IEP team must examine the specific component area in order to determine which objective(s) to identify. They should follow the process specified under each component.

B. Critical Point One: Least Restrictive Environment

1. During the screening process, the teacher/instructional personnel identifies the skill(s) the student must have to prevent an increase in special education instruction time/loss of time in general education for the student.

a. If the teacher/instructional personnel determines that the skill(s) needed to prevent the student's increase in special education instruction time/decrease in general education time is included in the objectives on the regular school year IEP, the IEP team identifies those objectives for ESYP instruction.

b. There may be instances in which the teacher/instructional personnel reviews the regular school year IEP and determines that the skill(s) needed to prevent the student's increase in special education instruction time/decrease in general education time is/ or not on the IEP. It is only in these instances that the ESYP IEP team may write a new goal(s) and objective(s) related to the skills necessary to prevent a loss in general education time or increase in special education service time. The goal(s) and objective(s) are for the duration of the ESYP program only.

C. Critical Point Two: Critical Self-Help, Community Access, Social/Behavioral Skills

1. During the screening process, the teacher/instructional personnel identified the critical self-help skill(s), critical community-access skill(s), and/or critical social/behavior skill(s) that needed to be mastered or maintained during the ESYP.

a. The ESYP IEP team identifies the critical skill(s) in need of acquisition or maintenance from the regular school year IEP.

b. There may be instances in which the ESYP IEP team determines there is another skill(s) the student needs to master or to maintain in order for him/her to master the critical skill(s) identified for the ESYP instruction. It is only in these instances that the ESYP IEP team may write a new goal(s) and objective(s) to address this skill. The goal(s) and objective(s) are for the duration of the ESYP program only.

2. Examples:

a. A student is addressing training in use of the public transportation system. However, being exhibited are

challenging behaviors that are not addressed on the regular school year IEP. The team writes a new goal and objective(s) to be completed during the ESYP, specific to the challenging behavior(s) exhibited on the city bus system.

b. A student is maintaining a grocery shopping skill during the ESYP. The ESYP IEP team determines that the student should take the city bus from home to the shopping site. City bus transportation skills are not addressed on the regular school year IEP. The ESYP IEP team writes a new goal and objective(s) to address use of the city bus to go from home to the shopping site.

c. In these instances, the ESYP IEP team should carefully consider inclusion of a similar goal(s) and objective(s) on the regular school year IEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2012 (September 2004).

§711. Selection of Goal(s) and Objective(s) for Students Eligible by Self-Injurious Behavior Criterion

A. During the screening process, the teacher/instructional personnel determined the student needed support to reduce, or maintain at a lower level, self-injurious behavior. Based upon a review of the behavior intervention plan, the ESYP IEP team should focus on the need for continued intervention.

1. If the ESYP IEP team determines that the regular school year IEP has objectives specific to the reduction of the self-injurious behavior or maintenance of appropriate behaviors, the team must identify those objectives for ESYP instruction.

2. If the ESYP IEP team determines that the regular school year IEP does not have objectives specific to the self-injurious behavior, the team must write a new goal(s) and objective(s) for the ESYP. The goal(s) and objective(s) must be based upon the documentation used in determining the student eligible for ESYP.

a. In these instances, the ESYP IEP team should carefully consider inclusion of a similar goal(s) and objective(s) on the regular school year IEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2012 (September 2004).

§713. Selection of Goal(s) and Objective(s) for Students Eligible by Employment Criterion

A. During the screening process, the teacher/instructional personnel determined the student needs support to maintain paid employment.

1. The ESYP IEP team identifies from the regular school year IEP the objectives that are specific to the paid employment. The ESYP IEP team identifies these objectives for the ESYP instruction.

2. If there are no objectives specific to the paid employment, the ESYP IEP team must write a new goal(s) and objective(s) specific to the needs related to maintaining that employment during the summer months.

B. The ESYP Needs (block #13 on the ESYP IEP) must identify the specific employment site and the skills for which the student needs support to maintain the paid employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2012 (September 2004).

§715. Selection of Goal(s) and Objective(s) for Students Eligible by Transition Criterion

A. During the screening process, the teacher/instructional personnel determined the student needs to have the transition services page of the IEP completed. The ESYP IEP team is to use information from the regular school year Individualized Transition Services page and related IEP objectives in developing the ESYP IEP instructional plan. The ESYP IEP team should include members of the Transition Service page team.

B. In developing the extended school year instructional plan, the team plans according to the following procedures.

1. The ESYP IEP team must examine IEP objective(s) related to the local education agency transition services page, which needs to be completed. The team must write a goal for the completion of the action step(s).

2. The objective(s) on the IEP, which is related to the action step(s), is identified for ESYP instruction and written on the ESYP IEP.

C. The ESYP Needs (block #13 on the ESYP IEP) section of the ESYP IEP should include description of the student's specific need for services related to action steps.

NOTE: A new transition services page does not have to be written for the ESYP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2013 (September 2004).

§717. Selection of Goal(s) and Objective(s) for Students Eligible by Excessive Absences and Late Entry Criteria

A. For a student eligible for ESYP services according to the Excessive Absences or Late Entry criteria, the focus of the ESYP is on the high priority goal(s) and objectives. The ESYP IEP team must identify areas that will keep the student on track when school starts in the fall.

1. The ESYP IEP team must identify objective(s) from the regular school year IEP for instruction during the ESYP.

2. The objective(s) selected must be high priority in that failure to continue instruction/progress will jeopardize the probability of the student's successfully completing IEP goals and objectives and reaching his or her long term educational goal.

B. These criteria are the only cases in which the team must identify objective(s) from the regular school year IEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2013 (September 2004).

§719. Selection of Goal(s) and Objective(s) for Students Eligible by Extenuating Circumstances

A. The teacher/instructional personnel has screened the student under all criterion/criteria that are applicable; however, the student did not qualify according to any of the criteria. The ESYP IEP team has reviewed the data/instructional performance information and agreed that it

indicates the student is in need of an extended school year program.

B. The teacher/instructional personnel has articulated the need to extend the school year for the student based on the guidelines of one or more of the ESYP criteria, even though the student does not meet all specifications of the criteria. The ESYP IEP team must then follow the process for selecting objectives according to that criterion/criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2013 (September 2004).

§721. A Quick Review-Planning

A. An ESYP IEP must be written for students eligible for the ESYP prior to the beginning of the program.

B. Objectives are identified for ESYP instruction based upon the criterion or criteria by which the student qualified.

C. The ESYP program must be individually designed. The duration of the program, number of sessions per week, and amount of time per session are to be determined at the ESYP IEP meeting and based on the individual student's need according to the objectives identified.

D. Transportation for the student must be offered to the parents in cases when it is needed. The offer(s) must be reasonable.

E. An ESYP IEP meeting must be held when parents question the determination that their child is ineligible for ESYP.

1. If consensus cannot be reached and the parent(s) disagrees with the teacher/instructional personnel decision (regarding eligibility or programming), s/he must be informed of his or her due process rights and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2013 (September 2004).

Chapter 9. Strategies for Implementation and Evaluation of the ESYP Program: Site Selection; Integration; Record Keeping

§901. Overview

A. Once a student's extended school year program has been planned through the Extended School Year IEP process, the program must be implemented. Provision of the ESYP requires consideration of both individual student needs and administrative concerns. During the regular school year, local education agencies operate all schools within their jurisdiction, while serving students in Extended School Year Programs only a limited number of schools are in full operation, the number of full time staff members is reduced, and other limiting factors are in effect.

B. Although ESYP may present operational problems, local education agencies must provide all services to students as described on the ESYP IEP. To the maximum extent possible, local education agencies must provide extended school year instruction in a setting(s) that contributes to the student's integration and that is the least restrictive environment option for that student. The services necessary to meet the goals and objectives of the ESYP IEPs are to be provided.

C. Careful records should be kept in order to evaluate the student's performance and progress toward the completion of

the ESY goals and objectives. Accurate records of student performance will assist the IEP team in the upcoming school year to continue the educational program with a minimum of interruption and disruption.

D. As during the regular school year, the ESY IEP team must document instructional activities on lesson/activity plans. Ongoing student performance assessment is always an integral part of any educational program; it should be documented on appropriate data collection forms (e.g., grade book, checklist, task analysis form) and progress reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2013 (September 2004).

§903. Implementation

A. Local education agencies shall continue to address LRE factors, including integration with non-disabled persons, in the implementation of the ESY program.

1. Whenever possible, ESYP services must be offered in the same site(s) as age appropriate regular summer school programs. (This handbook contains a description of administrative responsibilities.)

2. The ESY IEP team must consider traditional and non-traditional approaches to achieve integration with non-disabled persons for those objectives on the ESY IEP for which integration is indicated to be important.

a. The ESYP IEP team must review the ESY IEP objectives requiring integration with non-disabled persons and must generate a plan of action to achieve the integration. Administrative and instructional personnel must work together to implement this plan.

b. If the student is on a regular school campus with non-disabled students, there may be activities that would accommodate the need for integration (e.g., breakfast, recess, reading class, etc.).

c. The mere presence of students with and without disabilities on the same campus does not ensure integration. Lesson/Activity planning must be used to assure that objectives requiring integration are addressed.

d. If integration on a regular school campus is not possible, the IEP team must be creative and find opportunities/activities to provide the integration necessary to meet the objectives. Some examples may be as follows:

- i. use of the local library and summer activities;
- ii. providing services at the day care center the student regularly attends;
- iii. including neighbors/friends in instructional sessions;
- iv. use of the local gym/park/recreation facilities, etc.

3. Documentation of integration activities are to be included in the lesson/activity plans. (Sample Lesson/Activity Plan forms on file at the Department.)

B. Local education agencies shall ensure that the services listed on the ESY IEP are provided.

1. Local education agencies must provide the service(s) needed to implement each student's ESY IEP.

a. Service provision to students during the ESYP is documented on the student's ESY IEP in the Instructional Resources Needed for ESYP section: for example, classroom instruction, APE, OT, PT, speech/language therapy, counseling, etc.

b. The ESY IEP team will decide when, where, and how the services will be provided.

c. NOTE: If there are differences in the services provided from what are indicated in the Instructional Resources Needed for ESYP section of the ESY IEP, the Director/Supervisor of Special Education is responsible for describing these differences in the ESYP Outcome Report.

d. The parent must be consulted and notified of any modification(s) to the ESY IEP.

2. Local education agencies must employ sufficient staff to meet the ESY IEP requirements for each student. (This handbook contains a description of administrative responsibilities.)

C. Local education agencies shall ensure that instructional activities conducted during ESYP are documented.

1. Local education agencies must encourage the instructional staff to work cooperatively to plan instructional activities for each student during the ESYP.

a. Cooperation and coordination among IEP team members are encouraged so that each student will benefit from consistent instruction and have an increased likelihood of success.

b. The coordination of instructional staff efforts may be accomplished by jointly writing instructional plans. Specific activities may also be taught as a joint endeavor with the data collected cooperatively. In this manner, the instructional activities planned for the student will be consistent and continuous. The cooperative efforts of instructional staff members may be documented in one of the following ways: in lesson plans/activity plans, joint data collection forms, conference records, team meeting notes, etc.

2. Local education agencies must require that the instructional staff maintain accurate records of ESYP instructional activities.

a. As during the regular school year, it is necessary to update records/collect instructional data regularly to indicate whether the student is making progress in acquiring, maintaining, and/or mastering skills outlined in his or her goals and objectives. It is equally important to record information when the student has not made projected progress, since instructional strategies may need to be re-examined. Accurate records are important for reference by the IEP team in the subsequent school year.

b. The ESY teacher may find it helpful to use the same data collection forms and strategies as used in the regular school year teacher. This practice would also facilitate the transfer of information back to the regular school year teacher.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2014 (September 2004).

§905. Evaluation

A. Local education agencies shall ensure that instructional personnel measure and report student outcomes.

1. Progress reports must be disseminated to parents at the intervals specified on the ESY IEP. Typically, a progress report from the ESYP is provided to parents within 10 business days following completion of ESY services.

2. Copies of ESYP progress reports must be maintained in the student's IEP file along with the usual/normal ongoing data collection.

B. Local education agencies shall evaluate ESYP outcome data to determine program effectiveness.

1. Program operations must be examined to determine the effectiveness of ESYP.

a. Effectiveness should be reflected in the match between the needs of the student and the program services provided.

b. Local education agencies should examine the overall effectiveness of the program provided to all students in order to assist the agency in future planning.

2. Program effectiveness is evaluated from the individual student perspective, as well as system wide.

C. Local education agencies shall report ESYP data in accordance with state-mandated procedures.

1. The ESYP outcome data must be collected and reported no later than October 15. (A sample format and directions are on file at the Department.)

2. The ESYP Outcome Report (on file at the Department) has two purposes:

a. to provide the format for collecting outcome data on individual student performance during the ESYP (Section I, Student Performance); and

b. to serve as a means of evaluating overall program effectiveness (Section II, Program Evaluation).

i. The ultimate responsibility for reporting the ESYP outcome data to the SDE rests with the Director/Supervisor of Special Education; however, instructional personnel are responsible for reporting student outcomes to the director/supervisor.

ii. The portion of the ESYP Outcome Report for which instructional personnel have responsibility is that which includes information on student performance during the ESYP and on the services provided to students during the extended school year program (Section I, Student Performance).

iii. The director/supervisor must ensure that outcome data on students are entered into the Louisiana Network for Special Education Records (LANSER) by October 15th each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2014 (September 2004).

Weegie Peabody
Executive Director

0409#015

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs On-Line Application
(LAC 28:IV.301, 501, 503, 504, 505, 506, 507,
703, 705, 803, 805, 903, 907, and 1103)

The Louisiana Student Financial Assistance Commission (LASFAC) has exercised the rule-making provisions of the

Administrative Procedure Act (R.S. 49:950 et seq.) and has amended the Rules of the Scholarship/Grant programs

Title 28

EDUCATION

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

Chapter 3. Definitions

§301. Definitions

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

On-Line Application Submission of a request for a TOPS eligibility determination via the LOSFA TOPS website. If the applicant does not submit a FAFSA, the *on-line application* will require the student to declare that he can demonstrate that he is not eligible for federal grant aid.

Returning Student A student who graduated from high school beginning with *academic year* (high school) 2001-2002, and met all the academic requirements for a TOPS Award, but who enrolled for the first time as a *full-time student* no later than the deadline established in §703.A.4 in an out-of-state postsecondary institution accredited by a regional accrediting organization recognized by the United States Department of Education and, thereafter, returns to Louisiana and enrolls as a *full-time student* in an Eligible College or University.

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

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

Chapter 5. Applications, Federal Grant Aid and ACT Test

§501. Initial Application

A. Initial Application for high school graduates of 2002-2003 or earlier:

1. Except as provided in Subparagraph A.2.b below, all new applicants for Louisiana scholarship and grant programs must apply for federal aid by completing the Free Application for Federal Student Aid (FAFSA) for the academic year following the year the student graduated from high school. For example, if the student will graduate from high school in school year 2002-2003, submit the 2003-2004 version of the FAFSA.

2. All new applicants for TOPS Opportunity, Performance, Honors and TOPS Tech Awards who graduate from high school during the 2001-2002 or 2002-2003 academic years (high school) must apply for federal aid by completing the Free Application for Federal Student Aid (FAFSA) for the academic year (college) the applicant will

be a first-time, full-time student. For example, if the applicant will graduate from high school in the 2002-2003 academic year (high school) and does not intend to enroll as a first-time, full-time student until the fall semester of 2004, he must submit the 2004-2005 version of the FAFSA.

a. All applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards (except those students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition) must complete all applicable sections of the initial FAFSA.

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

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

B. Initial Application for a TOPS Award for High School Graduates of 2003-2004 and Thereafter

1. Students who graduate from a Louisiana public high school as defined in §1703.A.1, an approved Louisiana non-public school as defined in §1701.A.2, or an eligible non-Louisiana public school as defined in §1701.A.3 must:

a. submit a Free Application for Federal Student Aid (FAFSA); or

b. if the student can demonstrate that he does not qualify for federal grant aid because of his family's financial condition, submit the initial FAFSA after completing all applicable sections except those sections related to the income and assets of the student and the student's parents; or

c. complete an on-line application.

2. Students who graduate from an eligible out-of-state or out-of-country high school or complete a home study program approved by the Louisiana Board of Elementary and Secondary Education or enroll for the first time as a full-time student in an out-of-state college or university following graduation from an eligible high school (Louisiana public high school as defined in §1703.A.1, an Approved Louisiana non-public school as defined in §1701.A.2, an eligible non-Louisiana public school as defined in §1701.A.3, out-of-state high school as defined by §1701.A.4 or an out-of-country high school as defined by §1701.A.5) must:

a. submit a Free Application for Federal Student Aid; or

b. if the student can demonstrate that he does not qualify for federal grant aid because of his family's financial condition, submit the initial FAFSA after completing all applicable sections except those sections related to the income and assets of the student and the student's parents; or

c. complete an on-line application; and

d. submit an official transcript from the out-of-state or out-of-country high school from which the student graduated; and

e. submit the official transcripts from each out-of-state college or university attended; and

f. submit an affidavit attesting to Louisiana residency, except those students who completed their last two years in and graduated from a Louisiana Public or approved non-public high school.

3. Applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards who submit the On-Line Application in lieu of the FAFSA or who do not complete all sections of the FAFSA will be ineligible for federal grant aid and federally guaranteed student loans.

4. In the event of a budgetary shortfall, applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards who submit the on-line application in lieu of the FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

C. Initial application for Louisiana scholarship and grant programs other than TOPS for high school graduates of 2004 and thereafter all new applicants for Louisiana scholarship and grant programs other than TOPS must apply for federal grant aid by completing the Free Application for Federal Student Aid (FAFSA) for the academic year following the year the student graduated from high school. For example, if the student will graduate from high school in school year 2003-2004, submit the 2004-2005 version of the FAFSA.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:635 (April 1998), repromulgated LR 24:1900 (October 1998), amended LR 26:1994 (September 2000), repromulgated LR 27:1846 (November 2001), amended LR 29:554 (April 2003), LR 30:2015 (September 2004).

§503. Application Deadlines for High School Graduates of 2003 and Earlier

A. Deadline for Priority Consideration

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

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

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

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

B. Final Deadline For Full Award

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

b. For applicants graduating from high school during or after the 2001-2002 academic year (high school), in order to receive the full benefits of a TOPS award as

provided in §701.E, the final deadline for receipt of a student's initial FAFSA application is the July 1st immediately preceding the academic year (college) in which the applicant will be a first-time, full-time student.

c. Examples:

i. If an applicant graduates in the 2002-2003 academic year (high school) and will be a first-time, full-time student in the fall semester of 2003, the applicant must submit the initial FAFSA in time for it to be received by the federal processor by July 1, (2003).

ii. If an applicant graduates in the 2002-2003 academic year (high school) and will be a first-time, full-time student in the fall semester of 2004, the applicant must submit the initial FAFSA in time for it to be received by the federal processor by July 1, (2004).

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

2. Notwithstanding the deadline established by §503.B.1 above, applicants who enter on active duty in the U.S. Armed Forces have a final deadline for receipt of their initial FAFSA application of one year from the date of separation from active duty. In order to be eligible under this subsection, the applicant must meet the requirements of §703.A.4.b or d or §803.A.4.b or d of these rules and must not have been discharged with an undesirable, bad conduct or dishonorable discharge.

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

D. Final Deadlines for Reduced Awards

1. If an application for an initial award under this Chapter is received after the deadline provided in §503.B above, but not later than sixty days after that deadline, the time period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

2. If an application for an initial award under this Chapter is received more than sixty days after the deadline provided in §503.B above, but not later than 120 days after that deadline, the time period of eligibility for the award shall be reduced by two semesters or three quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

3. Applications received more than 120 days after the published deadline shall not be considered.

E. The reduction of the applicant's period of eligibility for this award under §503.D above shall not be cumulative with any reduction under §509.C.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:635 (April 1998), repromulgated LR 24:1900 (October 1998), amended LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 26:1994 (September 2000), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 28:1760 (August 2002), LR 30:2016 (September 2004).

§504. Out-of-State and Out-of Country High School Graduates

A. A student who graduates from a high school outside the state of Louisiana will not be considered for a TOPS award unless LASFAC receives the student's FAFSA information from the federal processor or on-line application and the student's ACT and/or SAT score(s). In order for a student who will graduate from a high school outside the state of Louisiana to assure that his FAFSA information and his ACT/SAT score(s) are received by LASFAC, he should:

1. enter a Louisiana postsecondary institution in the section of the FAFSA that asks the applicant to name the colleges he plans to attend; and

2. enter a Louisiana postsecondary institution and/or 1595 (code for the La. Tuition Opportunity Program/Students, Baton Rouge, La.) in the "score report choices" section of the ACT and/or 9019 (code for Tuition Opportunity Program for Students) in the "send scores" section of the SAT registration form.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 30:2017 (September 2004).

§505. Application Deadlines for High School Graduates of 2004 and Later

A. 1. To be considered for a TOPS award, students who graduate from high school or complete an approved home study program in 2004 or later must:

a. apply for federal grant aid by submitting a Free Application for Federal Student Aid (FAFSA); or

b. if the student can demonstrate that he does not qualify for federal grant aid because of his family's financial condition, submit the initial FAFSA after completing all applicable sections except those sections related to the income and assets of the student and the student's parents; or

c. complete the on-line application.

2. TOPS will not pay tuition for any student who has not met the requirements of §505.A.1 above.

3. In the event of a budgetary shortfall, applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards who submit the on-line application or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

B. Deadline for Priority Consideration

1. In order for students who enroll for the first time as Full-Time Students at an eligible college or university to ensure funding for the initial semester of enrollment, the FAFSA or the on-line application must be submitted so that it is received no later than May 1 of the year prior to the academic year (college) the student first enrolls in an eligible college or university.

2. In order for returning students to ensure funding for the initial semester of enrollment at an eligible college or university, the FAFSA or the on-line application must be received no later than May 1 prior to the academic year (college) the student first enrolls in an eligible college or university.

3. Examples

a. If a student graduates in the 2003-2004 academic year (high school) and will be a first-time freshman at an

eligible college or university in the fall semester of 2004, for priority consideration, the initial FAFSA or the on-line application must be received no later than May 1, 2004.

b. If a student graduates in the 2003-2004 Academic Year (High School) and will be a first-time freshman in the fall semester of 2005, for priority consideration, the initial FAFSA or the on-line application must be received no later than May 1, 2005.

c. If a returning student graduated in the 2003-2004 academic year (high school) and will enroll as a full-time student in an eligible college or University in the fall semester of 2005, for priority consideration, the initial FAFSA or the on-line application must be received no later than May 1, 2005.

C. Final Deadline for Full TOPS Award

1. In order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or the on-line application is July 1 immediately prior to the academic year (college) he first enrolls as a first-time freshman in an eligible college or university.

2. In order for a returning student to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or the on-line application is May 1 of the academic year (college) he first enrolls as a full-time student in an eligible college or university.

3. Examples

a. If a student graduates in the 2003-2004 Academic Year (High School) and will be a first-time freshman at an eligible college or university in the fall semester of 2004, the student must submit the initial FAFSA or the on-line application no later than July 1, 2004.

b. If a student graduates in the 2003-2004 academic year (high school) and will be a first-time freshman in the spring semester of 2005, the student must submit the initial FAFSA or the on-line application no later than July 1, 2004.

c. If a student graduates in the 2003-2004 academic year (high school) and will be a first-time freshman in the fall semester of 2005, the student must submit the initial FAFSA or the on-line application no later than July 1, 2005.

d. If a returning student graduates in the 2003-2004 academic year (high school) and will be a first-time student in the fall semester of 2006, the student must submit the initial FAFSA or the on-line application no later than May 1, 2007.

4. Students must also meet the first-time freshman enrollment deadlines specified in §703.A.4 (TOPS Opportunity, Performance and Honors) and §803.A.4 (TOPS Tech).

5. Notwithstanding the deadline established by §505.C above, students who enter on active duty in the U.S. Armed Forces have a final deadline for receipt of their initial FAFSA application or their on-line application of one year from the date of separation from active duty. In order to be eligible under this subsection, the student must meet the requirements of §703.A.4.b or d or §803.A.4.b or d of these rules and must not have been discharged with an undesirable, bad conduct or dishonorable discharge.

D. Final Deadlines for Reduced Awards

1. If a FAFSA or on-line application is received after the deadline provided in §505.C above, but not later than

sixty days after that deadline, the time period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

2. If a FAFSA or on-line application is received more than sixty days after the deadline provided in §505.C above, but not later than one hundred twenty days after that deadline, the time period of eligibility for the award shall be reduced by two semesters or three quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

3. A FAFSA or on-line application received more than 120 days after the published deadline shall not be considered.

E. The reduction of the student's period of eligibility for this award under §505.D above shall not be cumulative with any reduction under §509.C.

F. Renewal FAFSA

1. In order to remain eligible for TOPS awards, a student who is eligible for federal grant aid must file a renewal FAFSA by May 1 of each succeeding academic year (college) after initial eligibility is established.

2. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition are not required to submit a renewal FAFSA.

3. In the event of a budgetary shortfall, applicants who do not file a renewal FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

4. All recipients of Louisiana scholarship and grant programs other than TOPS must submit a renewal FAFSA for each academic year (college) the student enrolls.

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

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

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 30:2017 (September 2004).

§506. Proof of Compliance

A. As proof of compliance with the state's final deadline for submitting the FAFSA, or the On-Line Application, LASFAC will accept the documentation listed in §505.1-5. No other form of verification, including notarized or certified statements, will be accepted as proof of compliance with the deadline requirement.

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

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

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

4. A printed copy of the electronic receipt for a FAFSA filed on the Web shows that the original application was received by the final deadline.

5. A printed copy of the electronic receipt for an on-line application shows that the original application was received by the final deadline.

6. The LOSFA's on-line application submission confirmation code corresponds to a LOSFA database transaction by the final deadline.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 30:2018 (September 2004).

§507. Final Deadline for Submitting Documentation of Eligibility

A. ...

B. All documentation and certifications necessary to establish student eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents which may be utilized in determining eligibility, must be received by LASFAC no later than May 1 of the award year. For example, to receive an award for the 2004-2005 award year, LASFAC must have in its possession all documents relevant to establishing eligibility by May 1, 2005.

C. - D. 2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 26:1995 (September 2000), amended LR 26:2000 (September 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), repromulgated LR 27:1847 (November 2001).LR 30:2019 (September 2004).

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

§703. Establishing Eligibility

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

1. - 2. ...

3. submit the completed Free Application for Federal Student Aid (FAFSA) or on-line application in accordance with §501 by the applicable state aid deadline defined in §503 or §505; and

A.4.- H.3. ...

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

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

28:2330 and 2332 (November 2002), LR 29:125 (February 2003), LR 30:2019 (September 2004).

§705. Maintaining Eligibility

A. - A.2. ...

2. submit the Renewal FAFSA in accordance with §505.F; and

A.3. - D. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996 and 2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:1419 (August 2003), LR 30:2019 (September 2004).

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.2. ...

3. submit the completed initial Free Application for Federal Student Aid (FAFSA) or on-line application in accordance with §501 by the applicable state aid deadline in accordance with the applicable requirements of §501 or §505; and

A.4. - 10.

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

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

§805. Maintaining Eligibility

A. - A.1. ...

2. submit the renewal FAFSA in accordance with §505.F; and

A.3. - C. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997 and 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:880 (June 2003), LR 30:2019 (September 2004).

Chapter 9. TOPS Teacher Award

§903. Establishing Eligibility

A. - A.2. ...

3. annually submit the completed Free Application for Federal Student Aid (FAFSA) or renewal FAFSA, whichever is applicable to the student, by the state aid deadline defined in §501.C and §505.F; and

A.4. - 8. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1650 (December 1997),

repromulgated LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:2269 (October 2000), LR 27:284 (March 2001), LR 27:1220 (August 2001), repromulgated LR 27:1857 (November 2001), amended LR 28:448 (March 2002), LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 30:2019 (September 2004).

§907. Maintaining Eligibility

A. - A.6. ...

7. submit the renewal FAFSA in accordance with §505.F;

A.8. - B. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 25:1092 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), repromulgated LR 27:1857 (November 2001), amended LR 28:448 (March 2002), LR 28:774 (April 2002), LR 30:2020 (September 2004).

Chapter 11. Rockefeller State Wildlife Scholarship

§1103. Establishing Eligibility

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

1. - 2. ...

3. submit the completed Free Application for Federal Student Aid (FAFSA) or the renewal FAFSA, whichever is applicable to the student, by final deadline set forth in §501.C or §505.F.; and

4. - 8.c. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:639 (April 1998), amended LR 24:1908 (October 1998), LR 27:1220 (August 2001), repromulgated LR 27:1859 (November 2001), amended LR 28:774 (April 2002), LR 29:125 (February 2003), LR 30:2020 (September 2004).

George Badge Eldredge
General Counsel

0409#094

RULE

Department of Environmental Quality Office of Environmental Assessment

Correction of Departmental Website and Mailing Addresses; Outdated References, and Miscellaneous Errors (LAC 33:I.1307 and 2305; III.517, 519, 527, 2723, 2799, 2803, and 5151; V.303 and 3719; VI.911; VII.503, 701, 711, 713, 715, 717, 721, 723, 725, 727, 1109, 3001, and 11101; IX.1507, 2501, 6703, 7129, and 7135; and XV.486, 575, and 1516)(OS055)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Environmental Quality regulations, LAC 33:I.1307 and 2305; III.517, 519, 527, 2723, 2799, 2803, and 5151; V.303 and 3719; VI.911; VII.503, 701, 711, 713, 715, 717, 721, 723, 725, 727, 1109, 3001, and 11101; IX.1507, 2501, 6703, 7129, and 7135; and XV.486, 575, and 1516 (Log #OS055).

This Rule corrects all references to the department's website and mailing addresses that appear throughout the Environmental Quality regulations. These addresses have changed since the department moved downtown, and the references to them in the regulations have to be brought up to date accordingly. The regulations direct the public to the department's website as a place to obtain departmental information such as the RECAP document, certification forms, permit applications, notifications to the department, reporting requirements, and training documentation forms. The website address, mailing addresses, phone numbers, and notification information for the department will now be located on the inside front cover of each Environmental Regulatory Code (ERC) book. This Rule also corrects other outdated references, corrects the use of a defined term, and restores an effluent parameter listing and definitions that were inadvertently lost in previous rulemaking. The basis and rationale for this Rule are to correct all the instances in which the department's website and mailing addresses occur in the Environmental Quality regulations and to correct other errors found throughout the regulations.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 13. Risk Evaluation/Corrective Action Program

§1307. Adoption by Reference

A. The document entitled, "Louisiana Department of Environmental Quality Risk Evaluation/Corrective Action Program (RECAP)," dated October 20, 2003, is hereby adopted and incorporated herein in its entirety. The RECAP document is available for purchase or inspection from 8 a.m. until 4:30 p.m., Monday through Friday from the department's Office of Environmental Assessment, Environmental Planning Division. For RECAP document availability at other locations, contact the department's Environmental Planning Division. The RECAP document may also be reviewed on the Internet through the department's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:2244 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2441 (November 2000), LR 29:2057 (October 2003), amended by the Office of Environmental Assessment, LR 30:2020 (September 2004).

Chapter 23. Procedures for Public Record Requests

§2305. Standard Operating Procedures

A. All requests for copies of public records, including discovery requests and subpoenas duces tecum for production of public records, shall be made using LDEQ Form ISD-0005-01. A certification on LDEQ Form ISD-0005-02 shall be submitted with the request for free or reduced rate copies. Completed forms may be submitted in

person, by mail, by facsimile, or other approved method. No other request will be honored. Copies of the forms may be obtained through the department's website or from the department's custodian of records.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:702 (May 2003), amended by the Office of Environmental Assessment, LR 30:2020 (September 2004).

Part III. Air

Chapter 5. Permit Procedures

§517. Permit Applications and Submittal of Information

A. - C. ...

D. Contents of Application. Applications for permits shall be submitted in accordance with forms and guidance provided by the permitting authority. In addition, forms can be obtained through the department's website. At a minimum, each permit application submitted under this Chapter shall contain the following:

D.1. - F. ...

G. Change of Ownership. Notification of any change in ownership must be given to the permitting authority within 90 days after the change. Such notification need not require a complete permit application submittal, but shall be provided in accordance with forms or guidance from the permitting authority and in accordance with requirements of LAC 33:I.1701. In addition, forms can be obtained through the department's website. The administrative authority is authorized to amend the permit to reflect such changes in accordance with LAC 33:III.521. Failure to disclose such changes of ownership within 90 days after the event will be grounds for invalidation of the permit. Based on review of the compliance history of the new owner, the administrative authority has the right to deny the transfer of the permit in accordance with provisions of LAC 33:I.1701. Changes in ownership of a source holding grandfathered status will require that a permit application be submitted in accordance with LAC 33:III.501.B.6 and Paragraph A.3 of this Section.

H. ...

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 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:405 (April 1997), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2448 (November 2000), amended by the Office of Environmental Assessment, LR 30:2021 (September 2004).

§519. Permit Issuance Procedures for New Facilities, Initial Permits, Renewals and Significant Modifications

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

2. The applicant shall submit any additional information requested by the date specified in such notice.

Pursuant to LAC 33:I.Chapter 15, for any application pertaining to a *new facility* or to a *substantial permit modification*, the date specified for submittal shall be no later than 30 days from receipt of the notice of deficiency.

3. ...

4. Pursuant to LAC 33:I.Chapter 15, for any application pertaining to a *new facility* which will be a major source or to a *substantial permit modification*, the applicant shall publish a notice of the completeness determination in a major local newspaper.

B. - C.3. ...

4. Notwithstanding the 18-month allowance in Paragraph C.3 of this Section, final action shall be taken on any application relating to a *new facility* or to a *substantial permit modification*, as defined in LAC 33:I.Chapter 15, within 410 days of receipt of the permit application.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of Environmental Assessment, LR 30:2021 (September 2004).

§527. Significant Modifications

A. - B.3. ...

4. Pursuant to LAC 33:I.Chapter 15, for any application pertaining to a *substantial permit modification* (as defined in LAC 33:I.Chapter 15), the applicant shall publish a notice of completeness determination in a major local newspaper once the application for permit revision is deemed complete.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, LR 30:2021 (September 2004).

Chapter 27. Asbestos-Containing Materials in Schools and State Buildings Regulation

§2723. Management Plans

A. ...

1. Each local education agency or the state government shall develop an asbestos management plan for each school, including all buildings that are leased, owned, or otherwise used as school or state buildings, and submit the plan to the Office of Environmental Services, Permits Division. After June 20, 1994, each plan must include Form AAC-8, Required Elements for Management Plans (latest revised form can be obtained from the Office of Environmental Services, Permits Division or through the department's website). The plan may be submitted in stages that cover portions of the school or state building under the authority of the local education agency or the state government before the deadline specified in LAC 33:III.2701.C.

A.2. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by

the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2457 (November 2000), amended by the Office of Environmental Assessment, LR 30:2021 (September 2004).

§2799. Appendix A Agent Accreditation Plan

The duration of initial and refresher training courses is specified in numbers of days. A day of training equals eight consecutive hours, including breaks and lunch.

In several instances, initial training courses for a specific discipline (e.g., workers, inspectors) require hands-on training. For asbestos abatement supervisors and workers, hands-on training should include working with asbestos-substitute materials, fitting and using respirators, use of glove-bags, donning protective clothing, constructing a decontamination unit, as well as other abatement work activities. Hands-on training must permit all supervisors and workers to have actual experience performing tasks associated with asbestos abatement. For inspectors, hands-on training should include conducting a simulated building walk-through inspection and respirator fit testing.

Training requirements for each of the five accredited disciplines are outlined below. Persons in each discipline perform a different job function and distinct role. Inspectors identify and assess the condition of ACBM, or suspect ACBM. Management planners use data gathered by inspectors to assess the degree of hazard posed by ACBM in schools to determine the scope and timing of appropriate response actions needed for schools. Project designers determine how asbestos abatement work should be conducted. Lastly, workers and contractor/supervisors carry out and oversee abatement work. Each accredited discipline and training curriculum is separate and distinct from the others. A person seeking accreditation in any of the five accredited MAP disciplines cannot attend two or more courses concurrently, but may attend such courses sequentially. All courses, both initial and refresher, shall be completed within 14 days of the commencement of the course.

A. - E.2. ...

a. A completed Asbestos Accreditation Affidavit, Form AAC-1 (which may be obtained from the Office of Environmental Services, Permits Division or through the department's website) that contains:

E.2.a.i. - F. ...

1. Submit the latest revision of the Asbestos Training Organization Recognition Application, Form AAC-3, (which may be obtained from the Office of Environmental Services, Permits Division or through the department's website) requesting approval to train asbestos agents.

2. - 5.k.v. ...

6. Applications for trainer recognition shall be completed using the latest revision of the Asbestos Trainer Recognition Form, AAC-4 (latest revision of the form may be obtained from the Office of Environmental Services, Permits Division or through the department's website). A resume indicating proof of experience as described in Clause F.2.d.ii of this Appendix must be attached. The completed application with applicable fees (LAC 33:III.223) is to be sent to the Office of Environmental Services, Permits Division.

7. - 9.e.iii. ...

[NOTE: Repealed.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:397 (May 1990), LR 16:1057 (December 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2458 (November 2000), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004).

Chapter 28. Lead-Based Paint Activities Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities

§2803. Definitions

A. The terms used in this Chapter are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined in this Section as follows.

* * *

Permanently Covered Soil Soil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as asphalt, pavement, or concrete. Grass, mulch, and other landscaping materials that are permeable are not considered permanent covering.

Person Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, governmental body, including the state and the federal government and its agencies, or any other legal entity or their legal representatives, agents, or assignees.

Personal Protection Equipment (PPE) Specialized clothing and equipment including, but not limited to, respirators, masks, and gloves designed to protect workers against chemical and physical hazards.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1663 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:2335 (November 2002), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter M. Asbestos

§5151. Emission Standard for Asbestos

A. - F.2. ...

a. provide the Office of Environmental Services, Permits Division with typed notice of intention to demolish or renovate using the latest version of Form AAC-2, Notification of Demolition and Renovation. This form is available from the Office of Environmental Services, Permits Division or through the department's website. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable. The use of a prior version of the AAC-2 Form is acceptable unless the

department has previously provided the owner or operator with a copy of the current version, or the owner or operator is aware of the latest version.

F.2.b. - I. ...

1. deposit all asbestos-containing waste material at a waste disposal site recognized by the department. A completed AAC-7 Form shall have been submitted to the Office of Environmental Services, Permits Division by the disposal facility for prior recognition. Updated information will be required upon request. The latest AAC-7 Form may be obtained from the Office of Environmental Services, Permits Division or through the department's website. The Office of Environmental Services, Permits Division will maintain a current list of recognized asbestos waste disposal sites;

I.2. - P.2.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 17:1204 (December 1991), repealed and repromulgated LR 18:1121 (October 1992), amended LR 20:1277 (November 1994), LR 24:27 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2462 (November 2000), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004).

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality Hazardous Waste

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§303. Overview of the Permit Program

A. - A.1. ...

2. No later than 90 days after the promulgation or revision of these regulations, all generators and transporters of hazardous waste, and all owners or operators of hazardous waste treatment, storage, or disposal facilities must file or have on file a notification of that activity using Notification Form HW-1, available from the Office of Environmental Services, Permits Division or through the department's website. For generators of hazardous waste, the Notification Form HW-1 shall be deemed a registration upon acceptance and approval by the administrative authority.

A.3. - Q. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 14:790 (November 1988), LR 16:220 (March 1990), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 21:564 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), LR 27:708 (May 2001), amended by the Office of Environmental Assessment, LR 30:2023 (September 2004).

Chapter 37. Financial Requirements

Subchapter F. Financial and Insurance Instruments

§3719. Wording of the Instruments

A. - C. ...

D. Letter of Credit. A letter of credit, as specified in LAC 33:V.3707.D or 3711.D or 4403.C or 4407.C must be worded as follows, except that instructions in brackets are to

be replaced with the relevant information and the brackets deleted.

IRREVOCABLE STANDBY LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attention: Office of Management and Finance, Financial Services Division
Dear [Sir or Madam]:

* * *

[See Prior Text in Letter]

E. ...

F. Closure Guarantee. A letter from the chief financial officer, as specified in LAC 33:V.3707.F.3 or 3711.F.3 or 4403.E.3 or 4407.E.3 must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

LETTER FROM CHIEF FINANCIAL OFFICER

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attention: Office of Management and Finance, Financial Services Division
Dear [Sir or Madam]:

* * *

[See Prior Text in Letter]

G. Liability Coverage Guarantee. A letter from the chief financial officer, as specified in LAC 33:V.3715.F or 4411, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attention: Office of Management and Finance, Financial Services Division
Dear [Sir or Madam]:

* * *

[See Prior Text in Letter]

H. Corporate Guarantees

1. A corporate guarantee, as specified in LAC 33:V.3707.F or 3711.F or 4403.E or 4407.E must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the bracket deleted.

CORPORATE GUARANTEE FOR CLOSURE OR POST-CLOSURE CARE

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the State of [insert name of State], herein referred to as guarantor, to the Louisiana Department of Environmental Quality, obligee, on behalf of [owner or operator] of [business address], which is [one of the following: "our subsidiary"; "a subsidiary of (name and address of common parent corporation), of which guarantor is a subsidiary"; or "an entity with which guarantor has a substantial business relationship, as defined in LAC 33:V.3703.A.8 or 4399"].

* * *

[See Prior Text in Guarantee]

H.2. - J. ...

K. Letter of Credit. A letter of credit, as specified in LAC 33:V.3715 or 4411, must be worded as follows, except that

instructions in brackets are to be replaced with the relevant information and the brackets deleted.

IRREVOCABLE STANDBY LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attention: Office of Management and Finance, Financial
Services Division
Dear [Sir or Madam]:

* * *

[See Prior Text in Letter]

L. - N.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:686 (July 1985), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:47 (January 1990), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1514 (November 1997), repromulgated LR 23:1684 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2493 (November 2000), amended by the Office of Environmental Assessment, LR 30:2023 (September 2004).

Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation

Chapter 9. Voluntary Remediation

§911. Application Process

A. ...

1. a Voluntary Remedial Investigation Application Form VCP001, available from the Office of Environmental Assessment, Remediation Services Division and on the department's website, with required attachments, accompanied by the remedial investigation work plan review fee; and

A.2. - B. ...

1. a Voluntary Remediation Application Form VCP002, available from the Office of Environmental Assessment, Remediation Services Division and on the department's website, with required attachments, accompanied by the remedial action plan review fee;

B.2. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:516 (April 2001), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004).

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 5. Solid Waste Management System

Subchapter A. Administration, Classification, and Inspection Procedures

§503. Notification

A. Notification

1. Except as provided for in Paragraph A.2 of this Section, persons who generate industrial solid waste and/or persons who transport, process, or dispose of solid waste shall, within 30 days after they become subject to these regulations, notify the Office of Environmental Services, Permits Division in writing of such activity. A form to be

used for notification shall be obtained from the Office of Environmental Services, Permits Division or through the department's website.

2. - 3. ...

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 26:2517 (November 2000), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004).

Chapter 7. Solid Waste Standards

Subchapter A. General Standards

§701. Standards Governing Industrial Solid Waste Generators

A. - A.1. ...

2. The generator's annual report shall name the transporter(s) who removed the industrial solid waste from the generator's site and the permitted solid waste processing or disposal facility or facilities that processed or disposed of the waste. The form to be used shall be obtained from the department or through the department's website.

A.3. - B.3. ...

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 26:2521 (November 2000), repromulgated LR 27:703 (May 2001), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004).

Subchapter B. Landfills, Surface Impoundments, Landfarms

§711. Standards Governing Landfills (Type I and II)

A. - C.1.a. ...

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. The annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period and to determine remaining capacity shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website.

C.1.a.ii. - F.3.d. ...

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 LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004).

§713. Standards Governing Surface Impoundments (Type I and II)

A. - C.1.a. ...

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. If applicable, the annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal and to determine remaining capacity during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website.

C.1.a.ii. - F.2.b.iv. ...

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), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2524 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004).

§715. Standards Governing Landfarms (Type I and II)

A. - C.1.a. ...

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight and dry-weight tons per year) received from in-state generators and from out-of-state generators during the reporting period. The annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website.

C.1.a.ii. - F.3.b. ...

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), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2525 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of environmental Assessment, LR 30:2025 (September 2004).

Subchapter C. Solid Waste Processors

§717. Standards Governing All Solid Waste Processors (Type I-A and II-A)

A. - F.1.a. ...

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website.

F.1.a.ii. - I.3. ...

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 the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2526, 2610 (November 2000), repromulgated LR 27:704 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004).

Subchapter D. Minor Processing and Disposal Facilities
§721. Construction and Demolition Debris and Woodwaste Landfills and Processing Facilities (Type III)

A. - B.1.a. ...

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website.

B.1.a.ii. - E.3. ...

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 LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004).

§723. Composting Facilities (Type III)

A. - B.1.a. ...

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose

must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website.

B.1.a.ii. - D.3. ...

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 LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004).

§725. Separation and Woodwaste Processing Facilities (Type III)

A. - B.1.a. ...

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website.

B.1.a.ii. - D.3. ...

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 LR 20:1001 (September 1994), LR 22:280 (April 1996), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2026 (September 2004).

Subchapter E. Financial Assurance for All Processors and Disposers of Solid Waste

§727. Financial Assurance

A. - A.1.d.i.(c).(vi). ...

(d) the wording of the liability endorsement shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SOLID WASTE FACILITY LIABILITY ENDORSEMENT
Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

* * *

[See Prior Text in Endorsement]

(e) the wording of the certificate of insurance shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SOLID WASTE FACILITY CERTIFICATE OF LIABILITY INSURANCE

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

* * *

[See Prior Text in Certificate]

1.d.ii. - 1.d.ii.(d).

(e) The wording of the letter of credit shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SOLID WASTE FACILITY IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

* * *

[See Prior Text in Certificate]

1.d.iii. - 2.g.vii. ...

viii. The wording of the letter of credit shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SOLID WASTE FACILITY IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

* * *

[See Prior Text in Letter]

2.h. - 2.i.iv.(d). ...

(e) The wording of the letter from the chief financial officer shall be identical to the wording as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SOLID WASTE FACILITY LETTER FROM THE CHIEF FINANCIAL OFFICER
(Liability Coverage, Closure, and/or Post-Closure)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

* * *

[See Prior Text in Letter]

A.2.i.v. - B.2. ...

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 LR 19:1143 (September 1993), LR 19:1316 (October 1993), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August

1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2529 (November 2000), repromulgated LR 27:39 (January 2001), amended by the Office of Environmental Assessment, LR 30:2026 (September 2004).

Chapter 11. Beneficial-Use Facilities

§1109. Standards Governing Beneficial-Use Facilities

A. - F.1.a. ...

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste beneficially used, (expressed in wet-weight tons and dry-weight tons per year), during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual reporting period shall be submitted to the administrative authority. A form for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website.

F.1.a.ii. - H.2. ...

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 26:2536 (November 2000), repromulgated LR 27:40 (January 2001), LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004).

Chapter 30. Appendices

§3001. Appendix A

Example of a Public Notice to be Placed in the Local Newspaper for Intention to Submit a Permit Application to the Office of Environmental Services, Permits Division for Existing/Proposed Solid Waste Facilities

Public Notice
of
Intent To Submit Permit Application
(Name of Applicant/Facility)

Facility (location), Parish (location), Louisiana

Notice is hereby given that (name of applicant) does intend to submit to the Department of Environmental Quality, Office of Environmental Services, Permits Division, an application for a permit to operate a (type of solid waste facility) in (parish name), Range__, Township__, Section__, which is approximately (identify the physical location of the site by direction and distance from the nearest town).

Comments concerning the facility may be filed with the secretary of the Louisiana Department of Environmental Quality at the following address:

Louisiana Department of Environmental Quality
Office of Environmental Services
Permits Division
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

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 26:2536 (November 2000), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004).

Subpart 2. Recycling

Chapter 111. Appendices

§1101. Appendix A

Louisiana Department Of Environmental Quality
Financial Assurance Documents For Waste Tire Facilities
(August 4, 1994)

The following documents are to be used to demonstrate financial responsibility for the closure of waste tire facilities. The wording of the documents shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SAMPLE DOCUMENT 1. - SAMPLE DOCUMENT 2. ...

SAMPLE DOCUMENT 3:

WASTE TIRE FACILITY IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attention: Office of Management and Finance, Financial
Services Division

Dear Sir:

* * *

[See Prior Text in Document]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1214 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 27:832 (June 2001), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004).

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 15. Water Quality Certification Procedures

§1507. Procedures for Issuance of Water Quality Certification

A. - C.3. ...

D. Public Notice Requirements

1. Notice by Publication. Within 10 days after the review process is completed by the administrative authority, the applicant will be sent a public notice. The applicant shall publish the public notice one time in the official journal of the state and one time in at least one or more, at the discretion of the administrative authority, local newspapers or journals of general circulation in each parish in which the activity is to be conducted.

a. *The Advocate* of Baton Rouge is the official journal of the state.

D.1.b. - E.2. ...

3. Hearing Location. Every hearing held pursuant to this Section shall be held before the administrative authority at a location convenient to the nearest population center affected by the proposed certification, unless the administrative authority specifically designates some other location.

E.4. - 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 29:690 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004).

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 25. Permit Application and Special LPDES Program Requirements

§2501. Application for a Permit

A. - A.2. ...

a. All applicants for LPDES permits must submit applications on either state- or EPA-approved permit application forms. More than one application form may be required from a facility depending on the number and types of discharges or outfalls found there. Application forms may be obtained by contacting the Office of Environmental Services, Permits Division or may be obtained electronically through the department's website.

A.2.b. - R.4.h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000), LR 26:2756 (December 2000), LR 27:45 (January 2001), LR 28:465 (March 2002), LR 28:1766 (August 2002), LR 29:1462 (August 2003), repromulgated LR 30:230 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004).

Chapter 67. Financial Security

§6703. Acceptable Form of Financial Security

A. - A.1. ...

a. the bond must be submitted to the department at the following address: Louisiana Department of Environmental Quality, Office of Management and Finance, Financial Services Division, Box 4303, Baton Rouge, LA 70821-4303;

1.b. - 2. ...

a. the letter of credit must be submitted to the department at the following address: Louisiana Department of Environmental Quality, Office of Management and Finance, Financial Services Division, Box 4303, Baton Rouge, LA 70821-4303;

b. - c. ...

d. the wording of the letter of credit shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Financial Services Division
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Dear Sir:

* * *

[See Prior Text in Letter]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:46 (January 2001), repromulgated LR 30:233 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004).

Chapter 71. Appendices

§7129. Appendix O - LPDES Permit Testing Requirements for Publicly Owned Treatment Works (LAC 33:IX.2501.J)

Table 1A. - Table 1. ...

Table 2 - Effluent Parameters for Selected POTWS		
Common Name	Universal Name	CAS #
* * *		
[See Prior Text in Hardness - 2,4,6-trichlorophenol]		
Base-Neutral Compounds		
* * *		
[See Prior Text in Acenaphthene - Hexachlorocyclopentadiene]		
Hexachloroethane		67-72-1
* * *		
[See Prior Text in Indeno(1,2,3-cd)pyrene - 1,2,4-trichlorobenzene]		

NOTE: If no universal name is listed, the common name and the universal name are the same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2765 (December 2000), repromulgated LR 30:233 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004).

§7135. Appendix R - Financial Assurances Documents

Document 1. Liability Endorsement

COMMERCIAL BLENDER, COMPOSTER, OR MIXER OF SEWAGE SLUDGE LIABILITY ENDORSEMENT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

* * *

[See Prior Text in Endorsement]

Document 2. Certificate of Insurance

COMMERCIAL BLENDER, COMPOSTER, OR MIXER OF SEWAGE SLUDGE FACILITY CERTIFICATE OF LIABILITY INSURANCE

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

* * *

[See Prior Text in Certificate]

Document 3. Letter of Credit

COMMERCIAL BLENDER, COMPOSTER, OR MIXER OF SEWAGE SLUDGE FACILITY IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

* * *

[See Prior Text in Letter]

Document 4. Trust Agreement - Document 6. Performance Bond ...

Document 7. Letter of Credit

COMMERCIAL BLENDER, COMPOSTER, OR MIXER OF SEWAGE
SLUDGE FACILITY IRREVOCABLE LETTER OF CREDIT
Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attention: Office of Management and Finance, Financial
Services Division

Dear Sir:

* * *

[See Prior Text in Letter]

Document 8. Certificate of Insurance ...

Document 9. Letter from the Chief Financial Officer

COMMERCIAL BLENDER, COMPOSTER, OR MIXER OF SEWAGE
SLUDGE FACILITY LETTER FROM THE CHIEF FINANCIAL
OFFICER (LIABILITY COVERAGE, CLOSURE, AND/OR POST-
CLOSURE)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attention: Office of Management and Finance, Financial
Services Division

Dear Sir:

* * *

[See Prior Text in Letter]

Document 10. Corporate Guarantee. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:818 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004).

Part XV. Radiation Protection

Chapter 4. Standards for Protection Against Radiation

Subchapter J. Reports

§486. Notification of Incidents

A. - B.2. ...

C. Licensees or registrants shall make the reports required by Subsections A and B of this Section through initial contact by telephone and shall confirm the initial contact by telegram, mailgram, or facsimile to the Office of Environmental Compliance or by e-mail utilizing the Incident Report Form and procedures found on the department's website under the key subject title "Surveillance."

D. - E. ...

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 19:1421 (November 1993), amended LR 22:973 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000), LR 26:2770 (December 2000), LR 30:1678 (August 2004), amended by the Office of Environmental Assessment, LR 30:2029 (September 2004).

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§575. Training and Testing

A. - A.2.c. ...

d. The current Form DRC-20, available from the department or the department's website, must be submitted to the Office of Environmental Services, Permits Division documenting the on-the-job training.

A.3. - B.5. ...

6. The current Form DRC-20, available from the department or the department's website, 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.

B.7. - E. ...

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 29:34 (January 2003), LR 29:1470 (August 2003), amended by the Office of Environmental Assessment, LR 30:2029 (September 2004).

Chapter 15. Transportation of Radioactive Material
§1516. Advance Notification of Transport of Nuclear Waste

A. Prior to the transport of any nuclear waste outside of the confines of the licensee's facility or other place of use or storage, or prior to the delivery of any nuclear waste to a carrier for transport, each licensee shall provide advance notification of such transport to the governor, or governor's designee, of each state through which the waste will be transported. A list of the mailing addresses of the governors and governors' designees is available upon request from the director, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. In Louisiana, the governor's designee is the secretary of the Department of Environmental Quality.

B. - F. ...

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 Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), LR 26:2602 (November 2000), amended by the Office of Environmental Assessment, LR 30:2029 (September 2004).

Wilbert F. Jordan, Jr.
Assistant Secretary

0409#088

RULE

Department of Environmental Quality Office of Environmental Assessment

Fugitive Emission Control (LAC 33:III.2122)(AQ237)

Editor's Note: A portion of this Rule, which was published on pages 1659-1662 of the August 20, 2004, *Louisiana Register*, is being reprinted to correct typographical errors.

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.2121 and 2122 (Log #AQ237).

This Rule updates the state fugitive emission control regulations to clarify requirements for instrumentation systems, designate "no detectable emissions" (NDE) valves, and allow for alternate monitoring for flanges. The changes make the state regulations more consistent with federal fugitive control regulations, particularly the Maximum Achievable Control Technology (MACT) standards of 40 CFR 63. This Rule adopts the definition of instrumentation system included in the Synthetic Organic Chemical Manufacturing Industry Hazardous Organic NESHAP (SOCMI HON) MACT (40 CFR 63, Subpart H). The changes are not required by a federal regulation and do not alter the position of these fugitive emission control regulations in the Stringency Table of the Louisiana Fugitive Emission Program Consolidation Guidelines. The regulated community asked for an update to the state fugitive air emission control regulations, particularly to make fugitive component definitions and applicability more consistent with the federal regulations for Leak Detection and Repair (LDAR) programs, such as the MACT standards of 40 CFR 63. This Rule is also a revision to the Louisiana State Implementation Plan (SIP) for air quality. The basis and rationale for this Rule are to improve the permitting of fugitive air emissions regulated under LAC 33:III.2121 and 2122.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2122. Fugitive Emission Control for Ozone

Nonattainment Areas and Specified Parishes

A. Applicability

1. This regulation is applicable to each process unit at petroleum refineries, natural gas processing plants, the synthetic organic chemical manufacturing industry (SOCMI), the methyl tertiary butyl ether (MTBE) manufacturing industry, and the polymer manufacturing industry that contains any of the following components that

are intended to operate in VOC service 300 hours or more during the calendar year:

- a. pumps;
- b. compressors;
- c. pressure relief devices;
- d. open-ended valves or lines;
- e. process drains;
- f. valves;
- g. agitators;
- h. instrumentation systems; and
- i. connectors.

2. - 6.d. ...

B. Definitions. Terms used in this Section are defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

Instrumentation System—A group of equipment components used to condition and convey a sample of the process fluid to analyzers and instruments for the purpose of determining process operating conditions (e.g., composition, pressure, flow). Valves and connectors are the predominant types of equipment used in instrumentation systems; however, other types of equipment may also be included in these systems. Only valves nominally 0.5 inch and smaller and connectors nominally 0.75 inch and smaller in diameter are considered instrumentation systems for the purposes of these regulations. Valves greater than nominally 0.5 inch and connectors greater than nominally 0.75 inch associated with instrumentation systems are not considered part of instrumentation systems and must be monitored individually.

C. Fugitive Emission Control Requirements

1. Leak Limitations

a. No component in petroleum refineries, SOCMI, MTBE, and polymer manufacturing industry shall be allowed to leak volatile organic compounds exceeding an instrument reading of 1,000 ppmv or greater for valves, connectors, instrumentation systems, pressure relief devices, and process drains; 5,000 ppmv for pumps and compressors; or 10,000 ppmv for agitators, as outlined in Subsection D of this Section, when tested by Method 21 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003).

b. No component in natural gas processing plants shall be allowed to leak volatile organic compounds exceeding an instrument reading of 2,500 ppmv for valves, connectors, instrumentation systems, pressure relief devices, process drains, and open-ended valves and lines; 5,000 ppmv for pumps and compressors; or 10,000 ppmv for agitators, as outlined in Subsection D of this Section, when tested by Method 21 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003).

C.1.c. - C.3. ...

4. Percent of leaking components at a process unit shall be determined for a test period as follows:

$$\% C_{lv} = [C_{lv}] / [C_{tv}] * 100\% \quad \text{Eq.1}$$

where:

$\% C_{lv}$ = percent of leaking valves, flanged connectors, or pumps.

C_{lv} = number of valves, flanged connectors, or pumps found leaking during the monitoring period.
 C_{tv} = total number of valves, flanged connectors, or pumps monitored during the period.

5. Total percent of leaking and unrepairable components shall be determined as follows:

$$\% C_{tlvp} = [C_{tlv}]/[C_{tlv} + C_{tlvp}] * 100\% \quad \text{Eq.2}$$

where:

$\% C_{tlvp}$ = total percent of leaking and unrepairable valves, flanged connectors, or pumps.
 C_{tlv} = number of valves, flanged connectors, or pumps found leaking or defined as unrepairable.
 C_{tv} = total number of valves, flanged connectors, or pumps tested during the period.
 C_{tlvp} = total number of valves, flanged connectors, or pumps which were defined as unrepairable.

D. - D.1.c. ...

d. Monitor all flanged connectors in accordance with either Clause D.1.d.i or ii of this Section.

i. Inspect all flanged connectors weekly by visual, audible, and olfactory means.

ii. Monitor flanged connectors four times per year (quarterly) using a leak detection device as follows.

(a). Either two hundred or 10 percent, whichever is less, of the flanged connectors shall be monitored each quarterly period in accordance with a written sampling plan.

(b). The sampling plan shall ensure that at least 66 percent of the flanged connectors monitored each quarterly period shall not have been previously monitored, until all flanged connectors within the process have been monitored.

e. Inspect weekly, by visual, audible, and olfactory means, all instrumentation systems.

f. Records of the visual, audible, and olfactory inspections of connectors and instrumentation systems are not required unless a leak is detected.

2. - 3.a. ...

b. Monitor immediately with a leak detection device any component that appears to be leaking on the basis of sight, smell, or sound. This includes flanges and connectors, instrumentation systems, and pump and compressor seals observed during the weekly visual inspections, and any other regulated components that appear to be leaking. In lieu of monitoring, the operator may elect to implement actions as specified in Paragraph C.3 of this Section.

c. - d. ...

e. Any valve that is designated for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of Clauses D.1.b.iii and v and D.2.b.ii of this Section if the valve:

i. has no external actuating mechanism in contact with the process fluid (e.g., diaphragm valves, sealed bellows valves);

ii. is operated with emissions less than 500 ppm above background as measured in accordance with this Section; and

iii. is tested for compliance with Clause D.3.e.ii of this Section initially upon designation and annually thereafter.

4. - 5. ...

E. Alternate Control Techniques. The monitoring schedule in Subsection D of this Section may be modified as follows.

1. - 1.f. ...

g. Existing equipment that has been monitored under LAC 33:III.2121 for fugitives at the leak definition of 10,000 ppmv can initially elect to use this alternate standard if the unit has data documented with the department by either January 1, 1996, or for the 12 months prior to becoming subject to this Section, that indicates the percent of leaking valves (Eq. 1) is less than or equal to a 2.0 percent leak rate at 10,000 ppmv for the required time period.

2. ...

3. Alternate Standards for Flanged Connectors Subject to Clause D.1.d of this Section ~~C~~Skip Period Leak Detection and Repair

a. An owner or operator may elect to comply with one of the alternative work practices specified in Clause E.3.b or Paragraph E.4 of this Section. However, the administrative authority* must be notified in writing before implementing one of the alternative work practices.

b. After four consecutive quarterly leak detection periods with the percent of leaking flanged connectors (Eq. 1) equal to or less than 1.0, an owner or operator may begin to skip three of the quarterly leak detection periods for the flanged connectors in gas/vapor and light liquid service.

c. If the percent of leaking flanged connectors (Eq. 1) is greater than 1.0, or the total percent of leaking and unrepairable flanged connectors (Eq. 2) is greater than 2.0, the owner or operator shall comply with the requirements as described in Subsection D of this Section but subsequently can again elect to use this Subsection when the requirements are met.

d. The percent of leaking flanged connectors (Eq. 1) shall be determined by dividing the sum of components found leaking during the current monitoring period by the total number of flanged connectors that were tested and multiplying the results by 100 percent.

e. An owner or operator must keep a record of the percent of flanged connectors found leaking during each leak detection period and the total percentage of leaking and unrepairable flanged connectors.

4. Alternative Standards for Flanged Connectors ~~C~~Increased Monitoring Frequency. If the percent of leaking flanged connectors (Eq. 1) in a test period is greater than 1.0, or the total percent of leaking and unrepairable flanged connectors (Eq. 2) is greater than 2.0, then an increase in the frequency of monitoring may be required by the administrative authority*.

5. Alternate Standard for Batch Processes. As an alternate to complying with the requirements in Subsection D of this Section an owner or operator of a batch process in VOC service may elect to comply with one of the following alternative work practices. The batch product-process equipment shall be tested with a gas using the procedures specified in Subparagraph E.5.a of this Section or with a liquid as specified in Subparagraph E.5.b of this Section.

a. The following procedures shall be used to pressure test batch product-process equipment using a gas (e.g., air or nitrogen) to demonstrate compliance.

i. The batch product-process equipment train shall be pressurized with a gas to the operating pressure of the equipment. The equipment shall not be tested at a pressure greater than the pressure setting of the lowest relief valve setting.

ii. Once the test pressure is obtained, the gas source shall be shut off.

iii. The test shall continue for not less than 15 minutes, unless it can be determined in a shorter period of time that the allowable rate of pressure drop was exceeded. The pressure in the batch product-process equipment shall be measured after the gas source is shut off and at the end of the test period. The rate of change in pressure in the batch product-process equipment shall be calculated using the following equation:

$$\frac{P}{t} = \frac{(P_f - P_i)}{(t_f - t_i)} \quad \text{Eq. 3}$$

where:

P/t = change in pressure, psia/hr.

P_f = final pressure, psia.

P_i = initial pressure, psia.

t_f - t_i = elapsed time, hours.

iv. The pressure shall be measured using a pressure measurement device (gauge, manometer, or equivalent) that has a precision of ±2.5 millimeters (±0.05 psig) of mercury in the range of test pressure and is capable of measuring pressures up to the relief set pressure of the pressure relief device.

v. A leak is detected if the rate of change in pressure is greater than 6.9 kPa (1 psig) in one hour or if there is visible, audible, or olfactory evidence of fluid loss.

b. The following procedures shall be used to pressure test batch product-process equipment using a liquid to demonstrate compliance.

i. The batch product-process equipment train, or section of the train, shall be filled with the test liquid (e.g., water, alcohol). Once the equipment is filled, the liquid source shall be shut off.

ii. The test shall be conducted for a period of at least 60 minutes, unless it can be determined in a shorter period of time that the test is a failure.

iii. Each seal in the equipment being tested shall be inspected for indications of liquid dripping or other indications of fluid loss. If there are any indications of liquids dripping or of fluid loss, a leak is detected.

iv. If a leak is detected, it shall be repaired and the batch product-process equipment shall be retested before VOCs are fed to the equipment.

v. If the batch product-process equipment fails the retest or the second of two consecutive pressure tests, it shall be repaired as soon as practicable, but not later than 30 calendar days after the equipment is placed in VOC service.

F. - G.6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996), LR 22:1212 (December 1996), repromulgated LR 23:197 (February 1997), amended LR 23:1678 (December 1997), LR 24:22 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:1764 (August 2002), LR 30:1660 (August 2004), repromulgated by the Office of Environmental Assessment, LR 30:2030 (September 2004).

Wilbert F. Jordan, Jr.
Assistant Secretary

0409#090

RULE

Department of Environmental Quality Office of Environmental Assessment

Public Notice Requirements
(LAC 33:VII.513, 517, and 10513)(SW038)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste regulations, LAC 33:VII.513, 517, and 10513 (Log #SW038).

This revision changes the place of publication of various public notices required by the Solid Waste regulations. Changing the required place of publication of public notices from the official parish journal to a major local newspaper of general circulation will make the Solid Waste regulations consistent with the public notice requirements in other media regulations and will ensure that the public notice reaches as many people affected by the action as possible. The official parish journal may or may not be the journal of largest circulation in the parish and may not be in an area where the proposed permit action will take place. The basis and rationale for this Rule are to ensure that public notices regarding solid waste permit activities reach the greatest number of citizens and to make the solid waste public notice regulations consistent with the other media regulations so that the public knows where to expect public notices to be published.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 5. Solid Waste Management System

Subchapter B. Permit System for Facilities Classified for Upgrade or Closure

§513. Permit Process for Existing Facilities Classified for Upgrade and for Proposed Facilities

A. Applicant Public Notice

1. No sooner than 45 days prior to the submittal of a standard permit application to the Office of Environmental Services, Permits Division, the prospective applicant shall publish a notice of intent to submit an application for a standard permit. This notice shall be published one time as a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of this state and in a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of the state will be the only public notice required.

A.2. - F.2. ...

3. After the five copies are submitted to the Office of Environmental Services, Permits Division, notices will be placed in the department's bulletin (if one is available), the official journal of the state, and in a major local newspaper of general circulation. The Office of Environmental Services, Permits Division shall publish a notice of acceptance for review one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. The notices will solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper will be reviewed by the Office of Environmental Services, Permits Division. The notice shall be published in accordance with the sample public notice provided by the Office of Environmental Services, Permits Division. The applicant is responsible for providing the Office of Environmental Services, Permits Division with proof of publication.

4. - 5. ...

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, notices will be published at least 20 days before a fact-finding hearing in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. Those persons on the Office of Environmental Services, Permits Division's mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public hearing. A notice shall also be published in the departmental bulletin, if available.

F.7. - G.2. ...

H. Public Notice of Permit Issuance. No later than 10 days following the issuance of a standard permit, the permit holder shall publish a notice of the issuance of the standard permit. This notice shall be published in the official journal

of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required.

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 26:2519 (November 2000), amended by the Office of Environmental Assessment, LR 30:2032 (September 2004).

§517. Permit Modifications

A. - A.2.c. ...

d. After distribution of the permit modification, the permit holder is responsible for placing a notice in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. The notice will solicit comments from interested individuals and groups. Comments delivered or received within 30 days after the date the notices are published will be reviewed by the Office of Environmental Services, Permits Division. The notice shall be published in accordance with a sample public notice provided by the Office of Environmental Services, Permits Division. The permit holder is responsible for providing the Office of Environmental Services, Permits Division with proof of publication of the notice.

2.e. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014.2.

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 the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000), amended by the Office of Environmental Assessment, LR 30:2032 (September 2004).

Subpart 2. Recycling

Chapter 105. Waste Tires

§10513. Permit Process for Existing Facilities Classified for Upgrade and for Proposed Facilities

A. Applicant Public Notice

1. No sooner than 45 days prior to the submittal of a standard permit application to the Office of Environmental Services, Permits Division, the prospective applicant shall publish a notice of intent to submit an application for a waste tire standard permit. This notice shall be published one time as a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of this state and a major local newspaper of

general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of the state will be the only public notice required.

A.2. - F.2. ...

3. After the six copies are submitted to the department, a notice shall be placed in the office bulletin (if one is available), the official journal of the state, and a major local newspaper of general circulation. The department shall publish a notice of acceptance for review one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state shall be the only public notice required. The notice shall solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper shall be reviewed by the department. The notice shall be published in accordance with the sample public notice provided by the department.

4. - 5. ...

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, a notice shall be published at least 20 days before a fact-finding hearing in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state shall be the only public notice required. Those persons on the department's mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public hearing. A notice shall also be published in the departmental bulletin, if available.

F.7. - G.2. ...

H. Public Notice of Permit Issuance. No later than 10 days following the issuance of a standard permit, the permit holder shall publish a notice of the issuance of the standard permit. This notice shall be published in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. The permit holder shall provide proof of publication of the notice(s) to the department.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2775 (December 2000), LR 27:829 (June 2001), amended by the Office of Environmental Assessment, LR 30:2033 (September 2004).

Wilbert F. Jordan, Jr.
Assistant Secretary

0409#089

RULE

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

Adult Day Health Care (LAC 50:XXI.Chapters 21-39)

Editor's Note: Adult Day Health Care rules have been moved from LAC 50:II.Chapter 109 to LAC 50:XXI.Subpart 2. These rules are being repromulgated to show recodification and new placement.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 3. Adult Day Health Care

Chapter 21. General Provisions

§2101. Forward

A. These standards for participation specify the requirements of the Adult Day Health Care (ADHC) Program. The program is funded as a waived service through Title XIX of the Social Security Act and is administrated by the Department of Health and Hospitals, Bureau of Community Supports and Services (BCSS), in conjunction with other state and local agencies.

B. These standards provide a center with information necessary to fulfill its vendor contract with the State of Louisiana and are the basis for federal and state reviews and surveys.

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 Human Resources, Office of Family Security, LR 11:623 (June 1985), repromulgated LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), repromulgated LR 30:2034 (September 2004).

§2103. Program Description

A. An Adult Day Health Care (ADHC) program provides direct care for five or more hours in a 24-hour weekday to individuals who are physically and/or mentally impaired. The target group is those individuals who need direct professional medical supervision or personal care supervision. It is a requirement for program eligibility that such individuals would require intermediate care or skilled nursing services were they not enrolled in an adult day health care center.

B. This program expands the array of services available to functionally-impaired individuals and helps bridge the gap between independence and institutionalization, allowing them to remain in their own homes and communities.

C. Goals

1. Adult Day Health Care programs work to:
 - a. promote the individual's maximum level of independence;
 - b. maintain the individual's present level of functioning as long as possible, preventing or delaying further deterioration;
 - c. restore and rehabilitate the individual to the highest possible level of functioning;
 - d. provide support and education for families and other caregivers;
 - e. foster socialization and peer interaction;
 - f. serve as an integral part of the community services network and the long-term care continuum of services.

2. The long-range goal for all adult day health care participants is the delay or prevention of 24-hour care.

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 Human Resources, Office of Family Security, LR 8:145 (March 1982), amended LR 11:623 (June 1985), repromulgated LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 14:793 (November 1988), amended by the Bureau of Health Services Financing, LR 23:1149 (September 1997), repromulgated LR 30:2034 (September 2004).

§2105. Definitions

Adult Day Health Care—Group program designed to meet the individual needs of functionally-impaired adults which is structured and comprehensive and which provides a variety of health, social and related support services in a protective setting. *Adult Day Care* and *Adult Day Health Care* are synonymous where they appear in this document.

Adult Day Health Care Centers—Act 705 of the 1984 Louisiana Legislative Session defines this as: "any place owned or operated for profit or not for profit by a person, agency, corporation, institution or any other group wherein 10 or more functionally-impaired adults who are not related to the owner or operator of the center are received for a portion of the 24-hour day."

Applicant—An individual whose written application for Medicaid has been submitted to the agency but whose financial or medical eligibility has not yet been determined.

Attending Physician—Refers to a physician, currently licensed by the Louisiana State Board of Medical Examiners, who is designated by the recipient or responsible party as responsible for the direction of the recipient's overall medical care.

BCSS (Bureau of Community Supports and Services)—The agency within DHH responsible for the administration of home and community based services waivers.

BHSF (Bureau of Health Services Financing)—The agency within DHH responsible for administering Title XIX (Medicaid) in Louisiana.

CMS (Centers for Medicare and Medicaid Services)—The organization within DHHS responsible for administering the Medicaid Program.

DHH—Department of Health and Hospitals, the state agency responsible for Title XIX (Medicaid) in Louisiana.

DHHS—The Department of Health and Human Services, the federal agency responsible for administering the Medicaid program.

Enrollment—The act of registering a licensed and certified center provider into the computerized system for payment of eligible services under the Medical Assistance Program. *Enrollment* includes the execution of the provider agreement and assignment of the provider number used for payment.

FFP—Federal Financial Participation.

Functionally-Impaired Adults—Those persons who are physically, mentally or socially impaired to the degree that they are in need of medical or personal supervision.

ICF—Intermediate Care Facility.

LTCC—Long Term Care.

Medicaid—The medical assistance provided under the state plan approved under Title XIX of the Social Security Act.

Medicaid Management Information System—The computerized system which lists all providers eligible for participation in the Medical Assistance Program. This system is an organized method of payment for claims for all Title XIX services. It includes all Title XIX providers and all recipients.

Medical Assistance Program—The division within BHSF specifically responsible for administering Title XIX (Medicaid) in Louisiana.

Participant—Title XIX applicant or recipient.

PASARR—Preadmission Screening and Annual Resident Review.

Recipient—An individual who has been found eligible for Title XIX benefits or vendor payments.

Responsible Party—The individual or group designated by the participant to handle finances or to be called in case of an emergency.

SNF—Skilled Nursing Facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:623 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended LR 25:1100 (June 1999), repromulgated LR 30:2035 (September 2004).

§2107. Request for Services Registry

A. The responsibility for the waiting list for the Adult Day Health Care (ADHC) Waiver transferred to the Bureau of Community Supports and Services (BCSS) and approximately 27 waiting lists are consolidated into a centralized statewide request for services registry that is maintained by region and arranged in order of the date of the initial request. Persons who wish to be added to the request for services registry shall contact a toll-free telephone number maintained by BCSS. Those persons on the existing waiting lists prior to the date of the transfer of responsibility to BCSS shall remain on the request for services registry in the order of the date on record when the candidate initially requested waiver services. When a candidate is listed on more than one waiting list, the earliest date on record shall be considered the date of initial request.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 28:835 (April 2002), repromulgated LR 30:2035 (September 2004).

Chapter 23. Provider Participation

§2301. Provider Agreement

A. Enrolled Title XIX adult day health care centers shall be licensed by the Department of Health and Hospitals.

B. A provider agreement must be executed wherein the applicant agrees to comply with this Subpart 3, Adult Day Health Care Centers.

C. Each adult day health care center shall enter into a provider agreement with DHH to provide services through Title XIX. An application for enrollment may be obtained by contacting the BCSS.

D. If BCSS has documentation showing good cause (other than lack of funding), it may refuse to execute an agreement with a provider or may cancel an agreement with a certified center.

E. The effective date of the provider agreement shall be no earlier than the effective date the center becomes licensed.

F. The provider agreement shall be limited to one year from the effective date of the previous provider agreement.

G. The provider agrees:

1. to provide adult day health care services to aged and disabled adults who are admitted in accordance with the provider's admission policies;

2. to be licensed by the BCSS as meeting Louisiana licensure standards for payment for adult day health care centers;

3. to not request or accept payment from DHH, BCSS, unless the participant for whom payment is requested is receiving services as specified in this Subpart 3;

4. to notify the BCSS in writing two weeks in advance of changes which would affect this agreement. No such changes shall be effected until written approval is given by BHSF. Information in the BHSF provider enrollment form(s) PE-50 and ownership data shall be kept current with the understanding that:

a. the provider enrollment form(s) and ownership data become a part of this contract and that each succeeding change in the provider enrollment form constitutes an amendment to this contract; and

b. that failure to keep the information current constitutes a breach of the contract making it subject to immediate cancellation;

5. to allow each participant free choice of Medicaid service providers.

H. DHH agrees to make payment to the provider on behalf of eligible recipients if the provider is enrolled in the Medicaid Program as an ADHC center.

I. Both parties mutually agree:

1. that this contract shall be for one year and may be renewed and extended by DHH, BCSS provided compliance is maintained by the provider with licensing standards for adult day health care centers and this Subpart 3, and any and all other rules governing adult day health centers;

2. that DHH, BCSS will renew or extend this contract in a written notice to the provider. Such notice will state the terms and any further conditions for enrollment under which the contract is to be renewed and extended and each such notice shall be incorporated into and become a part of this contract;

3. that this agreement shall not be transferable or assignable;

4. that this agreement shall be performed in a manner consistent with the applicable provisions of Title XIX of the Social Security Act, the provisions of this Subpart 3, and licensing standards for adult day health care centers. Any future modifications or amendments to said Act or said standards shall likewise be binding on the parties hereto;

5. that any breach or violation of any provision of this agreement shall make this entire contract subject to immediate cancellation.

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 Human Resources, Office of Family Security, LR 11:623 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended LR 25:1100 (June 1999), repromulgated LR 30:2036 (September 2004).

§2303. Provider Responsibilities

A. Providers are required to:

1. have appropriate staff chart all medication and treatments administered to participants at the center;

2. maintain adequate records which itemize all charges made to a participant or third party and to make these records available when requested by DHHS, DHH, BCSS, or any other state or federal agency responsible in any way for the administration of Title XIX or state funding for this service;

3. accept, as payment in full, the amounts paid in accordance with established fees for services billed;

4. have a center policy which all employees sign and which specifies that the center does not require or expect or accept tips for services by center employees;

5. immediately notify the participant's attending physician and responsible relative of any emergency involving the participant;

6. promptly (no later than 24 hours) notify the BCSS regional office and BHSF parish offices, in writing, when a participant dies or is discharged from the center;

7. have nursing staff certify to the receipt of prescribed medication by legible signature and agree to comply with all Louisiana law and rules regarding medication control and disbursement;

8. immediately notify the BHSF parish office when the participant requests to see his/her BHSF worker;

9. maintain and keep any records necessary to disclose the extent of services the center furnishes to Medicaid participants and to have such records available for inspection for five years following the end of each three-year waiver period;

10. upon request, to furnish to DHH, DHHS, the attorney general or the Medicaid Fraud Control Unit, or their agents, any information regarding payment claimed by or made to the center for furnishing services to Medicaid recipients;

11. comply with disclosure of ownership and control information and disclosure of information on owners and other persons convicted of criminal offenses against the Medicaid program;

12. operate the center in accordance with the Civil Rights Act of 1964 and its amendments. This means:

a. that individuals are accepted and cared for and that all services and facilities (waiting rooms, toilets, dining

room, and recreation rooms) are available to persons without regard to race, color, age, sex, or national origin; and

b. public facilities are available to visitors without regard to race, color, age, sex, or national origin;

13. submit a quarterly report on personnel to BCSS and to notify appropriate personnel in that division when there is a change in the number of personnel in any classification or any other change that may affect the licensing status of the center;

14. comply with the requirements of this Subpart 3, and state health and safety laws;

15. submit a properly completed cost report within 90 days of the provider's fiscal year closing date. If the cost report is not submitted as required, a penalty of 5 percent of the total monthly payment for each month of noncompliance may be levied. The agency may grant one 30-day extension of the 90-day limit upon request of the provider after having shown just cause. This penalty may be increased by 5 percent for each succeeding month of noncompliance;

16. that if the provider has authorized a representative to enter into this agreement, the provider shall sign and provide DHH, BCSS a copy of an affidavit delegating the said person as agent and authorized representative;

17. that in the event DHH, BCSS determines certain costs which have been reimbursed to the provider pursuant to this or previous agreements are not allowable, DHH shall have the right to recoup and/or set off and/or withhold said amount from amounts due the provider under this agreement for costs that are allowed.

B. Incident Reports

1. Incident reports shall be completed for each participant who is:

a. involved in an accident or is injured at the center. This shall include a participant's involvement in any occurrence which has the potential for affecting the welfare of any participant;

b. on elopement status or whose whereabouts is unknown for any length of time.

2. Incident reports shall be compiled into a central record. The fact that the participant was involved in an accident or incident and that an incident report was completed shall be entered into the progress notes of the participant's record by the individual completing the incident report.

3. Incident reports shall include, as a minimum, the following information:

- a. the name of the participant;
- b. the date and time of the incident;
- c. the names of witnesses to the incident;
- d. a detailed description of the incident;
- e. a description of the action taken by the center with regard to the incident.

4. The LPN, with RN or MD consultation, and the center director shall document review of each incident report within 24 hours.

5. At the end of each quarter, the center's interdisciplinary team shall review and analyze the incident reports to:

- a. insure that they contain the information specified Paragraph 3 above;
- b. identify staff training needs;

c. identify patterns which may indicate a need for changes in the center's policies or procedures;

d. assist in the identification of those participants who may require changes in their plans of care or who may not be appropriately placed in the ADHC center.

C. Complaint Procedure

1. The DHH complaint procedure shall be posted conspicuously in public areas of the center.

2. Participants shall be encouraged by the center staff to make recommendations and to register complaints with the officials of the center.

D. Participant Records

1. All centers shall have written policies and procedures governing access to, duplication of, and dissemination of information from the participant's personal and medical records.

2. The center shall make all necessary participant records available to appropriate state and federal personnel at all reasonable times.

3. Participant records shall include, but shall not be limited to, the following information:

- a. all medical records;
- b. records of all treatments, drugs, and services for which vendor payments have been made, or which are to be made, under the Medical Assistance Program. This includes the authority for and the date of administration of such treatment, drugs or services;
- c. sufficient documentation to enable DHH to verify that each charge is due and proper prior to payment;
- d. the following physician information:

i. certification for each participant admission; and

ii. recertification that the participant requires ICF or SNF services;

e. all records which DHH finds necessary to determine a center's compliance with any federal or state law, or rule promulgated by DHHS or by DHH.

4. Protection of Records. The center shall protect records against loss, damage, destruction, and unauthorized use.

5. Confidentiality of Information. The center shall safeguard the confidentiality of participant information and shall release confidential information only under the following conditions:

- a. by court order; or
- b. by the participant's written authorization, unless contraindicated as documented in the participant's record by the attending physician.

6. Retention of Records. The center shall retain records for whichever of the following time frames is longer:

- a. until records are audited and all audit questions are answered;
- b. three years from the end of the waiver period.

7. Components of Participant Records. The participant's medical record shall consist of the active participant's record and the center's storage files or folders. As this active record becomes bulky, the outdated information shall be removed and filed in the center's storage files or folders. The active medical charts shall contain the following information:

a. at least six months of current pertinent information relating to the participant's active ongoing care;

- b. the necessary admission records; and
- c. if the center is aware that a participant has been interdicted, a statement to this effect shall be noted on the inside front cover of the participant's active participant record.

8. Availability of Participant Records to Center Staff. The center shall insure that participant records are available to staff directly involved with the participant's care.

9. Contents of Participant Medical Records

a. An organized active record system shall be maintained for each participant.

b. All entries made by center staff in participant records shall be legibly signed and fully dated.

c. Each record shall include identifying information:

- i. full name of the participant;
- ii. home address, including street address, city, parish and state;
- iii. Social Security Number;
- iv. Medicaid number;
- v. Medicare claim number, if applicable;
- vi. marital status;
- vii. date of birth;
- viii. sex;
- ix. religious preference;
- x. ethnic group;
- xi. usual occupation (the kind of work the participant engaged in most of working life, even if retired);
- xii. legal status;
- xiii. birthplace;
- xiv. father's name;
- xv. mother's maiden name;
- xvi. dates of service in the United States armed forces, if applicable;
- xvii. personal physician and alternate;
- xviii. participant's choices of other service providers;
- xix. name and address of next of kin or other responsible party;
- xx. admitting diagnoses;
- xxi. any other useful identifying information.

d. Each record shall include medical information. The center shall insure that the participant record contains the following information:

- i. the physician's signed and dated orders, including medication, treatment, diet, and restorative and special medical procedures required for the safety and well-being of the participant. Physician orders shall remain current for a period of one year;
- ii. a comprehensive, interdisciplinary plan of care;
- iii. progress notes;
- iv. discharge plan and discharge (referral) summaries;
- v. current interdisciplinary assessments.

10. Any errors made by the staff in a participant's record shall be corrected using the legal method which is to draw a line through the erroneous information, write "error" by it and initial the correction.

11. Attendance Records

a. The center shall maintain, for no less than three years after the end of the waiver period, records of the dates of each participant's attendance and the number of hours attended each day.

b. Such records shall be kept in a central location.

12. All other records shall be maintained in accordance with the terms of the provider agreement.

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 Human Resources, Office of Family Security, LR 11:623 (June 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 13:181 (March 1987), LR 23:1150, 1156 and 1163 (September 1997), LR 28:2356 (November 2002), repromulgated LR 30:2036 (September 2004).

§2305. Medical Certification Application Process

A. The adult day health care provider must submit a complete admissions packet to BCSS Section within 20 working days of the date of admission.

1. The date of admission or the date of the plan of care, whichever is later, is the effective date of certification. If the admission packet is incomplete, BCSS will issue a denial of certification notice indicating the reason(s) for denial.

2. If the missing information is subsequently received within the 20-day time frame and the applicant meets all eligibility criteria, certification shall be issued retroactive to the date of admission.

3. If the missing information is received after the 20-day time frame and the applicant meets all eligibility criteria, certification shall be issued with an effective date no earlier than the date that all required documents were received by the BCSS.

B. A complete admission packet must contain the following forms:

1. Form 148W which includes the date of Medicaid application if the date of application is later than the date of admission;

2. Form 90-L which is:

a. signed and dated by a physician licensed to practice in Louisiana and includes a level of care recommendation;

b. not completed more than 30 days prior to the date of admission or the date of application if the resident applies for Medicaid after admission.

3. Level I PASARR (Pre-admission Screening/Resident Review):

a. signed and dated by a physician licensed to practice in Louisiana;

b. if a second level screen is indicated due to a diagnosis or suspected diagnosis of mental illness or mental retardation, it must be completed prior to admission;

c. diagnosis and medication on Form 90-L must be consistent with PASARR.

4. Adult Day Health Care Social Assessment (ADHC I) which:

a. shall not be completed more than 30 days prior to admission;

b. is completed, signed and dated by a master's degreed social worker.

5. Adult Day Health Care Nursing Assessment (ADHC 2) which:

a. shall not be completed more than 30 days prior to admission;

- b. if completed by a licensed practical nurse, it must be countersigned by a registered nurse who must also provide recommendations if necessary;
- 6. plan of care:
 - a. shall not be completed more than 30 days prior to admission;
 - b. shall include:
 - i. problems and needs identified in the assessments;
 - ii. approaches/services to be used for each problem;
 - iii. discipline or job title of staff member responsible for each approach;
 - iv. frequency of each approach/service;
 - v. review/resolution dates; and
 - vi. discharge as a goal.

Note that the diagnosis should not be used as a problem.

- 7. when an individual is presented with a psychiatric disorder, a psychiatric evaluation is required and includes the following components:
 - a. history of present illness;
 - b. mental status;
 - c. diagnostic impression;
 - d. assessment of strengths and weaknesses;
 - e. recommendations for therapeutic interventions;
- and
- f. prognosis;

- 8. when there is a diagnosis of mental retardation/developmental disability, a psychological evaluation is required and includes the following components:
 - a. intellectual quotient; and
 - b. adaptive level functioning.

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 Human Resources, Office of Family Security, LR 11:633 (June 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1155 (September 1997), repromulgated LR 30:2038 (September 2004).

§2307. Interdisciplinary Team

A. The interdisciplinary (ID) team for each center shall be composed of at least the following individuals who may be consultants or center staff:

- 1. a social worker (MSW);
- 2. a registered nurse (RN) licensed to practice in Louisiana;
- 3. the participant;
- 4. at least one direct-care staff person from the center.

B. Responsibilities of ID Team

- 1. The RN and MSW members of the ID team shall, at admission and at least yearly, assess each participant.
- 2. The MSW shall, at admission, assess each participant's home situation to determine which services are required to maintain the integrity of that setting to enable continued placement of the participant. Annually, the MSW shall evaluate the social services designee's (SSD) on-site assessment of the participant's home situation. BCSS Form ADHC-1 shall be used for this assessment.
- 3. The ID team shall develop and update the care plan.
- 4. The ID team shall, at least quarterly, review and analyze incident reports.

5. The RN consultant's responsibilities also shall include at least:

- a. a medication review for each participant at least monthly to determine the appropriateness of the medication regimen. Such a review shall also be done whenever there is a change in the medication regimen;
- b. a monthly review of each participant's medication administration sheet to determine if medications are properly administered in the center;
- c. supervision of the center's plan for self-administration of medication by participants;
- d. health education for staff;
- e. ensuring that diagnoses are compiled into a central location in the participant's record and updated when there is a change.

C. The ID team shall make referrals as indicated to other disciplines and for any other service which would enhance the functional capacity of a participant. The services of physical or speech therapists are available through the Title XIX program and appropriate referrals shall be made when the functional capacity of the participant may be enhanced through provision of such services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:625 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1151 (September 1997), repromulgated LR 30:2039 (September 2004).

§2309. Interdisciplinary Team Assessments

A. Assessments shall be completed prior to staffing. The primary source of information shall be the participant.

1. Other information may be obtained with the participant's written permission from family, social/medical agencies, and other interested parties unless the participant's rights have devolved.

2. The MSW shall document efforts to involve the primary caretakers in the assessment process.

B. Assessments shall identify the participant's specific strengths, problems and needs particularly in the home, but also in the ADHC setting.

C. Assessments shall be recorded and each participant shall be reassessed at least annually by the MSW and the RN.

D. The social service designee (SSD) of the center shall update the social work assessment on BCSS Form ADHC-1 at least quarterly, and whenever there is a significant change in the home setting which may precipitate 24-hour care.

1. Each update shall involve contact with the participant's primary caretakers.

2. At least annually, the SSD shall update the assessment as a result of a visit to the participant's home and contact with the primary caretakers in that setting.

E. The physician assessment shall be done annually. The BHSF Form 90-L shall be used for this assessment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:625 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1152 (September 1997), repromulgated LR 30:2039 (September 2004).

§2311. Staffings

A. Staffings shall be conducted in a group meeting including:

1. the participant;
2. at least one center staff member; and
3. the ID team.

B. After initial assessment by the ID team, each participant shall be individually staffed to develop a viable plan of care for the participant.

C. The participant is the primary source of information during staffing. In the event the requirements of §2901.E have been met, the primary caretaker of the participant or responsible party in the home serves in this capacity.

D. A staffing for each participant shall be conducted at least quarterly, and whenever the recipient situation resolves more than 25 percent of the problems, goals or approaches in the care plan. It is not necessary to staff the participant when there is a simple change in the care plan, such as a minor change in medication or a minor change in the approach for a specific goal. In such cases, the ID team member and center staff responsible for the goal/approach shall revise the plan and initial and date the change.

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 Human Resources, Office of Family Security, LR 11:625 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1152 (September 1997), repromulgated LR 30:2040 (September 2004).

§2313. Plan of Care

A. All services shall:

1. be provided according to the individual written plan of care which is reviewed and updated;
2. be a result of an interdisciplinary staffing in which the participant and direct care staff participate;
3. be written in terminology which all center personnel can understand;
4. list the identified problems and needs of the participant for which intervention is indicated, as identified in assessments, progress notes and medical reports;
5. propose a reasonable, measurable short-term goal for each problem/need;
6. contain the necessary elements of the center's self administration of medication plan, if applicable;
7. use the strengths of the participant in developing approaches to problems;
8. specify the approaches to be used for each problem and that each approach is appropriate to effect positive change for that problem;
9. identify the staff member responsible for carrying out each approach;
10. project the resolution date or review date for each problem;
11. specify the frequency of each approach/service;
12. contain a sufficient explanation of why the participant would require 24-hour care were he/she not receiving ADHC services;
13. include the number of days and time of scheduled attendance each week;
14. include discharge as a goal;
15. be kept in the participant's record used by direct care staff.

B. At least 75 percent of the services contained in the care plan shall be from among those listed in §2501.C and in no event shall more than 25 percent be from §2501.D.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:625 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1152 (September 1997), repromulgated LR 30:2040 (September 2004).

§2315. Progress Notes

A. Progress notes are ongoing assessments of the participant which enable staff to update the plan of care in a timely, effective manner. Each individual responsible for providing direct services shall record progress notes at least monthly.

B. All progress notes shall:

1. provide documentation that staff are carrying out the approaches in the care plan for which each is responsible;
2. record progress made and discuss whether or not the approaches in the care plan are working;
3. document delivery of any service identified on the care plan;
4. record any changes in the participant's medical condition, behavior or home situation which may indicate a need for a care plan change;
5. document that incident reports have been completed when appropriate;
6. be legibly signed and fully dated.

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 Human Resources, Office of Family Security, LR 11:625 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1153 (September 1997), repromulgated LR 30:2040 (September 2004).

Chapter 25. Services

§2501. Mandatory Services

A. The ultimate goal of all services provided is greater independence and community involvement to enable prevention or delay of 24-hour institutional care.

B. All nursing and social services shall be provided in accordance with acceptable professional practice standards for each discipline.

C. As a minimum, each center shall make available the following required services:

1. usage of reality orientation by all staff, as well as daily orientation classes;
2. individualized training in the activities of daily living (toileting, grooming, etc.);
3. interdisciplinary team staffing;
4. health and nutrition counseling;
5. professional social work services;
6. an individualized exercise program;
7. an individualized, goal-directed recreation program;
8. health education classes;
9. daily individualized health services to include at least nursing services that consist of:
 - a. monthly assessment of each participant's medication regimen to evaluate contraindications, the need for appropriate laboratory monitoring and referrals to the

attending physician for such tests and the efficacy of the drugs prescribed;

b. monitoring of vital signs appropriate to the diagnosis and medication regimen of each participant but no less frequently than monthly;

c. administration of medications and treatments in accordance with physician orders and acceptable nursing practice standards;

d. a self administration of medication plan for the center which is individualized for each participant for whom it is indicated;

e. serving as a coordinator and advocate between the participant and medical resources, including the treating physician;

10. individualized leisure skill development and education;

11. one nutritionally balanced hot meal each day and two snacks. This service shall be provided in accordance with the nutritional needs of the participant. Liquids shall be available and easily accessible;

12. intellectual and educational development opportunities (bookmobile, talking library, etc.);

13. transportation to and from the center at the beginning and end of the program day.

D. Only the following additional services and activities shall be reimbursed by BHSF:

1. field trips (intellectual and emotional stimulation);
2. volunteer group visits (emotional stimulation);
3. meal preparation (functional capacity);
4. taping of oral histories (intellectual stimulation);
5. participant interaction with volunteers other than those serving as staff in the center (emotional stimulation);
6. bill paying and letter writing sessions (functional capacity stimulation);
7. films at the center (intellectual stimulation);
8. sing-alongs (social interaction and stimulation);
9. recording of nutritional intake (functional capacity);
10. educational and recreational films (intellectual and emotional stimulation and functional capacity);
11. educational lectures (functional capacity);
12. assistance with obtaining, utilizing and maintaining food stamps, grants and other economic stabilization activities;

13. transportation to and from social/medical services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:626 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1153 (September 1997), repromulgated LR 30:2040 (September 2004).

Chapter 27. Participant Eligibility

§2701. Eligibility for Certification

A. The individual must meet the level of care criteria for SNF, ICF I or ICF II care found in this Subpart 3.

B. It must be determined by BCSS at admission and during utilization review (UR) that the individual's home setting would not suffice as a placement unless ADHC services were being provided.

C. It must be determined by BHSF at admission and during UR that health and other services will be provided according to an approved written plan of care.

D. The individual must meet categorically-related eligibility requirements as specified in Title XIX of the Social Security Act.

E. No recipient of medically needy benefits shall be simultaneously eligible for adult day health care services. Recipients of inpatient hospital, ICF I, ICF II or ICF/H, or SNF services shall not be simultaneously eligible for ADHC services.

F. An individual who has not attended a center for 30 consecutive calendar days or more shall not be eligible for ADHC services. An exception to this is the individual who is absent from the center because of hospitalization or an illness which is documented in the center's records.

G. After an individual has been absent 30 consecutive calendar days, the center shall, within 24 hours, notify both the BHSF parish and regional BCSS offices by BCSS Form 148W.

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 Human Resources, Office of Family Security, LR 11:627 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1155 (September 1997), LR 24:457 (March 1998), repromulgated LR 30:2041 (September 2004).

Chapter 29. Patient Rights

§2901. Recipient Rights/Privileges

A. The staff of each center shall be trained to protect the rights of the participants.

B. Before or upon admission, or upon adoption of participant rights policies by the center, each participant shall be provided a copy of and explained the center's participant rights policy and any amendments.

C. Each participant shall acknowledge receipt of this document, in writing, and the acknowledgment shall be filed in the participant's record. Two witnesses shall be required if the participant signs with a mark or is mentally retarded. The mark shall be bracketed and identified as indicated below:

HER (X) MARK

MARY JONES

WITNESS

WITNESS

D. Participant rights shall include at least the following items.

1. Each participant shall be informed of his/her responsibilities to the center and of all rules governing participant conduct and behavior. The regulations of the center shall be fully explained.

2. If the center changes its participant rights policies, each participant shall acknowledge, in writing, receipt of the change and the acknowledgment shall be filed in the participant's records.

3. Each participant shall be informed, in writing, of all services available in the center. The charges for these services shall be specified when they are not covered in the center's basic Title XIX rate per day. Receipt of this information and any changes in it shall be acknowledged by the participant, in writing, and the acknowledgment shall be filed in the participant's record.

4. Each participant shall be provided the opportunity to participate in each interdisciplinary staffing meeting and any other meeting involving the care of the participant.

5. Each participant shall be afforded the opportunity to refuse any service provided in the center.

6. Each participant shall give informed, written consent before participating in experimental research or any studies conducted at the center.

7. Each participant shall be encouraged and assisted to exercise his/her rights as a participant at the center and as a citizen.

8. Each participant shall be allowed to submit complaints or recommendations about the policies and services of the center to staff or to outside representatives. Participants shall be allowed to do this free from restraint, interference, coercion, discrimination or reprisal.

9. Each participant shall be free from mental and physical abuse.

10. Each participant shall be free from physical restraint.

a. Physical restraint shall be used only when ordered by the attending physician.

b. The physician's order for restraint shall be filed in the participant's record. Specify the reason for using restraint and include a specific time frame for using restraint.

c. Participants who are mechanically restrained shall be monitored at least every 30 minutes to insure that circulation is not impaired and that positioning is comfortable.

d. Participants being mechanically restrained shall be released and be provided the opportunity for exercise at least every two hours. Center staff shall document this activity each time the participant is released.

e. Physical restraint may be used without a physician's order in an emergency only under the following conditions:

i. use of restraint is necessary to protect the participant from injuring himself/herself or others;

ii. use of restraint is authorized by the individual who is identified in the written policies and procedures as having the authority to do so;

iii. use of restraint is reported at once to the attending physician by the staff person referred to in Clause ii above.

11. Each participant shall be treated with consideration, respect and full recognition of his or her dignity and individuality.

12. Each participant shall be afforded privacy during the provision of personal needs services.

13. No participant shall be required to perform services for the center. This shall be allowed by the center only when a specific service is identified in the plan of care as an appropriate approach to a need or problem of the participant.

14. Each participant shall be allowed to communicate, associate, and meet privately with individuals of his/her choice, unless this infringes on the rights of another participant.

E. Development of Participant Rights. Under the following conditions, the center shall insure that participant rights devolve to the responsible party, next of kin or sponsoring agency. If the participant rights have devolved to the responsible party, next of kin or sponsoring agency, that party shall receive the explanation of and sign the participant rights and any other documents described in these standards.

1. The participant has been interdicted in a court of law. In such cases, the center shall insure that the

participant's rights devolve to the curator/curatrix of record and that the interdiction is documented on the inside front cover of the participant's record. The center shall have an official document verifying the participant has indeed been interdicted.

2. The participant's attending physician signs a statement at least quarterly that the participant is unable to exercise his/her Title XIX participant rights because of a specific medical diagnosis. In such cases, the center shall insure that participant rights devolve to the responsible party of record (Form 90-L).

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 Human Resources, Office of Family Security, LR 11:626 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1154 (September 1997), repromulgated LR 30:2041 (September 2004).

Chapter 31. Reimbursement

Subchapter A. Prospective Payment System

§3101. General Provisions

A. Development. Adult Day Health Care (ADHC) providers shall be reimbursed a per diem rate for services provided under a prospective payment system (PPS). The system shall be designed in a manner that recognizes and reflects the cost of direct care services provided. The reimbursement methodology is designed to improve the quality of care for all adult day health care recipients by ensuring that direct care services are provided at an acceptable level while fairly reimbursing the providers.

B. The prospective payment methodology establishes blended rates consisting of 50 percent of the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports and 50 percent of the facility specific prospectively determined rate based on facility specific reasonable allowable costs.

C. Cost Centers

1. Direct Care Costs. This component reimburses for in-house and contractual direct care staffing and fringe benefits and direct care supplies.

2. Care Related Costs. This component reimburses for in-house and contractual salaries and fringe benefits for activity and social services staff, raw food costs and care related supplies for activities and social services.

3. Administrative and Operating Costs. This component reimburses for in-house or contractual salaries and related benefits for administrative, dietary, housekeeping and maintenance staff. Also included are:

- a. utilities;
- b. accounting;
- c. dietary;
- d. housekeeping and maintenance supplies; and
- e. all other administrative and operating type expenditures.

4. Property. This component reimburses for depreciation, interest on capital assets, lease expenses, property taxes and other expenses related to capital assets.

D. Rate Setting. Adult day health care providers shall be reimbursed blended rates consisting of 50 percent of the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports and 50 percent of the facility specific prospectively determined

rate based on facility specific reasonable allowable costs plus a direct care incentive.

1. The PPS rate is based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports.

a. Direct Care Costs. A statewide base rate for direct care is computed at 115 percent of the median facility per diem direct care costs submitted on all full year cost reports except those for which an audit disclaimer has been issued. Direct care costs are trended forward using the Consumer Price Index (CPI) ~~B~~ Medical Services.

b. Care Related Costs. A statewide base rate for care related costs is computed at 105 percent of the median facility per diem care related costs submitted on all acceptable full year cost reports except those for which an audit disclaimer has been issued. Care related costs are trended forward using the CPI ~~B~~ All Items.

c. Administrative and Operating Costs (AOC). A statewide base rate for administrative and operating costs is computed at 105 percent of the median facility per diem administrative and operating costs submitted on all acceptable full year cost reports except for those for which an audit disclaimer has been issued and are trended forward using the CPI ~~B~~ All Items.

d. Property. The property rate is computed at the median of property costs submitted on all acceptable full year cost reports. Inflation will not be added to property costs.

2. The facility specific prospectively determined rate is based on facility specific reasonable allowable costs. The facility specific prospectively determined rate shall be limited to 80 percent of the nursing facility intermediate care II rate in effect on July 1, 2002 exclusive of the provider fee.

a. Direct Care Costs. Facility specific direct care is based on the facility specific per diem reasonable allowable direct care costs submitted on the acceptable FY 2001 full year cost report. Direct care costs are trended forward using the Consumer Price Index (CPI) ~~B~~ Medical Services.

b. Care Related Costs. Facility specific care related cost is based on the facility specific per diem reasonable allowable care related costs submitted on the acceptable FY 2001 full year cost report. Care related costs are trended forward using the CPI ~~B~~ All Items.

c. Administrative and Operating Costs (AOC). Facility specific AOC is based on the facility specific per diem reasonable allowable AOC submitted on the acceptable FY 2001 full year cost report. AOC are trended forward using the CPI ~~B~~ All Items.

d. Property. Facility specific property cost is based on the facility specific per diem reasonable allowable property costs submitted on the acceptable FY 2001 full year cost report. Inflation will not be added to property costs.

e. Facilities participating prior to August 1, 2003 who have not filed a full year acceptable cost report shall have the facility specific prospectively determined rate for August 1, 2003 through June 30, 2004 based on budgeted data and limited to 80 percent of the nursing facility weighted average case mix rate in effect on July 1, 2003.

f. For rates effective July 1, 2004 and thereafter, facilities receiving audit disclaimers shall receive a rate equal to the PPS rate based on the median FY 2001 reported

cost for all ADHC providers filing acceptable full year cost reports trended forward in accordance with this §3101.

3. All trending shall be from the mid-point of the year preceding the cost report year to the midpoint of the year preceding the rate year.

4. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the legislature allocates funds for this purpose.

5. A direct care incentive based on legislative appropriation shall be added to the per diem rate effective August 1, 2003.

E. Total Per Diem Rate. The per diem rate for providers filing acceptable full year cost reports is the sum of 50 percent of the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports plus 50 percent of the facility specific prospectively determined rate based on facility specific reasonable allowable costs plus the direct care incentive.

F. New providers enrolled in the Medicaid Program effective August 1, 2003 and thereafter shall receive the PPS rate based on the base year median reported cost for all ADHC providers filing acceptable cost reports trended forward in accordance with this §3101 plus the direct care incentive.

G. Minimum Rate. The minimum adult day health care rate shall be the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports plus the direct care incentive.

H. Cost Settlement. The direct care cost component and the direct care incentive shall be subject to cost settlement. Should an ADHC facility's cost report reveal that the provider did not expend an amount equal to 90 percent of the median direct care rate component trended forward for direct care services plus 90 percent of the direct care incentive, the Medicaid program will recover the difference between 90 percent of the median direct care rate component trended forward for direct care services plus 90 percent of the direct care incentive and the actual direct care amount expended.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2356 (November 2002), amended LR 30:242 (February 2004), repromulgated LR 30:2042 (September 2004).

§3103. Cost Reporting

A. Providers of ADHC services are required to file annual acceptable cost reports of all reasonable and allowable costs. An acceptable cost report is one that is prepared in accordance with the requirements of this §3103 and the provider has supporting documentation necessary for completion of a desk review or audit. The annual cost reports are the basis for determining reimbursement rates. A copy of all reports and statistical data must be retained by the facility for no less than five years following the date reports are submitted to the Bureau. A chart of accounts and an accounting system on the accrual basis or converted at year end are required in the cost reporting preparation process. The Bureau or its designee will perform desk reviews of the cost reports. In addition to the desk review, a representative number of the facilities shall be subject to a full-scope, annual on-site audit. All ADHC cost reports shall be filed with a fiscal year from July 1 through June 30.

B. The cost reporting forms and instructions developed by the Bureau must be used by all ADHC facilities participating in the Louisiana Medicaid Program. Hospital based and other provider based ADHC which use Medicare forms for step down in completing their ADHC Medicaid cost reports must submit copies of the applicable Medicare cost report forms. All amounts must be rounded to the nearest dollar and must foot and cross foot. Only per diem cost amounts will not be rounded. Cost reports submitted that have not been rounded in accordance with this policy will be returned and will not be considered as received until they are resubmitted.

C. Annual Reporting. Cost reports are to be filed on or before the last day of September following the close of the reporting period. Should the due date fall on a Saturday, Sunday, or an official state or federal holiday, the due date shall be the following business day. The cost report forms and schedules must be filed in duplicate together with two copies of the following documents:

1. a working trial balance that includes the appropriate cost report line numbers to which each account can be traced. This may be done by writing the cost report category and line numbers by each ending balance or by running a trial balance in cost report category and line number order that totals the account;

2. a depreciation schedule. If the facility has different book and Medicaid depreciation schedules, copies of both depreciation schedules must be submitted. If the facility has home office costs, copies of the home office depreciation schedules must also be submitted. All hospital based facilities must submit two copies of a depreciation schedule that clearly shows and totals assets that are hospital only, ADHC only and shared assets;

3. an amortization schedule(s), if applicable;

4. a schedule of adjustment and reclassification entries;

5. a narrative description of purchased management services or a copy of contracts for managed services, if applicable;

6. a narrative description or a copy of the contracts for management services provided by a related party or home office, a description of the basis used to allocate the costs to providers of the group and to nonprovider activities and copies of the cost allocation worksheet, if applicable. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule;

7. all allocation worksheets must be submitted by hospital-based facilities. The Medicare worksheets that must be attached by facilities using the Medicare forms for allocation are:

- a. A;
- b. A-6;
- c. A-7 parts I, II and III;
- d. A-8;
- e. A-8-1;
- f. B part I; and
- g. B-1.

D. Each copy of the cost report must have the original signatures of an officer or facility administrator on the certification. The cost report and related documents must be submitted to the address indicated on the cost report

instruction form. In order to avoid a penalty for delinquency, cost reports must be postmarked on or before the due date.

E. When it is determined, upon initial review for completeness, that an incomplete or improperly completed cost report has been submitted, the provider will be notified. The provider will be allowed a specified amount of time to submit the requested information without incurring the penalty for a delinquent cost report. For cost reports that are submitted by the due date, 10 working days from the date of the provider's receipt of the request for additional information will be allowed for the submission of the additional information. For cost reports that are submitted after the due date, five working days from the date of the provider's receipt of the request for additional information will be allowed for the submission of the additional information. An exception exists in the event that the due date comes after the specified number of days for submission of the requested information. In these cases, the provider will be allowed to submit the additional requested information on or before the due date of the cost report. If requested additional information has not been submitted by the specified date, a second request for the information will be made. Requested information not received after the second request may not be subsequently submitted and shall not be considered for reimbursement purposes. An appeal of the disallowance of the costs associated with the requested information may not be made. Allowable costs will be adjusted to disallow any expenses or cost findings that are not submitted.

F. Accounting Basis. The cost report must be prepared on the accrual basis of accounting. If a facility is on a cash basis, it will be necessary to convert from a cash basis to an accrual basis for cost reporting purposes. Particular attention must be given to an accurate accrual of all costs at the year end for the equitable distribution of costs to the applicable period. Care must be given to the proper allocation of costs for contracts to the period covered by such contracts. Amounts earned although not actually received and amounts owed to creditors but not paid must be included in the reporting period.

G. Supporting Information. Providers are required to maintain adequate financial records and statistical data for proper determination of reimbursable costs. Financial and statistical records must be maintained by the facility for five years from the date the cost report is submitted to the Bureau. Cost information must be current, accurate and in sufficient detail to support amounts reported in the cost report. This includes all ledgers, journals, records, and original evidences of cost (canceled checks, purchase orders, invoices, vouchers, inventories, time cards, payrolls, bases for apportioning costs, etc.) that pertain to the reported costs. Census data reported on the cost report must be supportable by daily census records. Such information must be adequate and available for auditing.

H. Nonacceptable Descriptions. "Miscellaneous," "Other" and "Various," without further detailed explanation, are not acceptable descriptions for cost reporting purposes. If any of these are used as descriptions in the cost report, a request for information will not be made and the related line item expense will be automatically disallowed. The provider will not be allowed to submit the proper detail of the

expense at a later date, and an appeal of the disallowance of the costs may not be made.

I. Exceptions. Limited exceptions to the cost report requirements will be considered on an individual provider basis upon written request from the provider to the Bureau of Health Services Financing, Rate and Audit Review Section. If an exception is allowed, providers must attach a statement describing fully the nature of the exception for which prior written permission was requested and granted. Exceptions which may be allowed with written approval are as follows.

1. For the initial reporting period only, the provider may allocate costs to the various cost centers on a reasonable basis if the required itemized cost breakdown is not available.

2. If the center has been purchased, leased or has effected major changes in the accounting system as an ongoing concern within the reporting period, a partial year cost report may be filed in lieu of the required 12-month report.

3. If the center experiences unavoidable difficulties in preparing the cost report by the prescribed due date, an extension may be requested prior to the due date. Requests for exception must contain a full statement of the cause of the difficulties that rendered timely preparation of the cost report impossible.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2356 (November 2002), amended LR 30:243 (February 2004), repromulgated LR 30:2043 (September 2004).

§3105. Cost Categories Included in Cost Report

A. Direct Care (DC) Costs

1. Salaries, Aides **C**gross salaries of certified nurse aides and nurse aides in training.

2. Salaries, LPNs **C**gross salaries of nonsupervisory licensed practical nurses and graduate practical nurses.

3. Salaries, RNs **C**gross salaries of nonsupervisory registered nurses and graduate nurses (excluding director of nursing and resident assessment instrument coordinator).

4. Salaries, Social Services **C**gross salaries of nonsupervisory licensed social services personnel providing medically needed social services to attain or maintain the highest practicable physical, mental, or psychosocial well being of the residents.

5. Salaries, Activities **C**gross salaries of nonsupervisory activities/recreational personnel providing an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interest and the physical, mental, and psychosocial well being of the residents.

6. Payroll Taxes **C**cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for direct care employees.

7. Group Insurance, DC **C**cost of employer's contribution to employee health, life, accident and disability insurance for direct care employees.

8. Pensions, DC **C**cost of employer's contribution to employee pensions for direct care employees.

9. Uniform Allowance, DC **C**employer's cost of uniform allowance and/or uniforms for direct care employees.

10. Worker's Comp, DC **C**cost of worker's compensation insurance for direct care employees.

11. Contract, Aides **C**cost of aides through contract that are not facility employees.

12. Contract, LPNs **C**cost of LPNs and graduate practical nurses hired through contract that are not facility employees.

13. Contract, RNs **C**cost of RNs and graduate nurses hired through contract that are not facility employees.

14. Drugs, Over-the-Counter and Legend **C**cost of over-the-counter and legend drugs provided by the facility to its residents. This is for drugs not covered by Medicaid.

15. Medical Supplies **C**cost of patient-specific items of medical supplies such as catheters, syringes and sterile dressings.

16. Medical Waste Disposal **C**cost of medical waste disposal including storage containers and disposal costs.

17. Other Supplies, DC **C**cost of items used in the direct care of residents which are not patient-specific such as prep supplies, alcohol pads, betadine solution in bulk, tongue depressors, cotton balls, thermometers, and blood pressure cuffs.

18. Allocated Costs, Hospital Based **C**the amount of costs that have been allocated through the step-down process from a hospital or state institution as direct care costs when those costs include allocated overhead.

19. Total Direct Care Costs **C**sum of the above line items.

B. Care Related Costs

1. Salaries **C**gross salaries for care related supervisory staff including supervisors or directors over nursing, social service and activities/recreation.

2. Salaries, Dietary **C**gross salaries of kitchen personnel including dietary supervisors, cooks, helpers and dishwashers.

3. Payroll Taxes **C**cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for care related employees.

4. Group Insurance, CR **C**cost of employer's contribution to employee health, life, accident and disability insurance for care related employees.

5. Pensions, CR **C**cost of employer's contribution to employee pensions for care related employees.

6. Uniform Allowance, CR **C**employer's cost of uniform allowance and/or uniforms for care related employees.

7. Worker's Comp, CR **C**cost of worker's compensation insurance for care related employees.

8. Barber and Beauty Expense **C**the cost of barber and beauty services provided to patients for which no charges are made.

9. Consultant Fees, Activities **C**fees paid to activities personnel, not on the facility's payroll, for providing advisory and educational services to the facility.

10. Consultant Fees, Nursing **C**fees paid to nursing personnel, not on the facility's payroll, for providing advisory and educational services to the facility.

11. Consultant Fees, Pharmacy Fees paid to a registered pharmacist, not on the facility's payroll, for providing advisory and educational services to the facility.

12. Consultant Fees, Social Worker Fees paid to a social worker, not on the facility's payroll, for providing advisory and educational services to the facility.

13. Consultant Fees, Therapists Fees paid to a licensed therapist, not on the facility's payroll, for providing advisory and educational services to the facility.

14. Food, Raw Cost of food products used to provide meals and snacks to residents. Hospital based facilities must allocate food based on the number of meals served.

15. Food, Supplements Cost of food products given in addition to normal meals and snacks under a doctor's orders. Hospital based facilities must allocate food-supplements based on the number of meals served.

16. Supplies, CR The costs of supplies used for rendering care related services to the patients of the facility. All personal care related items such as shampoo and soap administered by all staff must be included on this line.

17. Allocated Costs, Hospital Based The amount of costs that have been allocated through the step-down process from a hospital or state institution as care related costs when those costs include allocated overhead.

18. Total Care Related Costs The sum of the care related cost line items.

C. Administrative and Operating Costs (AOC)

1. Salaries, Administrator-gross salary of administrators excluding owners. Hospital based facilities must attach a schedule of the administrator's salary before allocation, the allocation method, and the amount allocated to the nursing facility.

2. Salaries, Assistant Administrator-gross salary of assistant administrators excluding owners.

3. Salaries, Housekeeping-gross salaries of housekeeping personnel including housekeeping supervisors, maids and janitors.

4. Salaries, Laundry-gross salaries of laundry personnel.

5. Salaries, Maintenance-gross salaries of personnel involved in operating and maintaining the physical plant, including maintenance personnel or plant engineers.

6. Salaries, Drivers-gross salaries of personnel involved in transporting clients to and from the facility.

7. Salaries, Other Administrative-gross salaries of other administrative personnel including bookkeepers, receptionists, administrative assistants and other office and clerical personnel.

8. Salaries, Owner or Owner/Administrator-gross salaries of all owners of the facility that are paid through the facility.

9. Payroll Taxes Cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for administrative and operating employees.

10. Group Insurance, AOC Cost of employer's contribution to employee health, life, accident and disability insurance for administrative and operating employees.

11. Pensions, AOC Cost of employer's contribution to employee pensions for administration and operating employees.

12. Uniform Allowance, AOC Employer's cost of uniform allowance and/or uniforms for administration and operating employees.

13. Worker's Compensation, AOC Cost of worker's compensation insurance for administration and operating employees.

14. Contract, Dietary Cost of dietary services and personnel hired through contract that are not employees of the facility.

15. Contract, Housekeeping Cost of housekeeping services and personnel hired through contract that are not employees of the facility.

16. Contract, Laundry Cost of laundry services and personnel hired through contract that are not employees of the facility.

17. Contract, Maintenance Cost of maintenance services and persons hired through contract that are not employees of the facility.

18. Consultant Fees, Dietician Fees paid to consulting registered dietitians.

19. Accounting Fees Fees incurred for the preparation of the cost report, audits of financial records, bookkeeping, tax return preparation of the adult day health care facility and other related services excluding personal tax planning and personal tax return preparation.

20. Amortization Expense, Non-Capital Costs incurred for legal and other expenses when organizing a corporation must be amortized over a period of 60 months. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are nonallowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

21. Bank Service Charges Fees paid to banks for service charges, excluding penalties and insufficient funds charges.

22. Dietary Supplies Costs of consumable items such as soap, detergent, napkins, paper cups, straws, etc., used in the dietary department.

23. Dues Dues to one organization are allowable.

24. Educational Seminars and Training The registration cost for attending educational seminars and training by employees of the facility and costs incurred in the provision of in-house training for facility staff, excluding owners or administrative personnel.

25. Housekeeping Supplies Cost of consumable housekeeping items including waxes, cleaners, soap, brooms and lavatory supplies.

26. Insurance, Professional Liability and Other Includes the costs of insuring the facility against injury and malpractice claims and the cost of vehicle insurance.

27. Interest Expense, Non-Capital and Vehicles Interest paid on short term borrowing for facility operations and on vehicle loans.

28. Laundry Supplies Cost of consumable goods used in the laundry including soap, detergent, starch and bleach.

29. Legal Fees Only actual and reasonable attorney fees incurred for nonlitigation legal services related to patient care are allowed.

30. Linen Supplies Cost of sheets, blankets, pillows, gowns, underpads and diapers (reusable and disposable).

31. Miscellaneous Costs incurred in providing facility services that cannot be assigned to any other line item on the cost report. Examples of miscellaneous expense are small equipment purchases, all employees' physicals and shots, nominal gifts to all employees, such as a turkey or ham at Christmas, allowable advertising, and flowers purchased for the enjoyment of the clients. Items reported on this line must be specifically identified.

32. Management Fees and Home Office Costs The cost of purchased management services or home office costs incurred that are allocable to the provider. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule.

33. Nonemergency Medical Transportation The cost of purchased nonemergency medical transportation services including, but not limited to, payments to employees for use of personal vehicle, ambulance companies and other transportation companies for transporting patients of the facility.

34. Office Supplies and Subscriptions Cost of consumable goods used in the business office such as:

- a. pencils, paper and computer supplies;
- b. cost of printing forms and stationery including, but not limited to, nursing and medical forms, accounting and census forms, charge tickets, facility letterhead and billing forms;
- c. cost of subscribing to newspapers, magazines and periodicals.

35. Postage Cost of postage, including stamps, metered postage, freight charges and courier services.

36. Repairs and Maintenance Supplies and services, including electricians, plumbers, extended service agreements, etc., used to repair and maintain the facility building, furniture and equipment except vehicles. This includes computer software maintenance.

37. Taxes and Licenses The cost of taxes and licenses paid that are not included on any other line on Form 6. This includes tags for vehicles, licenses for facility staff (including nurse aide recertifications) and buildings.

38. Telephone and Communications Cost of telephone services, wats lines and fax services.

39. Travel Cost of travel (airfare, lodging, meals, etc.) by the administrator and other authorized personnel to attend professional and continuing educational seminars and meetings or to conduct facility business. Commuting expenses and travel allowances are not allowable.

40. Vehicle Expenses Vehicle maintenance and supplies, including gas and oil.

41. Utilities Cost of water, sewer, gas, electric, cable TV and garbage collection services.

42. Allocated Costs, Hospital Based Costs that have been allocated through the step-down process from a hospital as administrative and operating costs.

43. Total Administrative and Operating Costs

D. Property and Equipment

1. Amortization Expense, Capital Legal and other costs incurred when financing the facility must be amortized over the life of the mortgage. Amortization of goodwill is not an allowable cost. Amortization of costs attributable to

the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are non-allowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

2. Depreciation Depreciation on the facility's buildings, furniture, equipment, leasehold improvements and land improvements.

3. Interest Expense, Capital Interest paid or accrued on notes, mortgages, and other loans, the proceeds of which were used to purchase the facility's land, buildings and/or furniture and equipment, excluding vehicles.

4. Property Insurance Cost of fire and casualty insurance on facility buildings and equipment, excluding vehicles. Hospital-based facilities and state-owned facilities must allocate property insurance based on the number of square feet.

5. Property Taxes Taxes levied on the facility's buildings and equipment, excluding vehicles. Hospital-based facilities and state-owned facilities must allocate property insurance based on the number of square feet.

6. Rent, Building Cost of leasing the facility's real property.

7. Rent, Furniture and Equipment Cost of leasing the facility's furniture and equipment, excluding vehicles.

8. Lease, Automotive Cost of leases for vehicles used for patient care. A mileage log must be maintained. If a leased vehicle is used for both patient care and personal purposes, cost must be allocated based on the mileage log.

9. Allocated Costs, Hospital Based Costs that have been allocated through the step-down process from a hospital or state institution as property costs when those costs include allocated overhead.

10. Total Property and Equipment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2356 (November 2002), repromulgated LR 30:2045 (September 2004).

§3107. Nonallowable Costs

A. Costs that are not based on the reasonable cost of services covered under Medicare and are not related to the care of beneficiaries are considered nonallowable costs.

B. Reasonable cost does not include the following:

1. costs not related to client care;
2. costs specifically not reimbursed under the program;
3. costs that flow from the provision of luxury items or services (items or services substantially in excess or more expensive than those generally considered necessary for the provision of the care);
4. costs that are found to be substantially out of line with other centers that are similar in size, scope of services and other relevant factors;
5. cost exceeding what a prudent and cost-conscious buyer would incur to purchase the goods or services.

C. General Nonallowable Costs:

1. services for which Medicaid recipients are charged a fee;
2. depreciation of nonclient care assets;

3. services that are reimbursable by other state or federally funded programs;
4. goods or services unrelated to client care;
5. unreasonable costs.

D. Specific Nonallowable Costs (this is not an all inclusive listing):

1. advertising costs of advertising to the general public that seeks to increase patient utilization of the ADHC center;
2. bad debts accounts receivable that are written off as not collectible;
3. contributions amounts donated to charitable or other organizations;
4. courtesy allowances;
5. director's fees;
6. educational costs for clients;
7. gifts;
8. goodwill or interest (debt service) on goodwill;
9. costs of income producing items such as fund raising costs, promotional advertising, or public relations costs and other income producing items;
10. income taxes, state and federal taxes on net income levied or expected to be levied by the federal or state government;
11. insurance, officers cost of insurance on officers and key employees of the center when the insurance is not provided to all employees;
12. judgments or settlements of any kind;
13. lobbying costs or political contributions, either directly or through a trade organization;
14. nonclient entertainment;
15. non-Medicare-related care costs costs allocated to portions of a facility that are not licensed as the reporting ADHC or are not certified to participate in Title XIX;
16. officers' life insurance with the center or owner as beneficiary;
17. payments to the parent organization or other related party;
18. penalties and sanctions penalties and sanctions assessed by the Centers for Medicare and Medicaid Services, the Internal Revenue Services or the state Tax Commission; insufficient funds charges;
19. personal comfort items;
20. personal use of vehicles.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2356 (November 2002), repromulgated LR 30:2047 (September 2004).

§3109. Provider Reimbursement

A. Cost Determination Definitions

Adjustment Factor is computed by dividing the value of the index for December of the year preceding the rate year by the value of the index one year earlier (December of the second preceding year).

Base Rate is calculated in accordance with Paragraph B.5 of this §3109, plus any base rate adjustments granted in accordance with Paragraph B.7 of this §3109 which are in effect at the time of calculation of new rates or adjustments.

Base Rate Components the base rate is the summation of the following:

- a. direct care;
- b. care related costs;
- c. administrative and operating costs;
- d. property costs.

Indices—

- a. CPI, All Items the Consumer Price Index for All Urban Consumers—South Region (All Items line) as published by the United States Department of Labor.
- b. CPI, Medical Services the Consumer Price Index for All Urban Consumers—South Region (Medical Services line) as published by the United States Department of Labor.

B. Rate Determination

1. Calculation of base rate Rates for both the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports and the facility specific prospectively determined rate based on facility specific reasonable allowable costs are calculated from cost report data. Allowable costs include those costs incurred by providers to conform to state licensure and federal certification standards. General cost principles are applied during the desk review and audit process to determine allowable costs. These general cost principles include determining whether the cost is ordinary, necessary, and related to the delivery of care; the cost is what a prudent and cost conscious business person would pay for the specific goods or services in the open market or in an arm's length transaction; and the cost is for goods or services actually provided to the center. Through the desk review and/or audit process, adjustments and/or disallowances may be made to a provider's reported costs. AIM-15 the Medicare Provider Reimbursement Manual, is the final authority for allowable costs unless the Louisiana Department of Health and Hospitals has set a more restrictive policy.

2. Audited and desk reviewed costs for each component are ranked by facility to determine the value of each component at the median.

3. The median costs for each component are multiplied in accordance with §3101.D then by the appropriate economic adjustment factors for each successive year to determine base rate components. For subsequent years, the components thus computed become the base rate components to be multiplied by the appropriate economic adjustment factors, unless they are adjusted as provided in Paragraph B.7 below. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the state legislature allocates funds for this purpose. The inflationary adjustment shall be made prorating allocated funds based on the weight of the rate components.

4. The inflated median shall be increased to establish the base rate median component as follows.

- a. The inflated direct care median shall be multiplied times 115 percent to establish the direct care base rate component.
- b. The inflated care related median shall be multiplied times 105 percent to establish the care related base rate component.
- c. The administrative and operating median shall be multiplied times 105 percent to establish the administrative and operating base rate component.

5. At least every three years, audited and desk reviewed cost report items will be compared to the rate components calculated for the cost report year to insure that the rates remain reasonably related to costs.

6. Formulae. Each median cost component shall be calculated as follows.

a. Direct Care Cost Component. Direct care per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for Medical Services. The direct care rate component shall be set at 115 percent of the inflated median.

b. Care Related Cost Component. Care related per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for All Items. The care related rate component shall be set at 105 percent of the inflated median.

c. Administrative and Operating Cost Component. Administrative and operating per diem cost from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by dividing the value of the CPI^{All Items} index for December of the year proceeding the base rate year by the value of the index for the December of the year preceding the cost report year. The administrative and operating rate component shall be set at 105 percent of the inflated median.

d. Property Cost Component^{Property}. The property per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. This will be the rate component. Inflation will not be added to property costs.

7. Formulae. Each facility specific prospectively determined cost component shall be calculated as follows.

a. Direct Care Cost Component. The direct care per diem costs from each facility's full year cost reports shall be trended forward using the Consumer Price Index for Medical Services in accordance with this §3109.

b. Care Related Cost Component. The care related per diem costs from each facility's full year cost reports shall be trended forward using the Consumer Price Index for Medical Services in accordance with this §3109.

c. Administrative and Operating Cost Component. The administrative and operating per diem cost from each facility's acceptable full year cost reports shall be trended forward using the Consumer Price Index for Medical Services in accordance with this §3109.

d. Property Cost Component^{Property}. The property per diem costs from each facility's acceptable full year cost reports shall be the property cost component. Inflation will not be added to property costs.

e. Facilities participating prior to August

1, 2003 who have not filed a full year acceptable cost report shall have the facility specific prospectively determined rate for August 1, 2003 through June 30, 2004 based on budgeted data and limited to 80 percent of the nursing facility weighted average case mix rate in effect on July 1, 2003.

f. For rates effective July 1, 2004 and

thereafter, facilities receiving audit disclaimers shall receive a rate equal to the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports trended forward in accordance with this rule. No facility specific cost component will be included in the per diem of facilities receiving audit disclaimers.

8. Interim Adjustments to Rates. If an unanticipated change in conditions occurs that affects the cost of at least 50 percent of the enrolled ADHC providers by an average of 5 percent or more, the rate may be changed. The Bureau will determine whether or not the rates should be changed when requested to do so by 25 percent or more of the enrolled providers, or an organization representing at least 25 percent of the enrolled providers. The burden of proof as to the extent and cost effect of the unanticipated change will rest with the entities requesting the change. The Bureau, however, may initiate a rate change without a request to do so. Changes to the rates may be one of two types: temporary adjustments; or base rate adjustments as described below.

a. Temporary Adjustment. Temporary adjustments do not affect the base rate used to calculate new rates.

i. Changes reflected in the economic indices^{Temporary} adjustments may be made when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage, a change in FICA or a utility rate change, occur after the end of the period covered by the indices, i.e., after the December preceding the rate calculation. Temporary adjustments are effective only until the next annual base rate calculation.

ii. Lump Sum Adjustments. Lump sum adjustments may be made when the event causing the adjustment requires a substantial financial outlay, such as a change in certification standards mandating additional equipment or furnishings. Such adjustments shall be subject to the Bureau's review and approval of costs prior to reimbursement.

b. Base Rate Adjustment. A base rate adjustment will result in a new base rate component value that will be used to calculate the new rate for the next fiscal year. A base rate adjustment may be made when the event causing the adjustment is not one that would be reflected in the indices.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2356 (November 2002), amended LR 30:243 (February 2004), repromulgated LR 30:2048 (September 2004).

Subchapter B. Admission Assessment/Vendor Payment

§3121. BHSF Admission Assessment/Vendor Payment

A. Vendor payment shall only be made by DHH in accordance with the terms of each provider agreement.

B. Vendor payment shall not be made retroactively prior to the date each participant is staffed and a current, adequate care plan developed.

C. Vendor payment for service days for a participant shall be limited to 23 days per month.

D. Vendor payment for services provided is dependent upon the quality of services provided and each center's compliance with this Subpart 3.

E. Vendor payment shall be limited to those days the participant receives services on-site for five or more hours as documented by center attendance records. Exceptions to attendance for the full day or major fraction thereof shall be for medical appointments, onset of illness after arrival at the adult day health care center, and unexpected emergencies such as a death in the family or acts of God.

F. DHH may withhold vendor payments in whole or in part in the following situation.

1. Change in Center Status. A minimum of 10 percent of the final vendor payment due a center may be withheld pending completion of an audit. The following are situations which shall warrant 10 percent withholding:

- a. a change of ownership;
- b. a center voluntarily ceases to participate in Title XIX;
- c. a center is decertified for Title XIX;
- d. a center's license is revoked or not renewed;
- e. a center's provider enrollment agreement is canceled.

2. Incorrect or Inappropriate Charges to Participants. When DHH determines that a center has violated a provider agreement by incorrectly or inappropriately charging a participant or responsible party, a sum not to exceed the inappropriate charges shall be withheld until the provider:

- a. makes restitution to the participant or responsible party;
- b. submits evidence of restitution to BHSF and the fiscal intermediary.

3. Delinquent Cost Report

a. When a center fails to submit a properly completed cost report within 90 days of its accounting period or fiscal year end, a penalty of 5 percent of each total monthly payment shall be withheld until the properly completed cost report is submitted.

b. DHH may grant one extension, not to exceed 30 days, of the 90-day limit if evidence of just cause has been provided and established in writing.

c. The 5 percent penalty may be increased by 5 percent each month if the provider does not demonstrate good faith in producing a properly completed cost report.

G. Deferral or Disallowance of FFP

1. Should CMS defer or disallow FFP to the state for one or more adult day health care center's deficiencies, lack of compliance with waiver provisions, fraud or other reasons identified by CMS, the state shall defer or disallow the sums involved by withholding and/or recoupment from the adult day health care centers involved.

2. Should CMS restore in whole or in part to DHH, BCSS the amounts deferred or disallowed, DHH, BCSS shall restore the appropriate amount to the provider.

H. Termination of the Waiver

1. Should CMS terminate the waiver under which the Adult Day Health Care Program is operated, DHH shall notify each participating provider and, after receipt of such notice, no further reimbursement will be made.

2. If the state chooses to totally fund adult day health care services, reimbursement for services may be made as provided by the state.

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 Human Resources, Office of Family Security, LR 11:633 (June 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1155 (September 1997), repromulgated LR 30:2049 (September 2004).

Chapter 33. Quality Assurance Monitoring §3301. Utilization Review

A. The BCSS regional offices shall conduct utilization review (UR) of each participant's need for continued ICF or SNF care at least annually.

B. For newly enrolled centers, the UR date shall be 12 months from the effective date of certification as a Title XIX provider.

C. For centers which have been previously reviewed, the UR date shall be 12 months from the date of the previous exit conference.

D. If at all possible, UR shall be conducted in conjunction with inspection of care.

E. The interval between UR exit conference dates shall not exceed 12 months.

F. Composition of UR Team

1. The UR team shall be composed of at least one social worker and one registered nurse, both of whom conduct the on-site review.

2. The UR team shall not include any individual who has a financial interest in or who is employed by any long term care provider.

3. The team leader may be either the RN or the social worker.

G. Center Responsibilities. See §3303 for the center's responsibilities during any review.

H. UR Team Responsibilities

1. If the UR is conducted in conjunction with an Inspection of Care, refer to §3303 for team responsibilities.

2. If the UR is conducted independently of the Inspection of Care, the UR team has the following responsibilities.

a. If the team elects to notify the center of the review, this shall be done no more than 24 hours prior to the inspection. It is recommended that the center not be notified.

b. The team shall insure that it has a current list of all Title XIX eligibles and applicants receiving services from the center. This shall include participants for whom vendor payments to the center are not being made but who are eligible for Medicaid.

c. The team shall hold an entrance conference with the center director or designee which shall cover the following points:

- i. the purpose of the review;
- ii. the specific materials needed for review;
- iii. the expected duration of the review and whether the review may be interrupted by the team;
- iv. notification that an exit conference will be held at the conclusion of the review.

d. The team shall assess each participant's continued need for ICF or SNF services. Materials to be reviewed for this purpose shall include:

i. a current (completed within 12 months) physician certification of the need for the specific level of care for which the participant is certified;

ii. a current (completed within one year and reviewed and updated at least quarterly) plan of care which includes the information specified in §2313.

iii. current (completed at least quarterly) social work assessments and updates;

iv. other material needed to determine the need for continued stay at the certified level of care;

v. the discharge plan.

e. The team shall determine if each Title XIX applicant or recipient continues to meet the criteria specified in §2701.

f. The team shall review time and attendance records to insure that no participant was absent for a period of 30 or more calendar days without the center fulfilling its responsibilities to notify BHSF parish and BCSS regional offices. If the team finds that a participant was absent for a period of 14 or more calendar days, and the center did not fulfill its responsibilities to notify BHSF parish and BCSS regional offices, the center shall be cited.

g. If the team finds that the participant continues to meet those criteria, Form 51NH shall be issued assigning a review date 12 months from the date of the exit conference. The team shall sign and approve the current care plan.

h. If the team finds that a participant no longer meets the criteria in §2701, Form 142W shall be completed denying continued medical certification.

i. Item II.A. on Form 142W should be checked and completed as follows: "Medicaid payment will continue for above type services through the period of advance notice."

ii. Advance notice of closure and participant appeal rights shall be sent by the parish office when the vendor payment is closed.

iii. The center shall implement discharge of the participant during the effective period of the advance notice.

i. When a participant's record lacks sufficient or current data on which to base a determination, the center shall be cited in the utilization review report.

j. Prior to the exit conference, the team shall compile a list of participants who no longer require ADHC services and a list of those participants for whom a determination could not be made.

k. An exit conference shall be held to provide a verbal report of the team's findings. The conference shall include at least:

i. a description of the deficiencies identified during the review;

ii. the names of those individuals found to no longer require ADHC services;

iii. the names of those individuals for whom a determination could not be made;

iv. that the information necessary to make a determination shall be forwarded to the regional office, within 25 days of the exit conference date, the medical certification of the participant shall be terminated.

l. If the requested material for utilization review is not received by the regional office within that time frame, under no circumstances is an ADHC recipient to remain

certified for Title XIX for more than 30 days when the need for continued stay cannot be determined.

i. Form 142W shall be issued terminating medical certification.

ii. Item II.A of Form 142W should be checked and completed as follows: "Medicaid payment will continue for above type services through the period of advance notice."

m. A review report shall be prepared whether or not deficiencies were identified during the utilization review. This report shall contain all of the information required by established DHH procedure and shall be submitted to the center within the time frame specified in that procedure.

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 Human Resources, Office of Family Security, LR 11:628 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1157 (September 1997), repromulgated LR 30:2050 (September 2004).

§3303. Inspection of Care

A. At least annually, each center with at least one Medicaid recipient or applicant participating shall be inspected.

1. If at all possible, this inspection shall be conducted in conjunction with UR.

2. If the team elects to notify the center of the review, this shall be done no more than 24 hours prior to the inspection.

3. It is recommended that the center not be notified.

4. DHH reserves the right to inspect any center at any time without prior notification.

B. Purpose of Inspection. Inspections of Care shall be conducted to determine if Medicaid recipients or applicants in Title XIX enrolled Adult Day Health Care centers are, in fact, receiving health, social, recreational, nursing and personal care services that are:

1. optimal in quality;

2. adequate in quantity;

3. sufficient in scope; and

4. being provided in a timely manner under circumstances most favorable to the promotion of physical, social, emotional and functional well being of each Medicaid recipient.

C. Composition of Inspection Team. The team shall be composed as specified in §3301.F.

D. Frequency of Inspections

1. Each center shall be inspected at least annually; however, the frequency of inspections shall be based on the quality of care and services provided by a center as determined by state reviews and surveys and complaints investigated.

2. The quality of care determination by BHSF is based on the degree to which a center complies with:

a. this Subpart 3;

b. the fiscal integrity with which the center is administered; and

c. licensing surveys.

E. Follow-up Reviews

1. When an Inspection of Care results in a determination that serious deficiencies exist in a center, a follow-up review shall be conducted between 15 and 45 days

after the inspection to determine if adequate corrective action has been taken.

2. Inspection team responsibilities during a follow-up review are as outlined in this §3303 except that:

a. at least a 10 percent sample of Title XIX recipients and applicants shall be reviewed;

b. only the areas in which the center was found deficient shall be reviewed.

3. Follow-up reviews are closely related to the imposition of sanctions.

F. Center Responsibilities. The center shall cooperate in the review by:

1. promptly providing all necessary documents needed for review;

2. providing adequate space and privacy for the team to review records uninterrupted;

3. assisting with the identification and/or location of individual participants;

4. insuring that at least six months of current information is included in the active participant records, except that physician certification or recertification documents and interdisciplinary team assessments shall remain on file for the period of their currency;

5. arranging for pertinent personnel to attend the exit conference.

G. Inspection Team Responsibilities

1. Prior to the inspection, the team shall review:

a. all licensing surveys, Inspection of Care and UR reports from the previous calendar year;

b. all complaints about the center investigated during the previous calendar year.

2. The team shall compile a current list of all Title XIX recipients and applicants, including those for whom vendor payment to the center is not being made.

3. The team shall hold an entrance conference.

4. The social worker and RN shall each review the center record for each Title XIX participant. The team shall review at least the following items to assess the quality of care provided and to determine the need for continued stay:

a. medical, social, nursing and any other assessments which identify the needs of the participants;

b. the plan of care;

c. interdisciplinary progress notes;

d. physician orders;

e. the team shall review time and attendance records to insure that no participant was absent for a period of 30 or more calendar days without the center fulfilling its responsibilities to notify BHSF parish and BCSS regional offices. If the team finds that a participant was absent for a period of 30 or more calendar days and the center did not fulfill its responsibilities to notify BHSF parish and BCSS regional offices, the center will be cited.

f. any other center records which provide documentation of compliance with Louisiana State Medicaid Standards.

Example: administrative records may contain contracts and correspondence with the participant and/or responsible party.

5. Documentation reviewed by the inspection team shall provide evidence that:

a. interdisciplinary team assessments are complete and have been completed within the previous calendar year, except for social assessments which also shall have been updated at least quarterly;

b. the plan of care meets the requirements of §2313;

c. the plan of care is being implemented and all services ordered on the plan of care are being rendered and properly recorded in interdisciplinary progress notes;

d. the attending physician has written orders and has certified or recertified the need for either ICF I, II or SNF care within the previous calendar year;

e. interdisciplinary progress notes meet the requirements of §2315.

f. interdisciplinary progress notes describe the condition of the participant as observed by the inspection team;

g. the participant has made progress toward goals in the plan of care (otherwise, the plan of care is not viable);

h. at least 75 percent of the participant's scheduled services are among those services specified in §2501.D;

i. each participant has a current, adequate discharge plan;

j. the ID team has discharged its responsibilities;

k. the team shall determine if the center is in compliance with all requirements of this Subpart 3.

6. The social worker and RN shall interview each participant, the purpose of which shall be to:

a. document that the participant's condition is consistent with the description in the record;

b. determine whether the participant is receiving services to support maximum physical, mental and psychosocial functioning;

c. gather additional data, if needed, to make a level of care determination;

d. provide the participant the opportunity to make recommendations or complaints about the quality of care provided in the center.

7. One of the members of the team shall review incident reports compiled by the center during the previous calendar year, the purpose of which is to determine that the requirements of §2303.B have been met.

8. The team shall determine that each Title XIX recipient or applicant continues to meet the criteria specified in §2701.

9. If the team finds that the participant continues to meet those criteria, Form 51NH shall be issued assigning a review date, not to exceed 12 months from the date of the exit conference, for the current review.

10. If the team finds that a participant no longer meets the criteria specified in §2701, Form 142W shall be issued, no longer approving medical certification.

a. Item II.A. on Form 142W should be checked and completed as follows: "Medicaid payment will continue for above type services through the period of advance notice."

b. Advance notice of closure shall be sent by the parish office when the vendor payment is closed.

c. The center shall implement discharge of the participant during the effective period of the advance notice.

11. When a participant's record lacks sufficient or current data on which to base a determination, the center shall be cited in the Inspection of Care report.

12. The center shall be notified at the exit conference of the material necessary to make a medical ADHC eligibility determination and that if the requested materials are not received within 25 days, the participant shall be decertified.

a. Under no circumstances is an ADHC participant to remain certified for ICF or SNF for more than 30 days when medical eligibility has not been redetermined.

b. Advance notice of closure shall be sent when the case is closed by the parish office.

13. Prior to the exit conference, the team shall identify the areas in which the center was found deficient. This shall be based on:

a. a numerical compilation and analysis of the team's findings with regard to individual participants;

b. inspection of care and UR reports from the previous calendar year and the evidence of corrective action taken by the center with regard to those reports;

c. analysis of the center's incident reports and the complaints investigated in the center during the previous calendar year.

14. The team shall be prepared to provide at the exit conference the names of participants from whom immediate corrective action is indicated.

15. An exit conference shall be held to provide a verbal report of the team's findings.

a. This conference shall include at least the information required in §3101.H.2.j.

b. In addition, the team may also make professional recommendations to the center directed toward enhancing the quality of care provided. Such recommendations shall be clearly differentiated from deficiencies cited.

c. A center shall not be cited for a professional recommendation. However, a violation of professional practice standards constitutes a deficiency.

16. A review report of the team's findings shall be prepared whether or not any deficiencies were found or recommendations made.

17. Review reports shall contain all the information required by established DHH procedure and shall be submitted to the center within the time frames specified in that procedure. Copies shall be sent to the parties specified in the procedure.

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 Human Resources, Office of Family Security, LR 11:629 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1158 (September 1997), LR 24:457 (March 1998), repromulgated LR 30:2051 (September 2004).

§3305. Discharge Planning and Implementation

A. The purpose of discharge planning:

1. is to provide continuity of services for participants who may be temporarily absent from or permanently discharged from the center; and

2. serves to document the need for continued stay at the certified level of care.

B. The center shall maintain:

1. a current register of resources to support a lower level of care. This shall include, but not be limited to:

a. medical resources which address the needs of the community-based elderly/disabled population;

b. social resources which address the needs of this population;

c. financial resources which address the needs of this population;

d. any other supportive resource directed toward the community-based elderly/disabled population;

2. a current register of resources to support continued placement at the current level of care. This shall include, but not be limited to, medical/social/financial resources to support care at the ADHC level of care;

3. a current register of resources to support a more restrictive level of long term care. This shall include, but is not limited to, a current listing of:

a. Title XIX certified nursing homes within the community;

b. Title XVIII extended care facilities within the community;

c. any program which may further delay institutionalization;

4. a current register of medical/social acute care facilities which would meet the needs of participants who, because of acute medical problems, are temporarily unable to continue or achieve maximum potential in an ADHC center;

5. as part of an adequate discharge planning program, ensure continuity of services, prepare a discharge summary whenever a resource in Paragraphs 1, 2, 3 or 4 of this Subsection is required. This summary shall at least include:

a. medical diagnosis;

b. medication regimen (current physician orders);

c. treatment regimen (current physician orders);

d. functional needs (inabilities);

e. any special equipment (dentures, ambulatory aids, glasses, etc.);

f. social needs;

g. financial resources;

h. any other information which will enable the receiving agency/center to provide continued necessary care without interruption.

C. The discharge policy of the center shall include the provision that any Title XIX participant who does not attend as scheduled for 30 consecutive calendar days (hospitalization and documented illness excepted) shall be discharged.

D. Voluntary Transfer. When a participant transfers between ADHC Centers, the centers have the following responsibilities:

1. transferring center:

a. update plan of care;

b. complete Form 148W and forward to the BCSS regional and BHSF parish offices to notify of transfer;

c. send updated care plan and current physician orders to receiving center.

2. receiving center:

a. complete Form 148W and forward to the BCSS regional and BHSF parish offices to notify that participant has been accepted for placement;

b. assess and staff participant, and develop a new care plan within 14 days of actual attendance.

E. Involuntary Transfer or Discharge

1. Conditions of Transfer or Discharge. Involuntary transfer or discharge of a medical assistance participant may occur only under the following conditions:

a. for medical reasons;

b. for the participant's welfare or that of other participants; or

c. for nonpayment of the center fee.

2. Center Responsibilities. Center responsibilities in insuring an orderly transfer/discharge shall include the following tasks.

a. Plan of Care. The center shall complete a final update of the participant's individual plan of care with the transfer/discharge in mind.

b. Notice of Transfer/Discharge

i. The center shall complete the final update of the participant's individual plan of care and the transfer/discharge plan before submitting a written notice of transfer/discharge to the following individuals:

- (a). the participant;
- (b). the participant's responsible party;
- (c). the BHSF regional office;
- (d). the BHSF parish office.

ii. The written notice of transfer/discharge shall contain the following information:

- (a). the proposed date of the transfer/discharge and reason(s) for the same;
- (b). a discharge conference, date, time and place;
- (c). the personnel available to assist in locating an appropriate placement;
- (d). the participant's right for personal and/or third-party representation at all stages of the transfer/discharge process;
- (e). the participant's right to appeal with the DHH, Bureau of Appeals, within three days after the transfer/discharge conference.

iii. The written notice of transfer/discharge shall be submitted as soon as possible but at least three actual days of attendance prior to the transfer/discharge conference.

c. Transfer/Discharge Conference

i. The center director, the ID team, or a member of the ID team shall meet with the participant and responsible party to discuss the transfer/discharge. The discussion shall be conducted within the following time frames to insure an orderly transfer process:

(a). as soon as possible in advance of the transfer/discharge; but

(b). at least 10 actual attendance days in advance.

ii. The participant's presence at the conference may be waived with a written statement from the attending physician detailing the medical contraindications to the participant's participation in such a meeting.

iii. The participant and the responsible party shall be notified at least 72 hours in advance of the conference and shall be invited to attend and participate.

iv. Among those items discussed at this conference shall be those enumerated in Subparagraphs 2.a and b of this Subsection E.

F. Mass Transfer of Participants. The following provisions shall apply to any mass transfer.

1. Definition

Mass Transfer—the intended relocation of more than 10 participants within a 30-day period.

2. Provider Enrollment Cancellation. When DHH determines that a center no longer meets state Title XIX requirements, the center's provider enrollment agreement is canceled.

3. Notice of Provider Enrollment Cancellation. On the date the center is notified that its provider agreement has

been canceled, DHH shall immediately begin notifying the participants, their responsible parties and other appropriate agencies or individuals of this action and of the service available to insure an orderly transfer and continuity of care.

4. Center Closing or Withdrawing from Title XIX Program. In situations where a center either voluntarily or involuntarily discontinues its operations or participation in the Medical Assistance Program, participants, their responsible parties and other appropriate agencies or individuals shall be notified as far in advance of the effective date as possible to insure them an orderly transfer and continuity of care.

a. If the center is closing its operations, plans shall be made for transfer.

b. If the center is voluntarily withdrawing from Title XIX participation, the participant has the option of remaining in the center on a private pay basis.

5. Payment Limitation. Payments may continue for Title XIX eligible recipients up to 30 days following the effective date the center's provider agreement is canceled.

a. The payment limitation also applies to Title XIX participants admitted prior to the cancellation of the agreement.

b. Payment is permitted only if the center totally cooperates in the orderly transfer of participants to other Title XIX centers or other placement arrangement of their choice.

Note: The center shall not admit new Title XIX recipients after receiving the notice that its agreement has been canceled. There shall be no payment approved for such admittance.

6. Coordination of Mass Transfer Activities

a. This process requires concentrated and prompt coordination among the following groups:

- i. the BCSS;
- ii. the parish office of the Bureau of Health Services Financing;
- iii. the center; and
- iv. other offices as designated by DHH.

b. This coordinated effort shall have the following objectives:

- i. protection of participants;
- ii. assistance to participants in finding the most appropriate placements when requested by them and/or their responsible parties; and
- iii. timely termination of vendor payment upon the participant's discharge from the center.

Note: The center still retains its usual responsibility during the transfer/discharge process to notify the parish Bureau of Health Services Financing promptly of all changes in the recipient's status.

7. Transfer Team

a. DHH shall designate certain staff members as a transfer team when a mass transfer of participants is necessary.

b. Their responsibilities shall include supervising transfer activities in the event cancellation of a provider agreement is proposed or in the event the center voluntarily terminates Title XIX participation.

c. The following steps and procedures shall be taken by or under the supervision of this team.

i. Step 1. Identification and Coordination. When a provider agreement is extended for up to 30 days beyond its original expiration date, the transfer team shall immediately perform the following tasks:

(a). identify appropriate receiving centers or facilities for the affected participants; and

(b). coordinate efforts with the BCSS regional office. The regional office has the responsibility to evaluate each participant's condition to make a determination about his/her appropriate level of care.

ii. Step 2. Supervision and Assistance. The transfer team shall take the following actions:

(a). supervise the center after cancellation of the agreement and during the transfer of its Title XIX participants;

(b). determine the last date for which vendor payment for a participant's care can be made;

(c). assist in making the most appropriate arrangements for the participants, providing the team member's names as contact persons if such help is needed.

iii. Step 3. Effecting the Transfer. In order to insure an orderly transfer/discharge, the transfer team shall also be responsible for performing the following tasks:

(a). meet with appropriate center administrative staff and other personnel as soon as possible after termination of a provider agreement to discuss the transfer planning process;

(b). continue to meet periodically with the center personnel throughout the transfer planning process;

(c). identify any potential problems;

(d). monitor the center's compliance with transfer procedures;

(e). resolve disputes in the participant's best interest;

(f). encourage the center to take an active role in the transfer planning;

(g). notify their superiors immediately of any lack of cooperation on the part of the center since this affects whether or not vendor payment will continue.

8. Provisions for Participant Services During Transfer/Discharge

a. DHH Responsibilities. DHH has the following responsibilities:

i. to provide social services necessary in the transfer/discharge plan or otherwise necessary to insure an orderly transfer/discharge in accordance with the Title XX State Plan; and

ii. to obtain other services available under Title XIX.

b. Participant Status Listing

i. At the conclusion of the 30-day period referred to in Paragraph 7 of this Subsection F, the transfer team shall submit a report to the BCSS state and BHSF parish offices, identifying the placement of each Title XIX participant who has been transferred to another Title XIX provider.

ii. If any participant has elected to end ADHC participation, this shall also be reported.

G. Emergency Situations

1. The center is responsible for immediately notifying BHSF, state and BCSS regional offices when a bona fide emergency exists, such as fire, contagious disease, or a severe threat to the participant's safety and well-being.

2. Each participant shall be immediately transferred or discharged from a center when a bona fide emergency exists, such as fire, contagious disease, or a severe threat to participant's safety and well-being.

3. Emergency transfers shall be closely reviewed and monitored by BCSS.

Note: Appropriate sanctions shall be imposed on centers which use emergency transfer provisions when no bona fide emergency exists.

4. Participant Rights. Nothing in the transfer/discharge plan shall interfere with existing participant rights.

5. Intelligent Waiver of Participant Rights

a. A participant may knowingly and intelligently waive any of the provisions of these regulations, provided the waiver is in writing.

b. The BCSS state office shall review all such waivers. The review shall insure that participants freely and intelligently waived their rights only after they and their responsible parties were fully informed of their rights under these transfer/discharge procedures.

Note: Appropriate sanctions shall be imposed on centers which obtain waivers by coercion or without providing full information about participant rights.

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 Human Resources, Office of Family Security, LR 11:630 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1160 (September 1997), LR 24:457 (March 1998), repromulgated LR 30:2053 (September 2004).

Chapter 35. Appeals

§3501. General Procedures

A. Scope. DHH reserves the right to:

1. impose sanctions against any center;

2. reject any center's request for Title XIX participation; or

3. terminate any center's participation status under the conditions specified in § 3901.B.1-5.

B. Informal Reconsideration

1. When a center receives a written adverse action, along with a copy of the findings upon which the decision was based, the center may notify the assistant secretary, BHSF, within 15 days of receiving the notification and request an informal reconsideration. The center may:

a. provide the assistant secretary with a letter and supporting documents, if applicable, to refute DHH's findings which result in the adverse action; or

b. present such findings which result in the adverse action; or

c. present such documentation at a meeting with the assistant secretary or his/her designee.

2. DHH shall review all documents submitted by the center and advise the center, in writing, prior to the effective date of the following actions:

a. that the original decision has been upheld; or

b. that the original decision has been reversed.

Note: The informal reconsideration decision is binding and the adverse action is not delayed by the center's request for an evidentiary hearing.

3. If the center receives written notification that the adverse action is being upheld, then the center may request an evidentiary hearing.

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 Human Resources, Office of Family Security, LR 11:634 (June 1985), amended LR 13:181 (March 1987), amended

by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1163 (September 1997), repromulgated LR 30:2055 (September 2004).

§3503. Evidentiary Hearing

A. General Requirements

1. Any center which receives an adverse action from DHH may request an evidentiary hearing. Such a request shall be made to the secretary, DHH, within 30 days of receiving notification from DHH affirming the original adverse action based on the informal reconsideration.

2. The evidentiary hearing shall be conducted by DHH's Appeals Section which shall notify all interested parties of the time and place of the hearing.

3. Any party may appear and be heard at the proceeding through representation by an attorney-at-law or through a designated representative under the following conditions:

a. all persons appearing in proceedings before the Appeals Section shall conform to the standards of conduct practiced by attorneys before the courts of the state;

b. if a person does not conform to those standards, the hearing officer may decline to permit the person to appear in the proceedings.

4. Persons appearing in a representative capacity on behalf of the center shall file a written notice of appearance giving the following information:

- a. their names;
- b. their addresses;
- c. their telephone numbers;
- d. the party they represent; and
- e. a written authorization to appear on behalf of the center.

5. The Appeals Bureau shall notify the center, in writing, of the names and telephone numbers of DHH's representatives.

6. All papers filed in any proceeding shall:

- a. be typewritten;
- b. be signed by the party, authorized representative, or attorney;
- c. contain the address and telephone number of the party, authorized representative, or attorney; and
- d. be submitted to the Appeals Bureau including at least an original and two copies.

B. Preliminary Conference

1. Upon receiving a request for an evidentiary hearing, the Appeals Bureau must schedule a preliminary conference within 30 calendar days of receiving such a request or prior to the proposed termination date.

2. The purposes of the preliminary conferences shall include, but are not limited to:

- a. clarification, formulation, and simplification of issues;
- b. resolution of matters in controversy;
- c. exchange of documents and information;
- d. review of audit findings;
- e. reconsideration of any suspension or withholding of payments;
- f. stipulations of fact so as to avoid unnecessary introduction of evidence at the formal hearing;
- g. the identification of witnesses; and

h. such other matters as may aid disposition of the issues.

3. Preliminary Conference Notification. When the Appeals Bureau schedules a preliminary conference, it shall notify the center in writing. The notice shall direct any parties and their attorneys to appear at a specific date, time, and place.

4. Conference Results

a. When the preliminary conference resolves all or some matters in controversy, the Appeals Bureau shall submit a written summary of the following:

- i. the findings agreed to at the conference;
- ii. the results of the conference; and
- iii. a statement of further action required by the center or DHH.

b. When the preliminary conference does not resolve all matters in controversy, an evidentiary hearing shall be scheduled on those matters still in controversy. The hearing shall be scheduled within 30 calendar days following the completion of the preliminary conference.

C. Evidentiary Hearing

1. When an evidentiary hearing is scheduled, the Appeals Bureau shall notify the center and/or attorney, in writing, of the date, time, and place of the hearing.

2. The notice shall be mailed not less than 10 calendar days before the scheduled hearing date.

3. The Appeals Bureau shall also include a summary of the results of the preliminary conference.

4. The Appeals Bureau shall adhere to the following in regard to the evidentiary hearing.

a. The hearing shall be conducted by a hearing officer authorized to conduct such hearings.

b. Testimony shall be taken only on oath, affirmation, or penalty of perjury.

c. Each party shall have the right to:

- i. call and examine parties and witnesses;
- ii. introduce exhibits;
- iii. question opposing witnesses and parties on any matter relevant to the issue even though the matter was not covered in the direct examination;
- iv. impeach any witnesses regardless of which party first called them to testify; and
- v. rebut the evidence against witnesses.

d. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely on in the conduct of serious affairs. This evidence shall be admitted regardless of the existence of any common law or statutory rule which might make the admission of such evidence improper over objection in civil or criminal action.

e. The hearing officer may question any party or witness and may admit any relevant and material evidence.

f. The hearing officer shall control the admission of evidence in a manner best suited to ascertain the facts and safeguard the rights of the parties. Prior to taking evidence, the hearing officer shall explain the issues and the order in which evidence shall be received.

g. The burden of producing documentary evidence is on the party against whom the adverse action is being taken.

h. Parties shall arrange for the presence of their witnesses at the hearing:

i. a subpoena may be issued by the hearing officer upon written request by a party showing the need for the witness' presence;

ii. a subpoena to compel the attendance of a witness may be issued by the hearing officer on his/her own motion;

iii. an application for subpoena duces tecum for a witness to produce documents, papers, books, accounts, letters, photographs, objects, memoranda, other correspondence, records, or tangible items not privileged shall be made by affidavit to the hearing officer, giving the name and address of the person or entity upon whom the subpoena is to be served. It shall:

(a). describe the items which are desired to be produced and show the materiality of the evidence to the issue involved in the proceeding; and

(b). include a statement that, to the best of a person's knowledge, the witness has such items in his/her possession or under his/her control.

D. Amendments to Evidence

1. At any time prior to the completion of the hearing, amendments may be allowed on just and reasonable terms to:

a. add any party who should have been a part of the hearing process;

b. dismiss any party's evidence from the proceedings;

c. change the allegations or defenses; or

d. add new causes of action or defenses.

2. Where the agency seeks to add a party or give a cause of action or change in allegation, notice shall be given to the appropriate parties. Where a party other than DHH seeks to add a party or change defenses, notice shall be given in accordance with §3503.C.1-2. The hearing officer shall continue the hearing for such time as deemed appropriate, and notice of the new date shall be given.

3. Continuance or Further Hearing

a. The hearing officer may continue a hearing to another time or place or order a further hearing under the following conditions:

i. on his/her own motion; or

ii. at the request of any party upon showing good cause.

b. When the hearing officer determines that additional evidence is necessary for the proper determination of the case, he/she may, at his/her discretion, do the following:

i. continue the hearing to a later date and order the party to produce additional evidence; or

ii. close the hearing and hold the record open in order to permit the introduction of additional documentary evidence. Any evidence so submitted shall be made available to both parties and each party shall have the opportunity for rebuttal.

c. Written notice of the time and place of a continued or further hearing shall be given.

Exception: When a continuance or further hearing is ordered during a hearing, oral notice of time and place of the hearing may be given to each party present.

E. Record of Proceedings. A complete record of the proceedings shall be made.

1. The testimony shall be transcribed and copies of other documentary evidence shall be reproduced when directed by the hearing officer.

2. The record shall also be transcribed and reproduced at the request of a party, provided the party pays for the cost of reproducing the transcript.

F. Failure to Appear

1. If a center representative fails to appear at a hearing, a decision may be issued by the Appeals Section dismissing the hearing.

2. A copy of the decision shall be mailed to each party together with a statement of the center's right to reopen the hearing.

3. Any dismissal may be rescinded if the center makes a written application to the hearing officer within 10 calendar days after the mailing of the decision, showing good cause for failure to appear at the hearing.

G. Timely Processing

1. The hearing shall be completed and a written decision rendered by the secretary, DHH, setting forth the reasons for the decision and the evidence upon which the decision is based within 30 calendar days of the conclusion of the hearing.

2. The decision of the secretary shall be final subject only to judicial review by the courts. Copies of the decision shall be mailed to the center at its last known address and to any representatives.

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 Human Resources, Office of Family Security, LR 11:634 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1163 (September 1997), repromulgated LR 30:2056 (September 2004).

Chapter 37. Audits

§3701. Audits

A. All providers who elect to participate in the Title XIX Program shall be subject to audit.

1. A sufficient representative sample of providers will be fully audited to insure the fiscal integrity of the program and compliance of providers with program regulations governing reimbursement.

2. Limited scope and exception audits shall be conducted as required.

B. In addition to routine audits related to fiscal accountability, audits may also be conducted at the time of change of ownership, voluntary or involuntary closure of a center, or investigation of complaints against a center.

C. Each center shall submit a cost report to Bureau of Health Services Financing within 90 days of the end of its accounting period or fiscal year end.

D. Instructions for cost reporting and the form to be used are provided in the provider enrollment packet.

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 Human Resources, Office of Family Security, LR 11:636 (June 1985), amended LR 13 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary,

Bureau of Health Services Financing, LR 23:1165 (September 1997), repromulgated LR 30:2057 (September 2004).

Chapter 39. Sanctions

§3901. Compliance with Standards for Participation

A. A center may be found to be out of compliance with this Subpart 3 as a result of the following activities:

1. field or desk audits;
2. utilization reviews;
3. inspection of care;
4. complaint investigations;
5. licensing surveys;
6. federal reviews or assessments;
7. Attorney General's Medicaid Fraud Control Unit investigations;

8. Surveillance and Utilization Reviews (SURs).

B. DHH reserves the right to impose interim sanctions, to reject any center's request for Title XIX participation, or to terminate any center's participation when there is documentation that the center:

1. fails to abide by the rules promulgated for the ADHC Program by the BHSF or any other state or federal agency;
2. is not in compliance with Title VI of the Civil Rights Act;
3. engages in practices not in the best interests of any medical assistance recipient;
4. fails to achieve and maintain substantial compliance with this Subpart 3. It shall be the decision of the secretary of DHH to refuse or terminate enrollment for this reason;
5. has previously been sanctioned.

C. Interim Sanctions

1. DHH may impose sanctions if a center is found to be not in compliance with this Subpart 3, or licensing regulations for adult day health care centers.

2. These sanctions are directly related to:

- a. the severity of the conditions found in the center which adversely affect or potentially affect the safety, rights, health and well-being of the participants;
- b. the degree of fiscal integrity with which the center is administered;
- c. compliance with this Subpart 3.

3. Health, Safety and Personal Rights Violations Sanctions

a. Sanctions for health, safety and personal rights violations include:

- i. restricted Title XIX certification for new admissions;
- ii. fiscal sanctions;
- iii. withholding of vendor payment;
- iv. provisional licensure.

b. Provisional Licensure Status

i. The center's license may be placed in provisional status for a period not to exceed 90 days.

ii. If there is no documentation of immediate improvement in the conditions which affect the life, safety or welfare of the participants, the license shall be revoked.

4. Sanctions for Administrative Violations

a. Sanctions for administrative violations include:

- i. fiscal sanctions;
- ii. withholding of vendor payment;
- iii. provisional licensure.

b. Provisional Licensure Status

i. The center's license may be placed in provisional status for a period not to exceed 90 days.

ii. If there is no documentation of immediate improvement in the conditions which affect the life, safety or welfare of the participants, the license shall be revoked.

D. Appeals Procedure. See §3501 which describes the appeal procedure a center may use when adverse action has been taken against it by DHH.

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 Human Resources, Office of Family Security, LR 11:636 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1166 (September 1997), repromulgated LR 30:2058 (September 2004).

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

0409#031

RULE

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

Hospital Program Outpatient Surgery Services HIPAA Implementation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the rules governing the billing and reimbursement of all outpatient hospital surgery services. Current Standard Healthcare Common Procedure Coding System (HCPCS) codes and modifiers shall be used to bill for all outpatient hospital surgery services. Medicaid payment rates shall be established and assigned to each code based on the Medicare payment rates for outpatient surgery services.

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

0409#039

RULE

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

Targeted Case Management High Risk Pregnant Women
(LAC 50:XV.Chapter 115)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services repeals LAC 50.XV.Chapter 115, High Risk Pregnant Women as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 115. High Risk Pregnant Women

§11501. Introduction

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1042 (May 2004), repealed LR 30:2059 (September 2004).

§11503. Recipient Qualifications

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1042 (May 2004), repealed LR 30:2059 (September 2004).

§11505. Provider Participation

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), repealed LR 30:2059 (September 2004).

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

0409#040

RULE

**Department of Labor
Office of Regulatory Services**

Minor Labor Law (LAC 40:VII.Chapters 1-5)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana Department of Labor, pursuant to authority vested in the department by R.S. 23:153 and in accordance with applicable provisions of the Administrative Procedure Act, has amended Rules, LAC 40:VII.Chapter 1-5, relative to the regulations of conditions under which minor labor may be used.

These amendments address changes enacted pursuant to Act 671 of the 2003 Legislative Session. Proposed amendments will also clarify current law and bring consistency between the current law and the regulations.

Title 40

LABOR AND EMPLOYMENT

Part VII. Conditions Under Which Minor

Labor may be Used

**Chapter 1. Minimum Age Standards for
Nonagricultural Employment**

§101. Oppressive Child Labor

A. Oppressive child labor is defined as employment of children under legal minimum ages in specified occupations as listed in the following Paragraphs.

1. Minimum Age 14. This is the minimum age for certain specified occupations which are allowed outside of school hours. These occupations, along with hours and time standards, are listed in LAC 40:VII.103, 201, 203, 301, and 303.

2. At 16 years of age, youths may be employed in any occupation other than a nonagricultural occupation declared hazardous by the Assistant Secretary of Labor after a public hearing, or any occupation prohibited by R.S. 23:161.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:251.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:45 (February 1981), amended LR 15:1086 (December 1989), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2059 (September 2004).

**§103. Employment Standards for Minors Under 16
Years of Age**

A. Employment of minors under 16 years of age is limited to certain occupations under conditions which do not interfere with their schooling, health, or well being.

1. Hours and Time Standards. Minors under 16 years of age may not be employed, or permitted, or suffered to work:

a. during school hours, as defined by the local superintendent for the school district in which the minor resides;

b. before 7 a.m. or after 7 p.m. on any day prior to a day during which school is in session or after 9 p.m. on any day prior to a day during which school is not in session;

c. when employed in theatrical performances, the minor may not be present in the theater, nor shall appear in any performance during the below listed periods of time:

i. more than six hours in any day;

ii. more than 24 hours in any week;

iii. between the hours of 11 p.m. and 6 a.m.;

d. when employed in commercial motion picture, film or video productions, or modeling, the minor may not be present in the studio or on the set, nor shall appear in any performance during the below listed periods of time.

i. before 7 a.m. for studio production, 6 a.m. for location productions, and shall end no later than time specified below:

(a). for minors under six years of age, 7 p.m.;

(b). for minors six years of age to 15 years of age, 8 p.m. on any day prior to a day during which school is in session or 10 p.m. on any day prior to a day during which school is not in session, as defined by the local

superintendent for the school district in which the minor resides;

ii. minors under six years of age shall not work more than six hours per day; minors six years of age to 15 years of age shall not work more than eight hours per day;

iii. minors shall receive a 12-hour rest break at the end of each work day, before the commencement of the next day of work;

iv. minors shall not be employed more than six consecutive days in any one week, nor more than 36 hours per week for minors under six years of age, nor more than 48 hours per week for minors six years of age to 15 years of age;

v. applications for waivers for any exception to the foregoing provisions of this Subparagraph may be made to the secretary of the Department of Labor or his designee;

vi. the secretary of labor or his designee may grant a waiver only under the following circumstances:

(a). written notification through a listing of specific dates and times that the minor(s) shall be employed and/or present for either studio production or location production;

(b). written acknowledgement that the minor's parent(s), tutor, or custodian have been fully informed of the circumstances and have granted advance consent.

AUTHORITY NOTE: Promulgated in accordance with R. S. 23:251.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:45 (February 1981), amended LR 15:1086 (December 1989), amended by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 20:897 (August 1994), amended by the Department of Labor, Office of Regulatory Services, LR 30:2059 (September 2004).

Chapter 2. Occupations Permitted for 14 and 15 Year-Old Minors

§201. Types of Employment

A. Types of employment in which 14 and 15 year-old minors may be employed:

1. office and clerical work (including operation of office machines);

2. cashiering, selling, modeling, art work, work in advertising departments, window trimming, and comparative shopping;

3. price marking and tagging by hand or machine, assembling orders, packing and shelving;

4. bagging and carrying out customers' orders;

5. errand and delivery work by foot, bicycle, and public transportation;

6. cleanup work, including use of vacuum cleaners and floor waxers; and maintenance of grounds, but not including use of power-driven mowers or cutters;

7. kitchen work and other work involved in preparing and serving food and beverages, including operation of machines and devices used in performance of such work, such as, but not limited to, dishwashers, toasters, dumbwaiters, popcorn poppers, milk shake blenders, and coffee grinders;

8. work in connection with cars and trucks if confined to the following:

a. dispensing gasoline and oil;

b. courtesy service on premises of gasoline service station;

c. car cleaning, washing, and polishing;

9. cleaning vegetables and fruits; and wrapping, sealing, weighing, labeling, pricing, and stocking goods when performed in areas physically separated from areas where meat is prepared for sale;

10. selling, offering for sale, soliciting for or displaying articles, goods, merchandise, commercial service, posters, circulars, newspapers, or magazines;

11. delivery of, and collection for newspapers and periodicals;

12. work as a golf caddy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:251.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:45 (February, 1981), amended LR 15:1087 (December 1989), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2060 (September 2004).

§203. Occupations Permitted for Minors under 16 Years of Age in Theatrical Performances, Exhibitions, Commercial Motion Pictures, Films, Video Productions, or Modeling

A. Minors may be employed in theatrical performances or exhibitions as follows:

1. as a singer, musician, or actor in a church, school or academy;

2. teaching or learning the science or practice of music or singing;

3. as a singer, musician, or actor in a concert or in the presentation of a play or musical comedy under the following conditions:

a. not more than nine weekly performances may be presented; and

b. a permit must be granted by the assistant secretary of labor at least five days prior to the performance;

4. as a singer, musician, or actor in a play or musical comedy presented by a traveling theatrical company, provided that no more than eight performances are given in any one week. During a week in which a national or state holiday occurs, nine performances may be given under the following conditions:

a. a special permit must be obtained from the assistant secretary of the Office of Regulatory Services by the manager of the theater in which the minor is to appear;

b. the minor must hold a valid certificate from the state or city where the minor resides which permits participation in theatrical performances;

c. in the opinion of the assistant secretary of the Office of Regulatory Services, employment in such performances is not detrimental to the health and morals of the minor.

B. Minors may be employed in commercial motion pictures, films, video productions, or modeling, as follows.

1. A duly authorized agent shall make applications for a permit to the assistant secretary of the Office of Regulatory Services at least five days before the minor is scheduled to begin work.

2. The assistant secretary of the Office of Regulatory Services shall issue permits after satisfying himself that the supervision of the minor is adequate, and that the conditions of employment are not detrimental to the health, morals or safety of the minor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:251.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:45 (February 1981), amended LR 15:1087 (December 1989), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2060 (September 2004).

Chapter 3. Occupations Not Permitted

§301. Occupations Not Permitted for 14 and 15 Year-Old Minors

- A. 14 and 15 year-old minors may not be employed in:
1. any manufacturing occupation;
 2. any mining occupation;
 3. processing occupations or commercial laundering and dry-cleaning;
 4. occupations which require performance of any duties in workrooms or workplaces where goods are manufactured, mined, or otherwise processed, except to the extent expressly permitted in §201;
 5. operating or tending hoisting or lifting apparatus or the inflation of any tire mounted on a rim equipped with a removable retaining ring;
 6. occupations connected with:
 - a. transportation of persons or property by rail, highway, air, water, pipeline, or other means;
 - b. communications and public utilities, except office and clerical work;
 - c. construction, including repair work;
 7. any of the following occupations:
 - a. work performed in or about boiler or engine rooms;
 - b. work in connection with repair of machines or mechanical equipment;
 - c. all work that involves use of ladders and scaffolds or their substitutes;
 - d. cooking and baking;
 - e. occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, choppers and cutters, and bakery type mixers;
 - f. work in freezers and meat coolers;
 - g. all work in preparation of meat for sale, except wrapping, sealing, labeling, weighing, pricing, and stocking when such work is not performed in processing areas;
 - h. loading and unloading goods on and off trucks, railroad cars, and conveyors; or
 - i. all occupations in warehouses, except office and clerical work;
 8. any occupation about or in connection with power-driven machinery; or
 9. any other occupation found and declared to be hazardous by the assistant secretary of Labor after a public hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:251.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:45 (February 1981), amended LR 15:1088 (December 1989), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2061 (September 2004).

§303. Employment of Minors 16 and 17 Years of Age

A. Minors may not work in any illegal, indecent, or immoral exhibition or practice, including but not limited to; striptease, exotic dancer, etc.

B. Minors may not work at any occupation which the assistant secretary of the Office of Regulatory Services has found and declared to be hazardous for 16 and 17 year-old persons. This minimum age applies even when the minor is employed by a parent or person standing in place of the parent.

C. There are no time standards for minors 16 and 17 years of age regarding the numbers of hours worked per day or per week, however, minors shall receive an eight hour rest break at the end of each work day, before the commencement of the next day of work.

D. No minor sixteen years of age who has not graduated from high school shall be employed, or permitted, or suffered to work between the hours of 11:00 p.m. and 5:00 a.m. prior to the start of any school day. No minor seventeen years of age who has not graduated from high school shall be employed, or permitted, or suffered to work between the hours of 12:00 a.m. and 5:00 a.m. prior to the start of any school day. For purposes of this Subparagraph, a minor who has taken and passed a General Education Development test (GED) and who has been awarded a High School Equivalency Diploma from the Louisiana Department of Education will be considered to have graduated from high school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:251.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:45 (February 1981), amended LR 15:1088 (December 1989), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2061 (September 2004).

Chapter 5. Hazardous Occupations

§501. Preface

A. In the following sections certain occupations are listed as hazardous. These occupations are specified both on an industry-wide basis, and on an occupational basis, regardless of the industry in which they are found.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:46 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2061 (September 2004).

§503. Manufacturing or Storage Operations Involving Explosives

A. Definitions

Explosives and Articles Containing Explosives—ammunition, black powder, blasting caps, high explosives, primers, smokeless powder, and all goods classified and defined as explosives by the Interstate Commerce Commission in regulations governing transportation of explosives and other dangerous substances by common carriers.

Plant or Establishment Manufacturing or Storing Explosive Articles—the land with all buildings and structures thereon which are used in connection with manufacturing,

processing, or storing explosives or articles which contain explosive components.

B. Non-Explosive Area

1. An area which meets all of the following criteria is deemed a non-explosive area.

a. No work performed in the area involves handling or use of explosives.

b. The area is separated from the explosive area by a distance not less than that prescribed in the American Table of Distances for protection of inhabited buildings.

c. The area is separated from the explosive area by a fence or is otherwise located so that it constitutes a designated area.

2. Satisfactory controls have been established to prevent employees under 18 years of age who are working within the area from entering any area in or about the plant which does not meet criteria listed in Subsection C below.

C. Occupations prohibited in plants which manufacture or store explosives. The following occupations in or about any plant or establishment which manufactures or stores explosives are prohibited:

1. all occupations in manufacturing, mixing, transporting, or handling explosive compounds in manufacture of explosives, and all other occupations which require performance of any duties in an explosive area in which explosive compounds are manufactured or mixed;

2. all occupations involved in manufacturing, handling, or transportation of primers, and performance of any other duties in the same building in which primers are manufactured;

3. all occupations involved in priming cartridges, and performance of any other duties in the same room in which cartridges are primed;

4. all occupations involved in plate loading cartridges and in operation of automatic loading machines;

5. all occupations which involve loading, inspecting, packing, storing, and shipping blasting caps; and

6. all other occupations in or about any plant or establishment which manufactures or stores explosives except when such occupation is performed in a non-explosive area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:46 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2061 (September 2004).

§505. Occupations Involving Motor Vehicles

A. Definitions

Driver Any individual who, in the course of employment, drives a motor vehicle at any time.

Gross Vehicle Weight The weight of the vehicle chassis, including lubricants, water, and full tank or tanks of fuel, plus the weight of the cab or drivers compartment, body, special chassis and body equipment, and payload.

Motor Vehicle Any automobile, truck, truck-trailer combination, trailer, semi-trailers, motorcycle, or similar vehicle which is propelled or drawn by mechanical or electrical power, and designed for use as means of transportation, but does not mean any vehicle operated exclusively on rails.

B. Occupations Prohibited. Any occupation as motor-vehicle driver is prohibited except as permitted in R.S. 23:161 (10) and the Teen Drive for Employment Act which amends the Federal Fair Labor Standards Act, 29 U.S.C. 212 through 213.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor LR 7:46 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2062 (September 2004).

§507. Occupations in Connection with Mining

A. Definitions

Mining Occupations Call work performed:

a. underground in mines and quarries;

b. on the surface at underground mines and underground quarries;

c. in or about open-cut mines, open quarries, clay pits, and sand and gravel operations;

d. at or about placer mining operations;

e. at or about operations dredging for clay, sand or gravel;

f. at or about bore-hole mining operations;

g. in or about all metal mills, washer plants, or grinding mills which reduce bulk of extracted minerals; or

h. at or about any crushing, grinding, screening, sizing, washing, or cleansing operations performed upon extracted minerals, except when such operations are performed as part of a manufacturing process outside of area of the mine or quarry.

B. Prohibited Occupations. All occupations in connection with mining or operation of a quarry are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Adopted by the Department of Labor, Office of Labor, LR 7:46 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2062 (September 2004).

§509. Logging and Sawmill Operations

A. Definitions

Occupations in Logging Call work performed in connection with felling timber, bucking or converting timber into logs, poles, piles, ties, bolts, pulpwood, chemical wood, excelsior wood, cordwood, fenceposts, or similar products; collecting, skidding, yarding, loading, transporting, and unloading such products in connection with logging; and other work performed in connection with logging that is declared to be hazardous by the assistant secretary of labor.

Occupations in Sawmilling Call work performed in connection with the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill, or in or about any such mill in connection with storing logs and bolts; converting logs or bolts into sawn lumber, laths, shingles, or cooperage-stock, or other products of such mills; or any other work performed in connection with operating any sawmill, lath mill, shingle mill, or cooperage mill.

B. Prohibited Occupations. All occupations in logging and all occupations in operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Adopted by the Department of Labor, Office of Labor, LR 7:46 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2062 (September 2004).

§511. Power Driven Woodworking Machine Occupations

A. Definitions

Power-Driven Woodworking Machines Call fixed or portable machines or tools driven by mechanical or electrical power, and are used or designed for cutting, shaping, forming, nailing, stapling, wire-stitching, fastening, or otherwise assembling, pressing, or printing wood veneer, or other products.

Off-Bearing Removal of material or refuse directly from a saw table or from the point of operation.

B. Prohibited Occupations. The following occupations involved in operation of power-driven woodworking machines are prohibited:

1. supervising or controlling operation of any woodworking machines;
2. feeding materials into any woodworking machine;
3. helping to feed materials into any woodworking machine;
4. setting up and adjusting, repairing, oiling, or cleaning power-driven woodworking machines;
5. any off-bearing occupations such as removing materials from circular saws and guillotine-action veneer clippers.

C. Operations not considered to be off-bearing are:

1. removal of material or refuse from a circular saw or guillotine-action veneer clipper when such material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or by some mechanical means, such as a moving belt or expulsion device;
2. carrying, moving, or transporting materials from one machine to another, or from one part of the plant to another;
3. piling, stacking or arranging materials to be fed into a machine by another person; and
4. sorting, tying, bundling or loading materials into conveyances.

D. Exemptions. Registered apprentices and registered student-learners are exempt from prohibitions which apply to power-driven woodworking machine occupations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:47 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2063 (September 2004).

§513. Occupations Which Involve Operations of Power-Driven Circular Saws, Band Saws, and Guillotine Shears

A. Definitions

Band Saw A machine which is equipped with an endless steel band which has a continuous series of notches or teeth on one edge. The band runs over wheels or pulleys, and is used to saw material.

Circular Saw A machine which is equipped with a thin steel disc which has a continuous series of notches or teeth on the peripheral edge, mounted on a shaft, and used for sawing materials.

Guillotine Shears A machine which is equipped with a movable cutting blade and is operated vertically to shear material.

Helper Any person who assists in operation of a machine by helping to place materials into or remove materials from the machine.

Machine Equipped with Full Automatic Feed and Ejection Any machine which is equipped with devices which automatically feed and eject materials, and has a fixed barrier guard to prevent completely an operator or helper from placing any part of his body in the point of operation.

Operator Any person who operates a machine by performing the functions of starting or stopping the machine, placing materials into or removing materials from the machine, or any other function directly associated with operation of the machine.

B. Prohibited Occupations. Minors are prohibited from working in all occupations which involve operations of power-driven circular saws, band saws, and guillotine shears except in the operation of machines equipped with full automatic feed and ejection.

C. Exemptions. Registered apprentices and registered student-learners are exempt from prohibitions which apply to power-driven circular saws, band saws, and guillotine shears.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:47 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2063 (September 2004).

§515. Power-Driven Metal-Forming, Rolling, Punching, and Shearing Machine Occupations

A. Definitions

Forming, Rolling, Punching, and Shearing Machines Power-driven metal-working machines which change the shape of or cut metals by means of tools, such as dies, rolls, or knives which are mounted on rams, plungers, or other moving devices.

Helper Any person who assists in the operation of a machine by helping place materials into or removing materials from the machine.

Operator Any person who operates a machine by performing such functions as starting or stopping the machine, placing materials into or removing materials from the machine, or any other function which is directly involved in operation of the machine.

B. Prohibited Occupations. Minors are prohibited from working in occupations as operator or helper on:

1. all rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and on hot or cold rolling mills;
2. all pressing or punching machines, except those which are provided with full automatic feed and ejection, and with a fixed barrier guard to prevent the hands or fingers of the operator from entering the area between the dies or cutting surfaces;

3. all bending machines, such as apron brakes and press brakes;

4. all hammering machines, such as drop-hammers and power hammers;

5. all shearing machines, such as guillotine or squaring shears, alligator shears and rotary shears;

6. or in setting up, adjusting, repairing, oiling, or cleaning any type of machine described in 515 B.1-5 above, including those with automatic feed and ejection.

C. Exemptions. Registered apprentices and registered student-learners are exempt from prohibitions which apply to power-driven metal-forming, rolling, punching, and shearing machine occupations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:47 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2063 (September 2004).

§517. Power-Driven Paper-Product Machine Occupations

A. Definitions

Operating or Assisting to Operate Call work involved in starting, stopping, loading materials into, and removing materials from a machine or other work directly involved in operating the machine.

Paper Products Machine Any power-driven machine used to manufacture or convert paper or pulp into a finished product. The term is understood to apply to such machines whether they are used in establishments that manufacture converted paper pulp products, or in any other type of manufacturing or non-manufacturing establishment.

B. Prohibited Occupations

1. Minors are prohibited from operating or assisting to operate any of the following or similar machines: Arm-type wirestitcher, stapler, circular or band saw, corner cutter or mitering machine, corrugating and single or double facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap paper baler or vertical slotter, platen die-cutting press, platen printing press and punch press which involves hand-feeding.

2. Minors are prohibited from setting up, adjusting, repairing, oiling, or cleaning above machines, including those which do not involve hand-feeding.

C. Exemptions. Registered apprentices and registered student-learners are exempt from all prohibitions in occupations involving power-driven paper-product machines and equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:47 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2064 (September 2004).

§519. Power Driven Bakery Machine Occupations

A. Prohibited Occupations. Minors are prohibited from engaging in the following occupations: operating, assisting to operate, or setting up, adjusting, repairing, oiling, or cleaning any horizontal dough mixer, batter mixer, bread dividing, rounding, or molding machine; dough brake, dough sheeter, combination slicing and wrapping machine;

cake cutting band saw; setting up or adjusting a cookie or cracker machine.

B. Exception. Sixteen or 17 year old minors are not prohibited from operating pizza dough rollers constructed with safeguards contained in the basic design so as to prevent fingers, hands, or clothing from being caught in the in-running point of the rollers; which have gears that are completely enclosed, and have microswitches that disengage the machinery if the backs or sides of the rollers are removed; provided that such safeguards are present on the machine, are operational, and cannot be overridden.

C. Exemption. Registered apprentices are exempt from all prohibitions affecting occupations involving power-driven baking equipment and machines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor LR 7:47 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2064 (September 2004).

§521. Power Driven Hoisting Apparatus Occupations

A. Definitions

Automatic Elevator A passenger elevator, freight elevator, or a combination freight-passenger elevator. Such elevator is controlled by pushbuttons in such a manner that starting, stopping, going to a landing and holding, and opening and closing car and hoistway doors is entirely automatic.

Automatic Signal Operation Elevator An elevator which is started in response to operation of a switch in the car which, when operated by the operator, actuates a starting device which automatically closes the car and hoistway doors, controls movement of the car to a selected landing, holds it when it arrives, and automatically opens the car and hoistway doors.

Crane A power-driven machine used for lifting and lowering a load and moving it horizontally. The hoisting mechanism is an integral part of the machine. Included are cantilever gantry, crawler, gantry, hammerhead, ingot-pouring, locomotive, motor truck, overhead traveling, pillar jib, pintle, portal, semi-gantry, semi-portal, storage bridge, tower, walking jib, and wall cranes.

Derrick A power-driven apparatus which consists of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with a hoisting mechanism and operating ropes. All types of derricks are included, such as A-frame, breast, Chicago boom, gin-pole, guy, and stiff leg derricks.

Elevator Any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. Both passenger and freight elevators are included (also portable elevators and tiering machines). Dumbwaiters are not included.

High-Lift Truck A power-driven industrial type truck used for lateral transportation, and is equipped with a power-lifting device, usually in the form of a fork or platform capable of tiering loaded pallets one above the other. Instead of a fork or platform, the lifting device may consist of a ram, shovel, scoop, crane, revolving fork, or other attachments for handling specific loads. Such trucks may be known as forklifts, fork trucks, tiering or stacking trucks, front-end loaders, or graders. Not included are low-lift, or low-lift

platform trucks which are designed for transportation of, but not tiering of, materials.

Hoist Any power driven apparatus used for raising or lowering a load by application of a pulling force. This includes all types of hoists, such as base-mounted electric, clevis suspension, hood suspension, monorail, overhead electric, simple drum, and trolley suspension hoists.

Manlift A device which is intended for conveyance of persons. It consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain, or similar suspension device. Such chain device operates in a substantially vertical direction, and is supported by, and driven through pulleys, sheaves, or sprockets at top and bottom.

B. Prohibited Occupations. The following occupations are prohibited for minors:

1. operating a crane, derrick, elevator, hoist, or high-lift truck;
2. work which involves riding in a manlift or on a freight elevator, except a freight elevator operated by an assigned operator;
3. assisting in operation of a crane, derrick or hoist; or in work performed by crane;
4. hookers, crane chasers, hookers-on, riggers, rigger helper, and similar occupations.

C. Exemptions. Registered apprentices are exempt from all prohibitions affecting occupations involving power-driven hoisting apparatus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:48 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2064 (September 2004).

§523. Wrecking, Demolition, and Shipbreaking Occupations

A. Prohibited Occupations. All work in wrecking, demolition, and shipbreaking is prohibited. This includes cleanup and salvage work, performed at the site of total or partial razing, demolishing, or dismantling a building, tower, bridge, steeple, chimney, or other structure, ship, or other vessel.

B. Exemptions. Registered apprentices are exempt from prohibitions which apply to occupations in wrecking, demolition, and shipbreaking.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:48 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2065 (September 2004).

§525. Brick, Tile and Kindred Products Manufacturing Occupations

A. Prohibited Occupations. All work in and about establishments in which clay construction products and silica brick are manufactured and in other silica refractories is prohibited with the exceptions listed in 525.B. below.

B. Exemptions. Registered apprentices are exempt from prohibitions which apply to occupations in manufacture of brick, tile and kindred products.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:48 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2065 (September 2004).

§527. Roofing Occupations

A. All occupations in roofing operations are prohibited. These include:

1. installation of roofs, including related metal work, such as flashing, etc.;
2. alterations, additions, maintenance, and repair, including painting and coating existing roofs.

B. Exemptions. Registered apprentices and registered student-learners are exempt from prohibitions which apply to occupations in roofing operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:48 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2065 (September 2004).

§529. Excavation Occupations

A. Prohibited Occupations. The following occupations are prohibited to minors:

1. excavating, working in, or backfilling trenches which exceed four feet in depth at any point;
2. excavating for buildings or other structures, or working in such excavations which exceed four feet in depth at any point;
3. working within tunnels prior to completion of all driving and shoring operations; and
4. working within shafts prior to the completion of all sinking and shoring operations.

B. Exemptions. Registered apprentices and registered student-learners are exempt from the prohibitions which apply to occupations in excavation work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:48 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2065 (September 2004).

§531. Slaughtering, Meat-Packing or Processing, or Rendering Occupations

A. Definitions

Boning Occupation Can occupation which involves removal of bones from meat cuts. It does not include scraping or trimming meat from cuts containing bones.

Curing Cellar A workroom or workplace which is primarily devoted to preservation and flavoring meat by curing materials. It does not include an area where meat is smoked.

Hide Cellar A workroom or workplace in which hides are graded, trimmed, slated, and otherwise cured.

Killing Floor The workroom or workplace in which cattle, hogs, calves, sheep, lambs, goats, or other animals are immobilized, shackled, or killed, and the carcasses are dressed prior to being chilled.

Rendering Plant Any establishment engaged in conversion of dead animals, animal offal, animal fats, scrap

meats, blood, and bones into stock feed, tallow, inedible greases, fertilizer ingredients, and similar products.

Slaughtering and Meat-Packing Establishment Places in and about which cattle, calves, hogs, sheep, lambs, goats, or other animals are killed, butchered, or processed. Included are establishments which manufacture or process meat products or sausage casings from such animals.

B. Prohibited Occupations. The following occupations are prohibited:

1. all occupations on the killing floor, in curing cellars, and in hide cellars;
2. all occupations involved in recovery of lard and oils;
3. all occupations involved in tankage or rendering whether or not in a rendering plant, or a slaughter house;
4. all occupations involved in operating, setting up, adjusting, oiling, or cleaning any power-driven machine used in a slaughtering, meat-packing or processing, or rendering plant;
5. all boning work;
6. all occupations which involve pushing or dropping any suspended carcass, half carcass, or quarter carcass;
7. all occupations involving hand carrying any carcass or half carcass of beef, pork, or horse, or any quarter carcass of beef or horse.

C. Exemptions. Registered apprentices and registered student learners are exempt from prohibitions which apply to occupations involved in slaughtering, meat-packing or processing, or rendering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:48 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2065 (September 2004).

§533. Occupations Involving Exposure to Radioactive Substances and Ionizing Radiation

A. All work is prohibited in any workroom in which:

1. radium is stored or used in the manufacture of self-luminous compounds;
2. self-luminous compounds are manufactured, processed, or packaged;
3. self-luminous compounds are stored, used, or worked on;
4. incandescent mantles are made from fabric and solutions containing thorium salts, or where these are packaged or stored;
5. other radioactive substances are present in the air in average concentrations exceeding ten percent of the maximum permissible concentration in air recommended for exposure by the national Committee on Radiation Protection as set forth in the forty-hour week column of Table One of the National Bureau of Standards, Handbook No. 69, entitled Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and Water for Occupational Exposure, issued June 5, 1959; or
6. any other work which involves exposure to ionizing radiations in excess of 0.5 rem per year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:49 (February 1981), amended by the

Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2066 (September 2004).

§535. Occupations Involving Use of or Contact with Lead or any Other Toxic Substance

A. Any occupation which involves use of or contact with any toxic substance is prohibited. Such occupations include spray painting, transporting, or physically handling such substance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:49 (February 1981), amended by the Department of Labor, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 30:2066 (September 2004).

§537. Welding Occupations

A. Definitions

Welding Machines Shielded metal arc welding machines, gas tungsten arc welding machines, flux-cored arc welding machines, gas metal arc welding machines, and similar machines used to apply heat to a welding rod or continuously fed wire and to metal pieces, melting and fusing the pieces to form a permanent bond.

Soldering, and Brazing Welding Equipment Oxygen and acetylene tanks, acetylene torches, assorted tips and soldering and brazing rods used to apply heat to melt the rods and to fuse the pieces to form a permanent bond.

Welding and Cutting Equipment Oxygen and acetylene tanks, acetylene torches, cutting tips, carbon arc cutting equipment, gouging machines, chipping hammers, wire brushes, power grinders, etc.

B. Prohibited Occupations. Minors are prohibited from working as an operator or helper in the operation of any of the above described machines or equipment.

C. Registered apprentices and registered student-learners are exempt from the prohibitions which apply to operations in welding occupations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Regulatory Services, LR 30:2066 (September 2004).

§539. Registered Apprentices

A. For purposes of this chapter, *Registered Apprentices* means minors participating in job training programs which have been approved and registered by the Louisiana Department of Labor, Apprenticeship Division in accordance with R.S.23:381, et seq.

B. Registered apprentices are exempt from hazardous occupations prohibitions while participating in job training as an indentured apprentice in a registered program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Regulatory Services, LR 30:2066 (September 2004).

§541. Registered Student Learners

A. For purposes of this chapter, *registered student learners* means minor students participating in job training programs approved by and administered by the Louisiana Office of Career and Technical Education or the Louisiana Community and Technical College System.

B. Registered Student Learners may be exempt from hazardous occupation prohibitions concerning the following equipment and job tasks, provided that all conditions of Subsection C below are met:

1. power-driven woodworking machines;
2. power-driven circular saws, band saws, and guillotine shears;
3. power-driven metal-forming, punching and shearing machines;
4. power-driven paper product machines;
5. roofing operations;
6. excavation operations;
7. slaughtering, meat-packing or processing, or rendering;
8. welding operations.

C. Conditions

1. Such student learner is employed under a written agreement which provides:
 - a. that the work of the student learner in the occupations declared hazardous shall be incidental to the training;
 - b. that such work shall be intermittent and for short periods of time and under the direct and close supervision of a qualified and experienced person;
 - c. that safety instruction shall be given by the school and correlated by the employer with on-the-job training;
 - d. that a schedule of organized and progressive work processes to be performed on the job shall have been prepared and made a part of the written agreement; and
 - e. that the written agreement be signed by the school coordinator, the employer, the minor student learner and the student's consenting parent or guardian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:161.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Regulatory Services, LR 30:2066 (September 2004).

Dawn Romero Watson
Secretary

0409#006

RULE

**Department of Labor
Office of Workers' Compensation**

Choice of Physician Form (LAC 40:I.6664)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana Department of Labor, Office of Workers' Compensation, pursuant to authority vested in the Director of the Office of Workers' Compensation by R.S. 23:1310.1 and in accordance with applicable provisions of the Administrative Procedure Act, enacts a form permitting injured workers to choose their physician, LAC 40:I.6664 to provide for a choice of physician form. The Rule which is set forth below enacts Chapter 66, Section 6664.

**Title 40
LABOR AND EMPLOYMENT
Part I. Workers' Compensation Administration
Subpart 2. Hearing Rules**

**Chapter 66. Miscellaneous
Subchapter E. Forms**

§6664. Choice of Physician; Form LDOL-WC-1121

Notice to Injured Workers

You have the right to choose your own doctor!

When you are injured at work or become sick because of something that happened at work, the law gives you the right to choose your own doctor in any field or specialty of medicine for medical treatment.

The law also allows your employer to have you see his/her doctor, but you do not have to agree to continue treatment with your employer's doctor unless that is what you want.

If you want your employer's doctor to continue treating you after your first visit with him/her, and after receiving this form, you may choose your employer's doctor as your treating doctor.

Once you choose either your employer's doctor or your own doctor as your treating doctor, you may not be permitted to choose another doctor in that same field or specialty to treat you for your injury or illness later on. However, you are not required to get your employer's approval to change to a doctor in another field or specialty of medicine [LA. R.S. 23:1121(b)(1)].

If your employer denies your right to choose your doctor, you have a right to a speedy hearing before a workers' compensation judge to resolve the denial of your right [LA. R.S. 23:1121(b)(1) and 1124(b)].

I hereby choose my own doctor to treat me for my injury or illness:

Dr. _____

or

By signing this form, I state that I know about my right to choose my own treating doctor, and being so advised, I hereby accept and choose to continue treating with my employer's doctor:

Dr. _____

Date Signature of Employee Printed Name of Employee

Date Signature of Employee Printed Name of Employee

(Note: If the employee is illiterate or has a language barrier, an authorized representative of the employer/insurer shall attest by their signature that this form and right of physician choice has been reasonably explained to that employee prior to his/her signature on this form. Failure to do so can jeopardize the employer's/insurer's right to subsequently refuse consent to the employee's request for treatment by a different physician within the same field or specialty.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 30:2067 (September 2004).

John Warner Smith
Secretary

0409#003

RULE

Department of Labor State Plumbing Board

Continuing Professional Education Programs (LAC 46:LV.103 and Chapter 10)

The Louisiana State Plumbing Board ("board"), pursuant to R.S. 37:1366(I), establishes and determines by Rule, minimum requirements relative to continuing professional development for the renewal or reinstatement of any license or special endorsement issued by the board, and adds plumbing regulations, LAC 46:LV.1001, 1003, 1005 and 1007, in accordance with the Administrative Procedure Act. The new Rule notifies the public of the continuing professional education programs to be conducted by the board, effective January 1, 2006. In addition, "Gender and Meaning" which was previously §1001 has been moved to Chapter 1, §103 for topical placement, with the language remaining the same.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LV. Plumbers

Chapter 1. Introductory Information

§103. Gender and Meaning

A. Whenever any words are used in these regulations in the masculine gender, they shall also be construed to include the feminine gender in all situations where they would so apply; and whenever any words are used in the singular, they shall also be construed to include the plural in all situations where they would so apply and wherever any words are used in the plural, they shall also be construed to include the singular.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968, amended and promulgated by Department of Employment and Training, State Plumbing Board, LR 17:57 (January 1991), amended by the Department of Labor, State Plumbing Board, LR 30:2068 (September 2004).

Chapter 10. Continuing Professional Education Programs

§1001. Journeyman and Master Plumbers

A. CPE Requirement

1. All persons seeking to renew a journeyman license issued by the Louisiana State Plumbing Board are required to attend and show proof of attendance at no less than four hours of a Louisiana State Plumbing Board-approved CPE class in the prior calendar year, as set out in this Section.

2. All persons seeking to renew a master plumber's license or to convert an inactive master plumber's license to an active master plumber's license must attend and show proof of attendance at no less than six hours of a Louisiana State Plumbing Board-approved CPE class in the prior calendar year, as set out in this Section.

3. A holder of an Inactive Master Plumber's license who seeks to renew said license must file an affidavit in a form provided by the Louisiana State Plumbing Board, that they have been inactive as a plumber in the previous year, and that they will remain inactive and not work as a plumber for the year for which they seek to renew their license. Upon

such filing with the Louisiana State Plumbing Board, the holder of an Inactive Master Plumber's License will not be required to meet the CPE requirements set out herein.

4. A holder of an Inactive Master Plumber's License who seeks to function as a journeyman plumber is required to attend and show proof of attendance at no less than four hours of a Louisiana State Plumbing Board-approved CPE class in the prior calendar year, as set out in this Section.

B. Course Materials

1. The Louisiana State Plumbing Board will annually approve course materials to be used for the CPE required for renewal of Journeyman Plumber and Master Plumber Licenses. The course materials are the printed materials that are the basis for a substantial portion of a CPE course and which are provided to the licensees. Louisiana State Plumbing Board approval of course materials will be subject to all of the terms and conditions of this Section. The following minimum criteria will be used by the Louisiana State Plumbing Board in considering approval of course materials.

2. The course materials will provide the basis for a minimum of four classroom hours of study for journeyman plumbers and a minimum of six hours for master plumbers. Two of the hours will be in the subjects of health protection, consumer protection or environmental protection, with the two of the remaining hours covering subjects which shall include information concerning the Act, Louisiana State Plumbing Board rules, current industry practices and codes, and subjects from lists of approved subjects published by the Louisiana State Plumbing Board. Two hours of the materials for master plumbers will be on business topics approved by the Louisiana State Plumbing Board.

3. The Louisiana State Plumbing Board will periodically publish lists of approved and required subjects.

4. The course materials must be presentations of relevant issues and changes within the subject areas as they apply to the plumbing practice in the current market, public health or topics which increase or support the licensee's development of skill and competence.

5. The course materials may not advertise or promote the sale of goods, products or services.

6. The course materials must be printed and bound in perfect/standard, metal coil or ring binder form.

7. The course materials will include perforated Louisiana State Plumbing Board forms within the binding of the course materials that may be removed for use by the licensees. The forms will include CPE evaluation forms, license and endorsement examination forms and general complaint forms.

8. All course materials must have the following characteristics:

a. high quality, readable and carefully prepared written materials with correct grammar, spelling and punctuation;

b. appropriate illustrations and graphics to show concepts not easily explained in words; and

c. in depth and comprehensive presentation of subject matter which increases or supports the skills or competence of the licensees.

9. The provider of course materials must have legal ownership of or an appropriate license for the use of all copyrighted material included within the course materials.

Louisiana State Plumbing Board approved course materials will contain a prominently displayed approval statement in 10 point bold type or larger containing the following language:

"THIS CONTINUING PROFESSIONAL EDUCATION COURSE MATERIAL HAS BEEN APPROVED BY THE LOUISIANA STATE PLUMBING BOARD FOR USE IN THE (STATE YEAR) CPE YEAR. BY ITS APPROVAL OF THIS COURSE MATERIAL, THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY RESPONSIBILITY FOR THE ACCURACY OF THE CONTENTS. FURTHER, THE LOUISIANA STATE PLUMBING BOARD HAS NOT MADE ANY DETERMINATION THAT THE PARTY PUBLISHING THE COURSE MATERIALS HAS COMPLIED WITH ANY APPLICABLE COPYRIGHT AND OTHER LAWS IN PUBLISHING THE COURSE MATERIAL AND THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY LIABILITY OR RESPONSIBILITY THEREFOR. THE COURSE MATERIAL IS NOT BEING PUBLISHED BY NOR IS IT A PUBLICATION OF THE LOUISIANA STATE PLUMBING BOARD."

10. The provider of course materials will conduct instructor training in the use of course materials.

11. The provider of course materials will be required to have distribution facilities that will ensure prompt distribution of course materials, facsimile ordering and a statewide toll free telephone number for placing orders. The provider of course materials must ship any ordered material within ten business days after the receipt of the order and payment for the course materials.

12. Any individual, business or association who wishes to offer to provide course materials shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board. In order to be approved, the application must satisfy the Louisiana State Plumbing Board as to the ability of the individual, business or association to provide quality course materials as required in this Section and must include:

- a. name and address of individual applicant;
- b. names and addresses of all officers, directors, trustees or members of the governing board of any business or association applicant;
- c. statement by individual applicant, and each officer, director, trustee or member of governing board as to whether he or she has ever been convicted of a felony or misdemeanor other than a minor traffic violation;
- d. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;
- e. maximum fees to be charged for course materials;
- f. taxpayer identification number;
- g. method for quarterly reporting of course provider, instructors, and licensee evaluations of course materials to the Louisiana State Plumbing Board; and an application fee to be set as provided by law.

13. The provider of course materials must sell course materials to all course providers on request, at a price not to exceed the maximum fee to be charged as stated on the provider's application.

14. The Louisiana State Plumbing Board may refuse to accept any application for approval as a provider of course materials that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

- a. failure to comply with the provisions of this Section;
- b. inadequate coverage of the materials required to be included in course materials; or
- c. unsatisfactory evaluations of the course materials by licensees or Louisiana State Plumbing Board members or staff.

15. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the refusal or disapproval.

16. A provider's authority to offer the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

17. To be approved, 20 copies of course materials, including any handouts and audio/visual aids to be used, must be submitted in complete draft form to the Louisiana State Plumbing Board's office no later than October 15 (or at least 30 days prior to the Louisiana State Plumbing Board's November meeting, whichever is earlier) for Louisiana State Plumbing Board approval at its November Louisiana State Plumbing Board meeting. At least 20 copies each of all course materials that are approved at the Louisiana State Plumbing Board's November meeting shall be provided to the Louisiana State Plumbing Board's office no later than February of the following year, at no cost to the Louisiana State Plumbing Board.

18. Upon a showing of compelling necessity, the Plumbing Board, in its discretion, may grant an exception to the requirement that material be submitted prior to the Plumbing Board's November meeting, and, pursuant to this exception, may approve material submitted at least 30 days prior to any quarterly meeting of the Plumbing Board, which otherwise meets the requirements of this Section.

19. A provider's failure to comply with this Section constitutes grounds for disciplinary action, consistent with the Louisiana Administrative Procedure Act, against the provider or for disapproval of future applications for approval as a provider of course materials.

C. Course Form and Content

1. Course providers will offer classroom instruction in the course materials used for the CPE required for renewal of journeymen and master licenses issued under the Act. Louisiana State Plumbing Board approval of course providers will be subject to all of the terms and conditions of this Section.

2. CPE courses shall be presented in one of the following formats:

- a. a minimum of four classroom hours presented on one day; or
- b. for master plumbers, six hours on one day; or
- c. not less than two sessions of two classroom hours each presented within a 30-day period; or
- d. for master plumbers, two sessions of three classroom hours each presented within a 30-day period.

3. Not less than two hours of the classroom course will be in the subjects of health protection, environmental protection or consumer protection.

4. Not less than two hours of the master plumbers' class will be on business topics approved by the Louisiana State Plumbing Board.

5. Presentations must be based primarily on the course materials and any other materials approved by the Louisiana State Plumbing Board.

6. In addition to course materials, presentations may include videos, films, slides or other appropriate types of illustrations and graphic materials related to the course materials, as approved by the Louisiana State Plumbing Board.

7. A course provider may not advertise or promote the sale of any goods, products or services between the opening and closing hours of any CPE class.

8. Each course provider shall furnish a uniquely numbered Certificate of Completion of CPE to each licensee, but only after the licensee has completed the CPE course. The Louisiana State Plumbing Board will assign the unique numbers to be used on each certificate to each course provider.

9. Each course provider shall, at its own expense and in a format approved by the Louisiana State Plumbing Board, mail, fax or electronically transmit to the Louisiana State Plumbing Board certification of each licensee's completion of CPE requirements within 30 days of completion.

10. Each course provider shall be reviewed annually by the Louisiana State Plumbing Board to ensure that classes have been provided equally across the state of Louisiana.

11. Each course provider must notify the Louisiana State Plumbing Board at least seven working days before conducting classes; the notice shall contain the time(s) and place(s) where the classes will occur.

12. Each course provider will perform self-monitoring and reporting as required by the Louisiana State Plumbing Board, including a certified roster of all persons attending the course, with the license number of each attendee included.

13. Each course provider shall permit any Louisiana State Plumbing Board member or a duly designated representative of the Louisiana State Plumbing Board to monitor any CPE class for compliance purposes.

D. Course Providers

1. Each course provider shall use only course instructors that have been approved by the Louisiana State Plumbing Board. Each course provider shall annually submit to the Louisiana State Plumbing Board's office a list of course instructors it employs and the instructors' credentials for approval.

a. Lists of course instructors to be approved for the following year must be submitted no later than October 15 or 30 days prior to the date of the Louisiana State Plumbing Board's November meeting (whichever is earlier) for approval by the Louisiana State Plumbing Board at its November meeting, unless an extension is requested at or before the August Louisiana State Plumbing Board meeting and granted by the Louisiana State Plumbing Board.

b. Prior to allowing course instructors to teach CPE, course providers must provide documentation to the Louisiana State Plumbing Board showing the instructor's qualifications to teach CPE, including but not limited to detailed information on any experience in providing instruction, assistance in providing instruction or successful completion of training for providing instruction.

c. Course instructors must comply with Subsection E of this Section. Course providers shall notify the Louisiana State Plumbing Board within 10 working days of any change of an instructor's employment status with the course provider.

2. Any individual, business or association who wishes to be a course provider shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board. In order to be approved, the application must satisfy the Louisiana State Plumbing Board as to the ability of the individual, business or association to provide quality instruction in the course materials as required in this Section and must include:

a. name and address of the applicant;

b. names and addresses of all officers, directors, trustees or members of the governing board of any business or association applying;

c. statement by applicant, and each officer, director, trustee or member of governing board (if applicable) as to whether he or she has ever been convicted of a felony or misdemeanor other than a minor traffic violation;

d. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;

e. taxpayer identification number;

f. facsimile number, statewide toll free telephone number, Internet web site or electronic mail address;

g. fees to be charged to licensees for attending the course;

h. an example of a licensee's certificate of completion of CPE;

i. a CPE class scheduling plan for providing courses equally across the state. Course providers must, at a minimum, offer the CPE class in each of the following cities: Lafayette, New Orleans, Baton Rouge, Alexandria, Shreveport, Lake Charles and Monroe; however, the Louisiana State Plumbing Board or its director may, solely at their discretion, grant a request that the course not be offered in one or more of these locations, upon a demonstration of economic infeasibility by the course provider;

j. a method for quarterly reporting compilations of licensee evaluations of course provider and course instructors to the Louisiana State Plumbing Board;

k. identification of the course materials which will be used by the course provider; and

l. an application fee to be set as provided by law.

3. If the course provider is not the creator of the course materials and will purchase the course materials, the course provider may not charge the licensees more than the maximum cost set out by the course material provider in its application.

4. The fees charged to the licensees for attending the course will be determined by the course provider.

5. The Louisiana State Plumbing Board may refuse to accept any application for approval as a course provider that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

a. failure to comply with the provisions of this Section;

b. inadequate instruction of the materials required to be included in course materials; or

c. unsatisfactory evaluations of the course provider by licensees, Louisiana State Plumbing Board members or Louisiana State Plumbing Board staff.

6. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the date of the decision.

7. A course provider's authority to offer instruction in the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

8. The Louisiana State Plumbing Board shall review course providers for quality of instruction: The Louisiana State Plumbing Board shall also investigate and take appropriate action, consistent with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, regarding complaints involving approved course providers.

9. A provider's failure to comply with this Section constitutes grounds for disciplinary action in accord with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, against the provider or for denial of future applications for approval as a course provider.

E. Course Instructors

1. The Louisiana State Plumbing Board will annually approve course instructors to provide the classroom instruction in the course materials used for the CPE required for renewal of Journeyman Plumber and Master Plumber Licenses. Louisiana State Plumbing Board approval of course instructors will be subject to all of the terms and conditions of this Section. An individual who wishes to be approved by the Louisiana State Plumbing Board as a course instructor must apply to the Louisiana State Plumbing Board using an application form approved by the Louisiana State Plumbing Board. The following minimum criteria will be used by the Louisiana State Plumbing Board in considering approval of course instructors:

a. all course instructors for master plumbers must hold a Louisiana state master plumber's license, and those for journeymen must hold a master's or journeyman's license; and

b. demonstrate an ability to train others, including but not limited to providing a description of their previous training experience; and

c. must be employed by an approved course provider.

2. A course instructor may use, under their live supervision, a non-licensed, supplemental lecturer to present additional material as required. However, the minimum four hours required by this Section for journeymen and six hours for masters must be taught by an approved course instructor. A course instructor must identify in their application any supplemental lecturer they intend to use, and the subject matter the supplemental lecturer will discuss.

3. Course instructors and supplemental lecturers may not advertise or promote the sale of goods, products, or services between the opening and closing hours of any CPE class.

4. As a course instructor and licensee of the Louisiana State Plumbing Board, a course instructor must:

a. be well versed in and knowledgeable of the course materials;

b. maintain an orderly and professional classroom environment; and

c. coordinate with the course provider to develop an appropriate method for handling disorderly and disruptive students. A course instructor shall report to the course provider and the Louisiana State Plumbing Board any non-responsive or disruptive student who attends a CPE course. The Louisiana State Plumbing Board may deny CPE credit to any such student and require, at the student's expense, successful completion of an additional CPE course to receive credit.

5. The Louisiana State Plumbing Board shall review course instructors for quality of instruction. The Louisiana State Plumbing Board shall also respond to complaints regarding course instructors.

6. A course instructor's failure to comply with this Section constitutes grounds for disciplinary action against the Instructor or for disapproval of future applications for approval as a course instructor, in accord with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:2068 (September 2004).

§1003. Water Supply Protection Specialists

A. CPE Requirement

1. In addition to the yearly renewal of their endorsement, every three years all persons holding a water supply protection specialist endorsement issued by the Louisiana State Plumbing Board are required to show proof of attendance at no less than 6 hours of a Louisiana State Plumbing Board-approved CPE training class in the prior three calendar years, as set out in this Section.

B. Course Materials

1. The Louisiana State Plumbing Board will annually approve course materials to be used for the CPE required for renewal of water supply protection specialist endorsements. The course materials are the printed materials that are the basis for a substantial portion of a CPE course and which are provided to the licensees. Louisiana State Plumbing Board approval of course materials will be subject to all of the terms and conditions of this Section. The following minimum criteria will be used by the Louisiana State Plumbing Board in considering approval of course materials.

2. The course materials will provide the basis for a minimum of six classroom hours of study related to water supply protection and back flow prevention.

3. The Louisiana State Plumbing Board will periodically publish lists of approved and required subjects.

4. The course materials must be presentations of relevant issues and changes within the subject areas as they apply to the practice of water supply protection and back flow protection in the current market, public health or topics which increase or support the licensee's development of skill and competence, including but not limited to the current plumbing and sanitary codes.

5. The course materials may not advertise or promote the sale of goods, products or services.

6. The course materials must be printed and bound in perfect/standard, metal coil or ring binder form.

7. The course materials will include perforated Louisiana State Plumbing Board forms within the binding of

the course materials that may be removed for use by the licensees. The forms will include CPE evaluation forms, license and endorsement examination forms and general complaint forms.

8. All course materials must have the following characteristics:

a. high quality, readable and carefully prepared written materials with correct grammar, spelling and punctuation;

b. appropriate illustrations and graphics to show concepts not easily explained in words; and

c. in depth and comprehensive presentation of subject matter which increases or supports the skills or competence of the licensees.

9. The provider of course materials must have legal ownership of or an appropriate license for the use of all copyrighted material included within the course materials. Louisiana State Plumbing Board approved course materials will contain a prominently displayed approval statement in 10 point bold type or larger containing the following language:

"THIS CONTINUING PROFESSIONAL EDUCATION COURSE MATERIAL HAS BEEN APPROVED BY THE LOUISIANA STATE PLUMBING BOARD FOR USE IN THE (state year) CPE YEAR. BY ITS APPROVAL OF THIS COURSE MATERIAL, THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY RESPONSIBILITY FOR THE ACCURACY OF THE CONTENTS. FURTHER, THE LOUISIANA STATE PLUMBING BOARD HAS NOT MADE ANY DETERMINATION THAT THE PARTY PUBLISHING THE COURSE MATERIALS HAS COMPLIED WITH ANY APPLICABLE COPYRIGHT AND OTHER LAWS IN PUBLISHING THE COURSE MATERIAL AND THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY LIABILITY OR RESPONSIBILITY THEREFOR. THE COURSE MATERIAL IS NOT BEING PUBLISHED BY NOR IS IT A PUBLICATION OF THE LOUISIANA STATE PLUMBING BOARD."

10. The provider of course materials will conduct instructor training in the use of course materials.

11. The provider of course materials will be required to have distribution facilities that will ensure prompt distribution of course materials, facsimile ordering and a statewide toll free telephone number for placing orders. The provider of course materials must ship any ordered material within ten business days after the receipt of the order and payment for the course materials.

12. Any individual, business or association who wishes to offer to provide course materials shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board. In order to be approved, the application must satisfy the Louisiana State Plumbing Board as to the ability of the individual, business or association to provide quality course materials as required in this Section and must include:

a. name and address of individual applicant;

b. names and addresses of all officers, directors, trustees or members of the governing board of any business or association applicant;

c. statement by individual applicant, and each officer, director, trustee or member of governing board as to whether he or she has ever been convicted of a felony or misdemeanor other than a minor traffic violation;

d. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;

e. maximum fees to be charged for course materials;

f. taxpayer identification number;

g. method for quarterly reporting of course provider, Instructors, and licensee evaluations of course materials to the Louisiana State Plumbing Board; and

h. an application fee to be set as provided by law.

13. The provider of course materials must sell course materials to all course providers on request, at a price not to exceed the maximum fee to be charged as stated on the provider's application.

14. The Louisiana State Plumbing Board may refuse to accept any application for approval as a provider of course materials that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

a. failure to comply with the provisions of this Section;

b. inadequate coverage of the materials required to be included in course materials; or

c. unsatisfactory evaluations of the course materials by licensees or Louisiana State Plumbing Board members or staff.

15. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the refusal or disapproval.

16. A provider's authority to offer the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

17. To be approved 20 copies of course materials, including any hand outs and audio visual aids to be used, must be submitted in complete draft form to the Louisiana State Plumbing Board's office no later than October 15 (or at least 30 days prior to the Louisiana State Plumbing Board's November meeting, whichever is earlier), for Louisiana State Plumbing Board approval at its November Louisiana State Plumbing Board meeting. At least 20 copies each of all course materials that are approved at the Louisiana State Plumbing Board's November meeting shall be provided to the Louisiana State Plumbing Board's office no later than February of the following year, at no cost to the Louisiana State Plumbing Board.

18. Upon a showing of compelling necessity, the Plumbing Board, in its discretion, may grant an exception to the requirement that material be submitted prior to the Plumbing Board's November meeting, and pursuant to this exception, may approve material submitted at least 30 days prior to any quarterly meeting of the Plumbing Board, which otherwise meets the requirements of this Section.

19. A provider's failure to comply with this Section constitutes grounds for disciplinary action, consistent with the Louisiana Administrative Procedure Act, against the provider or for disapproval of future applications for approval as a provider of course materials.

C. Course Form and Content

1. Course providers will offer classroom instruction in the course materials used for the CPE required for renewal of water supply protection specialist endorsements issued under the Act. Louisiana State Plumbing Board approval of

course providers will be subject to all of the terms and conditions of this Section.

2. CPE courses shall be presented in one of the following formats:

a. a minimum of six classroom hours presented on one day; or

b. not less than two sessions of three classroom hours each presented within a 30-day period.

3. Not less than two hours of the classroom course will be in the subjects of health protection, environmental protection or consumer protection.

4. Presentations must be based primarily on the course materials and any other materials approved by the Louisiana State Plumbing Board.

5. In addition to course materials, presentations may include videos, films, slides or other appropriate types of illustrations and graphic materials related to the course materials, as approved by the Louisiana State Plumbing Board.

6. A course provider may not advertise or promote the sale of any goods, products or services between the opening and closing hours of any CPE class.

7. Each course provider shall furnish a uniquely numbered certificate of completion of CPE to each licensee, but only after the licensee has completed the CPE course. The Louisiana State Plumbing Board will assign the unique numbers to be used on each certificate to each course provider.

8. Each course provider shall, at its own expense and in a format approved by the Louisiana State Plumbing Board, mail, fax or electronically transmit to the Louisiana State Plumbing Board certification of each licensee's completion of CPE requirements within 30 days of completion.

9. Each course provider shall be reviewed annually by the Louisiana State Plumbing Board to ensure that classes have been provided equally across the state of Louisiana.

10. Each course provider must notify the Louisiana State Plumbing Board at least seven working days before conducting classes; the notice shall contain the time(s) and place(s) where the classes will occur.

11. Each course provider will perform self-monitoring and reporting as required by the Louisiana State Plumbing Board, including a certified roster of all persons attending the course, with the license number of each attendee included.

12. Each course provider shall permit any Louisiana State Plumbing Board member or a duly designated representative of the Louisiana State Plumbing Board to monitor any CPE class for compliance purposes.

D. Course Providers

1. Each course provider shall use only course instructors that have been approved by the Louisiana State Plumbing Board. Each course provider shall annually submit to the Louisiana State Plumbing Board's office a list of course instructors it employs and the instructors' credentials for approval.

a. Lists of course instructors to be approved for the following year must be submitted no later than October 15 or 30 days prior to the date of the Louisiana State Plumbing Board's November meeting, (whichever is earlier), for approval by the Louisiana State Plumbing Board at its

November meeting, unless an extension is requested at or before the August Louisiana State Plumbing Board meeting and granted by the Louisiana State Plumbing Board.

b. Prior to allowing course instructors to teach CPE, course providers must provide documentation to the Louisiana State Plumbing Board showing the instructor's qualifications to teach CPE, including but not limited to detailed information on any experience in providing instruction, assistance in providing instruction or successful completion of training for providing instruction.

c. Course instructors must comply with Subsection E of this Section. Course providers shall notify the Louisiana State Plumbing Board within 10 working days of any change of an instructor's employment status with the course provider.

2. Any individual, business or association who wishes to be a course provider shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board. In order to be approved, the application must satisfy the Louisiana State Plumbing Board as to the ability of the individual, business or association to provide quality instruction in the course materials as required in this Section and must include:

a. name and address of the applicant;

b. names and addresses of all officers, directors, trustees or members of the governing board of any business or association applying;

c. statement by applicant, and each officer, director, trustee or member of governing board (if applicable) as to whether he or she has ever been convicted of a felony or misdemeanor other than a minor traffic violation;

d. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;

e. taxpayer identification number;

f. facsimile number, statewide toll free telephone number, Internet web site or electronic mail address;

g. fees to be charged to licensees for attending the course;

h. an example of a licensee's certificate of completion of CPE;

i. a CPE class scheduling plan for providing courses equally across the state. course providers must, at a minimum offer the CPE class in each of the following cities: Lafayette, New Orleans, Baton Rouge, Alexandria, Shreveport, Lake Charles and Monroe; however, the Louisiana State Plumbing Board or its director may, solely at their discretion grant a request that the course not be offered in one or more of these locations, upon a demonstration of economic infeasibility by the course provider;

j. a method for quarterly reporting compilations of licensee evaluations of course provider and course instructors to the Louisiana State Plumbing Board;

k. identification of the course materials which will be used by the course provider; and an application fee to be set as provided by law.

3. If the course provider is not the creator of the course materials and will purchase the course materials, the course provider may not charge the licensees more than the maximum cost set out by the course material provider in its application.

4. The fees charged to the licensees for attending the course will be determined by the course provider.

5. The Louisiana State Plumbing Board may refuse to accept any application for approval as a course provider that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

- a. failure to comply with the provisions of this Section;
- b. inadequate instruction of the materials required to be included in course materials; or
- c. unsatisfactory evaluations of the course provider by licensees, Louisiana State Plumbing Board members or Louisiana State Plumbing Board staff.

6. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the date of the decision.

7. A course provider's authority to offer instruction in the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

8. The Louisiana State Plumbing Board shall review course providers for quality of instruction: The Louisiana State Plumbing Board shall also investigate and take appropriate action, consistent with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, regarding complaints involving approved course providers.

9. A provider's failure to comply with this Section constitutes grounds for disciplinary action in accord with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, against the provider or for denial of future applications for approval as a course provider.

E. Course Instructors

1. The Louisiana State Plumbing Board will annually approve course instructors to provide the classroom instruction in the course materials used for the CPE required for renewal of water supply protection specialist endorsements. Louisiana State Plumbing Board approval of course instructors will be subject to all of the terms and conditions of this Section. An individual who wishes to be approved by the Louisiana State Plumbing Board as a course instructor must apply to the Louisiana State Plumbing Board using an application form approved by the Louisiana State Plumbing Board. The following minimum criteria will be used by the Louisiana State Plumbing Board in considering approval of course instructors:

- a. all course instructors must hold a Louisiana State water supply protection specialist endorsement;
- b. demonstrate an ability to train others, including but not limited to providing a description of their previous training experience; and
- c. must be employed by an approved course provider.

2. A course instructor may use, under their live supervision, a non-licensed, supplemental lecturer to present additional material as required. However, the minimum six hours required by this Section must be taught by an approved course instructor. A course instructor must identify in their application any supplemental lecturer they intend to use, and the subject matter the supplemental lecturer will discuss.

3. A course instructors and supplemental lecturers may not advertise or promote the sale of goods, products, or

services between the opening and closing hours of any CPE class.

4. As a course instructor and licensee of the Louisiana State Plumbing Board, a course instructor must:

- a. be well versed in and knowledgeable of the course materials;
- b. maintain an orderly and professional classroom environment; and
- c. coordinate with the course provider to develop an appropriate method for handling disorderly and disruptive students. A course instructor shall report to the course provider and the Louisiana State Plumbing Board, any non-responsive or disruptive student who attends a CPE course. The Louisiana State Plumbing Board may deny CPE credit to any such student and require, at the student's expense, successful completion of an additional CPE course to receive credit.

5. The Louisiana State Plumbing Board shall review course instructors for quality of instruction. The Louisiana State Plumbing Board shall also respond to complaints regarding course instructors.

6. A course instructor's failure to comply with this Section constitutes grounds for disciplinary action against the Instructor or for disapproval of future applications for approval as a course instructor, in accord with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:2071 (September 2004).

§1005. Medical Gas Piping Installers and Medical Gas Verifiers

A. CPE Requirement

1. In addition to the yearly renewal of their endorsement, every three years all persons seeking to renew a medical gas piping installer or medical gas verifier license issued by the Louisiana State Plumbing Board are required to show proof of attendance at no less than four hours of a Louisiana State Plumbing Board-approved CPE class in the prior three calendar years, as set out in this Section.

B. Course Materials

1. The Louisiana State Plumbing Board will annually approve course materials to be used for the CPE required for renewal of a medical gas piping installer license. The course materials are the printed materials that are the basis for a substantial portion of a CPE course and which are provided to the licensees. Louisiana State Plumbing Board approval of course materials will be subject to all of the terms and conditions of this Section. The following minimum criteria will be used by the Louisiana State Plumbing Board in considering approval of course materials.

2. The course materials will provide the basis for a minimum of four classroom hours of study related to medical gas piping installation, including but not limited to the application of NFPA 99C to medical gas piping; industry terminology, definitions and standards; performance criteria and objectives; medical gas hazards; basic medical gas system components; storage and manifold requirements; requirements for gas supply systems; bulk systems; medical air compressors; color coding and labeling requirements; scope of piping; valves, medical gas rails; gas piping; brazing procedures and installation requirements; and alarm requirements.

3. The Louisiana State Plumbing Board will periodically publish lists of approved and required subjects.

4. The course materials must be presentations of relevant issues and changes within the subject areas as they apply to the practice of medical gas piping installation in the current market, public health or topics which increase or support the licensee's development of skill and competence

5. The course materials may not advertise or promote the sale of goods, products or services.

6. The course materials must be printed and bound in perfect/standard, metal coil or ring binder form.

7. The course materials will include perforated Louisiana State Plumbing Board forms within the binding of the course materials that may be removed for use by the licensees. The forms will include CPE evaluation forms, license and endorsement examination forms and general complaint forms.

8. All course materials must have the following characteristics:

a. high quality, readable and carefully prepared written materials with correct grammar, spelling and punctuation;

b. appropriate illustrations and graphics to show concepts not easily explained in words; and

c. in depth and comprehensive presentation of subject matter which increases or supports the skills or competence of the licensees.

9. The provider of course materials must have legal ownership of or an appropriate license for the use of all copyrighted material included within the course materials. Louisiana State Plumbing Board approved course materials will contain a prominently displayed approval statement in 10 point bold type or larger containing the following language:

"THIS CONTINUING PROFESSIONAL EDUCATION COURSE MATERIAL HAS BEEN APPROVED BY THE LOUISIANA STATE PLUMBING BOARD FOR USE IN THE (state year) CPE YEAR. BY ITS APPROVAL OF THIS COURSE MATERIAL, THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY RESPONSIBILITY FOR THE ACCURACY OF THE CONTENTS. FURTHER, THE LOUISIANA STATE PLUMBING BOARD HAS NOT MADE ANY DETERMINATION THAT THE PARTY PUBLISHING THE COURSE MATERIALS HAS COMPLIED WITH ANY APPLICABLE COPYRIGHT AND OTHER LAWS IN PUBLISHING THE COURSE MATERIAL AND THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY LIABILITY OR RESPONSIBILITY THEREFOR. THE COURSE MATERIAL IS NOT BEING PUBLISHED BY NOR IS IT A PUBLICATION OF THE LOUISIANA STATE PLUMBING BOARD."

10. The provider of course materials will conduct instructor training in the use of course materials.

11. The provider of course materials will be required to have distribution facilities that will ensure prompt distribution of course materials, facsimile ordering and a statewide toll free telephone number for placing orders. The provider of course materials must ship any ordered material within ten business days after the receipt of the order and payment for the course materials.

12. Any individual, business or association who wishes to offer to provide course materials shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board. In order to be approved, the application must satisfy

the Louisiana State Plumbing Board as to the ability of the individual, business or association to provide quality course materials as required in this Section and must include:

a. name and address of individual applicant;

b. names and addresses of all officers, directors, trustees or members of the governing board of any business or association applicant;

c. statement by individual applicant, and each officer, director, trustee or member of governing board as to whether he or she has ever been convicted of a felony or misdemeanor other than a minor traffic violation;

d. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;

e. maximum fees to be charged for course materials;

f. taxpayer identification number;

g. method for quarterly reporting of course provider, instructors, and licensee evaluations of course materials to the Louisiana State Plumbing Board; and

h. an application fee to be set as provided by law.

13. The provider of course materials must sell course materials to all course providers on request, at a price not to exceed the maximum fee to be charged as stated on the provider's application.

14. The Louisiana State Plumbing Board may refuse to accept any application for approval as a provider of course materials that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

a. failure to comply with the provisions of this Section;

b. inadequate coverage of the materials required to be included in course materials; or

c. unsatisfactory evaluations of the course materials by licensees or Louisiana State Plumbing Board members or staff.

15. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the refusal or disapproval.

16. A provider's authority to offer the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

17. To be approved 20 copies of course materials, including any hand outs and audio visual aids to be used, must be submitted in complete draft form to the Louisiana State Plumbing Board's office no later than October 15 (or at least 30 days prior to the Louisiana State Plumbing Board's November meeting, whichever is earlier), for Louisiana State Plumbing Board approval at its November Louisiana State Plumbing Board meeting. At least 20 copies each of all course materials that are approved at the Louisiana State Plumbing Board's November meeting shall be provided to the Louisiana State Plumbing Board's office no later than February of the following year, at no cost to the Louisiana State Plumbing Board.

18. Upon a showing of compelling necessity, the Plumbing Board, in its discretion, may grant an exception to the requirement that material be submitted prior to the Plumbing Board's November meeting, and pursuant to this exception, may approve material submitted at least 30 days prior to any quarterly meeting of the Plumbing Board, which otherwise meets the requirements of this Section.

19. A provider's failure to comply with this Section constitutes grounds for disciplinary action, consistent with the Louisiana Administrative Procedure Act, against the provider or for disapproval of future applications for approval as a provider of course materials.

C. Course Form and Content

1. Course providers will offer classroom instruction in the course materials used for the CPE required for renewal of a medical gas piping installer or medical gas verifier license issued under the Act. Louisiana State Plumbing Board approval of course providers will be subject to all of the terms and conditions of this Section.

2. CPE courses shall be presented in one of the following formats:

a. a minimum of two classroom hours presented on one day; or

b. not less than two sessions of two classroom hours each presented within a 30-day period.

3. Not less than two hours of the classroom course will be in the subjects of health protection, environmental protection or consumer protection.

4. Presentations must be based primarily on the course materials and any other materials approved by the Louisiana State Plumbing Board.

5. In addition to course materials, presentations may include videos, films, slides or other appropriate types of illustrations and graphic materials related to the course materials, as approved by the Louisiana State Plumbing Board.

6. A course provider may not advertise or promote the sale of any goods, products or services between the opening and closing hours of any CPE class.

7. Each course provider shall furnish a uniquely numbered Certificate of Completion of CPE to each licensee, but only after the licensee has completed the CPE course. The Louisiana State Plumbing Board will assign the unique numbers to be used on each certificate to each course provider.

8. Each course provider shall, at its own expense and in a format approved by the Louisiana State Plumbing Board, mail, fax or electronically transmit to the Louisiana State Plumbing Board certification of each licensee's completion of CPE requirements within 30 days of completion.

9. Each course provider shall be reviewed annually by the Louisiana State Plumbing Board to ensure that classes have been provided equally across the state of Louisiana.

10. Each course provider must notify the Louisiana State Plumbing Board at least seven working days before conducting classes; the notice shall contain the time(s) and place(s) where the classes will occur.

11. Each course provider will perform self-monitoring and reporting as required by the Louisiana State Plumbing Board, including a certified roster of all persons attending the course, with the license number of each attendee included.

12. Each course provider shall permit any Louisiana State Plumbing Board member or a duly designated representative of the Louisiana State Plumbing Board to monitor any CPE class for compliance purposes.

D. Course Providers

1. Each course provider shall use only course instructors that have been approved by the Louisiana State Plumbing Board. Each course provider shall annually submit to the Louisiana State Plumbing Board's office a list of course instructors it employs and the instructors' credentials for approval.

a. Lists of course instructors to be approved for the following year must be submitted no later than October 15 or 30 days prior to the date of the Louisiana State Plumbing Board's November meeting, (whichever is earlier), for approval by the Louisiana State Plumbing Board at its November meeting, unless an extension is requested at or before the August Louisiana State Plumbing Board meeting and granted by the Louisiana State Plumbing Board.

b. Prior to allowing course instructors to teach CPE, course providers must provide documentation to the Louisiana State Plumbing Board showing the instructor's qualifications to teach CPE, including but not limited to detailed information on any experience in providing instruction, assistance in providing instruction or successful completion of training for providing instruction.

c. Course instructors must comply with Subsection E of this Section. course providers shall notify the Louisiana State Plumbing Board within 10 working days of any change of an instructor's employment status with the course provider.

2. Any individual, business or association who wishes to be a course provider shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board. In order to be approved, the application must satisfy the Louisiana State Plumbing Board as to the ability of the individual, business or association to provide quality instruction in the course materials as required in this Section and must include:

a. name and address of the applicant;

b. names and addresses of all officers, directors, trustees or members of the governing board of any business or association applying;

c. statement by applicant, and each officer, director, trustee or member of governing board (if applicable) as to whether he or she has ever been convicted of a felony or misdemeanor other than a minor traffic violation;

d. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;

e. taxpayer identification number;

f. facsimile number, statewide toll free telephone number, Internet web site or electronic mail address;

g. fees to be charged to licensees for attending the course;

h. an example of a licensee's Certificate of Completion of CPE;

i. a CPE class scheduling plan for providing courses equally across the state. course providers must, at a minimum, offer the CPE class in each of the following cities: Lafayette, New Orleans, Baton Rouge, Alexandria, Shreveport, Lake Charles and Monroe; however, the Louisiana State Plumbing Board or its director may, solely at their discretion grant a request that the course not be offered in one or more of these locations, upon a demonstration of economic infeasibility by the course provider;

j. a method for quarterly reporting compilations of licensee evaluations of course provider and course instructors to the Louisiana State Plumbing Board;

k. identification of the course materials which will be used by the course provider; and

l. an application fee to be set as provided by law.

3. If the course provider is not the creator of the course materials and will purchase the course materials, the course provider may not charge the licensees more than the maximum cost set out by the course material provider in its application.

4. The fees charged to the licensees for attending the course will be determined by the course provider.

5. The Louisiana State Plumbing Board may refuse to accept any application for approval as a course provider that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

a. failure to comply with the provisions of this Section;

b. inadequate instruction of the materials required to be included in course materials; or

c. unsatisfactory evaluations of the course provider by licensees, Louisiana State Plumbing Board members or Louisiana State Plumbing Board staff.

6. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the date of the decision.

7. A course provider's authority to offer instruction in the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

8. The Louisiana State Plumbing Board shall review course providers for quality of instruction: The Louisiana State Plumbing Board shall also investigate and take appropriate action, consistent with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, regarding complaints involving approved course providers.

9. A provider's failure to comply with this Section constitutes grounds for disciplinary action in accord with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, against the provider or for denial of future applications for approval as a course provider.

E. Course Instructors

1. The Louisiana State Plumbing Board will annually approve course instructors to provide the classroom instruction in the course materials used for the CPE required for renewal of a medical gas piping installer license. Louisiana State Plumbing Board approval of course instructors will be subject to all of the terms and conditions of this Section. An individual who wishes to be approved by the Louisiana State Plumbing Board as a course instructor must apply to the Louisiana State Plumbing Board using an application form approved by the Louisiana State Plumbing Board. The following minimum criteria will be used by the Louisiana State Plumbing Board in considering approval of course instructors:

a. all course instructors must hold a Louisiana state medical gas piping installer's license;

b. demonstrate an ability to train others, including but not limited to providing a description of their previous training experience; and

c. must be employed by an approved course provider.

2. A course instructor may use, under their live supervision, a non-licensed, supplemental lecturer to present additional material as required. However, the minimum two hours required by this Section must be taught by an approved course instructor. A course instructor must identify in their application any supplemental lecturer they intend to use, and the subject matter the supplemental lecturer will discuss.

3. A course instructors and supplemental lecturers may not advertise or promote the sale of goods, products, or services between the opening and closing hours of any CPE class.

4. As a course instructor and licensee of the Louisiana State Plumbing Board, a course instructor must:

a. be well versed in and knowledgeable of the course materials;

b. maintain an orderly and professional classroom environment; and

c. coordinate with the course provider to develop an appropriate method for handling disorderly and disruptive students. A course instructor shall report to the course provider and the Louisiana State Plumbing Board, any non-responsive or disruptive student who attends a CPE course. The Louisiana State Plumbing Board may deny CPE credit to any such student and require, at the student's expense, successful completion of an additional CPE course to receive credit.

5. The Louisiana State Plumbing Board shall review course instructors for quality of instruction. The Louisiana State Plumbing Board shall also respond to complaints regarding course instructors.

6. A course instructor's failure to comply with this Section constitutes grounds for disciplinary action against the instructor or for disapproval of future applications for approval as a course instructor, in accord with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:2074 (September 2004).

§1007. Effective Date

A. The provisions of this Section shall become effective on January 1, 2006, subject to continuance of this date by the Louisiana State Plumbing Board, as noticed in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:2077 (September 2004).

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Don Traylor
Executive Director

0409#022

RULE
Department of Social Services
Office of Family Support

Child Care Assistance Program (CCAP)
 Conditions of Eligibility; Activity Hours; Payment
 (LAC 67:III.5109)

Editor's Note: This Section is being repromulgated to correct typographical errors. This Rule may be viewed in its entirety on pages 1833-1835 of the September 2003 edition of the *Louisiana Register*.

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 12, Child Care Assistance Program.

To ensure that funding is available to as many low-income families as possible, the agency has decreased the percentage of child care costs paid for by the agency and increased the

number of required activity hours for parents receiving low-income child care. The agency has also amended §5109.B.1.c.ii to change "casehead" to "head of household" and §5109.D for technical reasons only.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 12. Child Care Assistance
Chapter 51. Child Care Assistance
Subchapter B. Child Care Assistance Program
§5109. Payment

A. The sliding fee scale used for non-FITAP recipients is subject to adjustment based on the state median income and poverty levels which are published annually. A non-FITAP household may pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "copayment." The sliding fee scale is based on a percentage of the state median income.

Sliding Fee Scale for Child Care Assistance Recipients 75 Percent of Projected Median Income

Number in Household	2	3	4	5	6	DSS %
Monthly Household Income	0-968	0-1219	0-1471	0-1723	0-1974	70%
	969-1535	1220-1908	1472-2281	1724-2654	1975-3027	50%
	1536-2101	1909-2596	2282-3090	2655-3585	3028-4079	30%
	above 2101	above 2596	above 3090	above 3585	above 4079	0%

Number in Household	7	8	9	10	11	DSS %
Monthly Household Income	0-2226	0-2478	0-2729	0-2981	0-3233	70%
	2227-3199	2479-3372	2730-3543	2982-3716	3234-3888	50%
	3200-4172	3373-4265	3544-4357	3717-4450	3889-4543	30%
	above 4172	above 4265	above 4357	above 4450	above 4543	0%

Number in Household	12	13	14	15	16	DSS %
Monthly Household Income	0-3484	0-3736	0-3988	0-4239	0-4491	70%
	3485-4060	3737-4232	3989-4405	4240-4577	4492-4749	50%
	4061-4636	4233-4728	4406-4821	4578-4914	4750-5006	30%
	above 4636	above 4728	above 4821	above 4914	above 5006	0%

Number in Household	17	18	19	20		DSS %
Monthly Household Income	0-4743	0-4994	0-5246	0-5498		70%
	4744-4921	4995-5093	5247-5266			50%
	4922-5099	5094-5192	5267-5285			30%
	above 5099	above 5192	above 5285			0%

NOTE: Effective April 1, 2003, the department's percentage of payments for low-income child care cases has been adjusted as reflected in the above tables.

B. - 1.c.i. ...

ii. the number of hours the head of household, the head of household's spouse, or the minor unmarried parent is working and/or attending a job training or educational program each week, plus on hour per day for travel to and from such activity. For households with more than one TEMP, the hours of the TEMP with the smallest number of activity hours are used.

B.2. - C. ...

D. Payment may be made to more than one provider for the same child if the combined payment does not exceed the maximum allowable per child.

E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), repromulgated LR 30:2078 (September 2004).

Gwendolyn P. Hamilton
 Secretary

0409#014

RULE

**Department of Transportation and Development
Office of Weights and Standards**

**Critical Off-Road Equipment Permit Requirements
(LAC 73:I.1709)**

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 hereby amends a Rule entitled "Critical Off-Road Equipment Permit Requirements," in accordance with R.S. 32:386-389.

Title 73

WEIGHTS, MEASURES AND STANDARDS

Part I. Weights and Standards

**Chapter 17. Requirements for Permitting Off-Road
Equipment**

**§1709. Critical Off-Road Equipment Permit
Requirements**

A. ...

B. The owner shall provide escort service during the move in accordance with the department's escort procedures and regulations to control traffic with the following exception.

1. Equipment classified as critical off-road equipment in which no single axle is in excess of 30,000 pounds, no tandem axles are in excess of 60,000 pounds and no tridum axles are in excess of 66,000 pounds shall be exempt from the escort requirement.

C. Warning Lights

1. Vehicles which exceed 54,000 pounds on a tandem axle and 60,000 pounds on a tridum axle will be required to have warning lights on the off-road equipment.

2. The vehicle shall display an approved 360 degree emergency warning lamp. The lamp is approved if it appears on a list of certified safety devices furnished to the Department of Transportation and Development by the Department of Public Safety and Corrections. This list includes bar, strobe, revolving and stationary lamps.

D. Bridge Crossing Requirements on Highways Other than Interstate

1. Bridge roadway shall be cleared of traffic on two-lane two-way traffic bridges. The vehicle shall straddle the centerline of the cleared bridge roadway. This requirement is waived for bridges of this type over 300 feet in length.

2. The vehicle shall straddle the outside and adjacent lane of a roadway with two or more traffic lanes in the same direction. Traffic shall be kept out of the adjacent lane within 100 feet of the equipment. This requirement is waived for bridges of this type over 1,000 feet in length.

3. A speed of 5 mph shall be maintained without braking, accelerating, or changing gears with no exceptions.

E. Bridge Crossing Requirements on Interstate Highways

1. Commercial vehicles shall be prevented from traveling adjacent to and within 100 feet of the equipment. This requirement is waived for bridges over 1,000 feet in length.

2. The vehicle shall occupy the outside traffic lane.

3. A speed not in excess of 45 mph shall be maintained on bridge structures.

F. Booster axles, when permitted, shall be activated during the entire move on the state-maintained highway system.

G. A letter of approval must be issued by the DOTD permits administrator.

H. A copy of this letter is to be placed in this equipment to insure that the above conditions are adhered to on each move.

I. This letter of approval does not grant any authority for this equipment to cross any posted bridge(s) or for the use of any highway or road not on the state maintained highway system.

J. Counterweights are to be removed for cranes with tandem axles exceeding 48,000 pounds, or for these with tridum axles exceeding 60,000 pounds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32.2, et seq. and R. S. 32:386-389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by Office of Weights and Standards, LR 22:120 (February 1996), LR 28:1601 (July, 2002), LR 30:2079 (September 2004).

Johnny B. Bradberry
Secretary

0409#074

RULE

**Department of Treasury
State Employees' Retirement System**

DROP Disbursements (LAC 58:I.2713)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS"), pursuant to its authority under R.S. 11:515 and in accordance with the Administrative Procedures Act, R.S. 49:950 et seq., has amended its rules governing disbursements from DROP accounts. The Rule amendment is set forth below.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System

Chapter 27. DROP Program

Subchapter C. Withdrawal

§2713. Time for Disbursement

A. - C. ...

D. Requested withdrawals from DROP accounts which would leave a balance in that account of \$500 or less shall be processed as a request for disbursement of the entire balance. All such withdrawal requests shall result in the closing of the account. LASERS may, at its option, conduct audits to identify DROP accounts with a balance of \$500 or less and may disburse the entire amount to the person in whose name the account exists or to their beneficiary after giving notice of at least 30 days prior to disbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement

Robert L. Borden
Executive Director

0409#069

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Nuisance Wildlife Control (LAC 76:V.127)

The Wildlife and Fisheries Commission does hereby promulgate a Rule (LAC 76:V.127) to regulate the conduct of persons issued a Nuisance Wildlife Control Operator's Permit. Authority for adoption of this Rule is included in the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6 (10), and (15), and R.S. 56:112, et seq.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§127. Nuisance Wildlife Control Operator Program

A. Purpose

1. The purpose of this Section is to establish guidelines for the permitting of Nuisance Wildlife Control Operators (NWCO's) and the procedures to be used by the NWCO's in controlling nuisance wildlife.

2. NWCO's are defined as individuals who offer their services for commercial control of nuisance wild mammals.

B. Permit Requirements

1. The applicant must achieve a minimum score of 70 percent on the NWCO examination. The examination shall consist of 75 questions relating to wildlife biology and behavior, nuisance animal control methods and procedures and nuisance wildlife control laws, rules and regulations.

2. Anyone who has been convicted of a Class II or greater wildlife violation in Louisiana, or the equivalent in another state within the past three years, or has been convicted of a felony in Louisiana or another state, shall not be eligible for a NWCO permit. Also, any person whose hunting or trapping license privileges are revoked and is not legally able to purchase a trapping or hunting license shall not be allowed to possess or operate under the authority of a NWCO permit.

3. The NWCO permit is not valid unless it is accompanied by a valid Louisiana trapping license and a valid Louisiana basic hunting license, all three of which must be carried at all times while conducting NWCO activities.

C. Exemptions

1. Employees of the Louisiana Department of Wildlife and Fisheries ("the department"), the Louisiana Department of Agriculture and Forestry, the Louisiana Department of Transportation and Development, and the USDA/APHIS/Wildlife Services are exempt from all NWCO permit requirements while they are on duty. Also, city, parish or local municipal government employees

assigned to animal control duties are exempt from permit requirements while on duty.

D. Reporting Requirements

1. Nuisance Wildlife Complaint Forms must be kept by NWCO's for a period of three years. Report forms shall detail:

- a. date the nuisance wildlife complaint was received;
- b. parish in which complaint originated;
- c. species of offending wildlife;
- d. action taken and disposition of offending wildlife.

2. Report forms shall be available for inspection at all times by wildlife enforcement agents or any other authorized representatives of the department.

3. A summary of all nuisance wildlife control activity is to be submitted annually. The report shall include all control activity carried out during the effective dates of the permit and must include the following information:

- a. NWCO name, permit number, address and telephone number;
- b. the parish of activity and species of offending animal;
- c. total number of animals taken, listed by species.

Reports may be submitted as much as one month prior to the expiration date of the permit but no later than 10 days after the expiration date of the permit.

4. Any NWCO who does not submit his/her report by the tenth day after the expiration date of the permit, or who submits a false report shall be issued a citation for violation of Louisiana Wildlife and Fisheries Commission rules and regulations and, if convicted, will be considered to have forfeited said permit.

E. Procedures and Guidelines

1. The NWCO permit authorizes the holder to capture, euthanize or relocate designated species of wildlife by safe and effective means at any time of the year and without limits provided the operator is acting on a valid, documented wildlife complaint.

2. The following procedures and guidelines for NWCO permittees shall be in effect to establish what species of wildlife may be taken under the authority of this permit, the legal methods that may be used to control nuisance wildlife under the authority of this permit, and the legal methods of disposing of nuisance wildlife.

a. Only wildlife damage or nuisance complaints affecting humans and/or their property are considered valid complaints. Complaints involving conflicts between two or more species of wildlife are not valid nuisance wildlife complaints.

b. NWCO permittees are only authorized to live trap and relocate, live trap and euthanize or lethally trap the following species when such action is warranted by a valid nuisance wildlife complaint: armadillo, beaver, bobcat, coyote, feral hogs, fox, mink, mole, muskrat, nutria, opossum, otter, rabbit, raccoon, squirrel (including flying squirrel) and skunk. Nuisance birds, reptiles and amphibians may be controlled as provided by existing law. Bats may be controlled by exclusion or by capture and relocation only. Bats shall not be controlled by any lethal methods.

c. The NWCO permit does not authorize the capture and/or handling of white-tailed deer, bears, turkeys or alligators.

d. The sale, trade, barter, gifting or retention of any wildlife or part thereof taken under the authority of a NWCO permit is prohibited except that furbearers taken during the open trapping season may be sold as provided by law. Sick or injured wildlife may be delivered to a licensed wildlife rehabilitator for rehabilitation purposes within 24 hours of capture.

e. NWCO permittees must follow all state and federal laws, rules and regulations that apply to the taking of wildlife, with the exception of season dates and bag limits, except as otherwise provided in this Section.

f. All wildlife taken under a NWCO permit shall be taken and disposed of in a manner to ensure safe and effective handling and/or euthanasia. Euthanasia of a captured animal is to be performed under the guidelines adopted by the American Veterinary Medical Association.

g. Traps or other capture devices set for live capture shall be checked a minimum of once every 24 hours and all animals removed. All traps and other capture devices shall be marked with permanent tags bearing the name, address and telephone number of the NWCO.

h. Only legal methods of take, as provided by existing law, shall be authorized under the NWCO permit. In addition to legal traps and snares, nets and capture by hand are authorized.

i. All traps and other capture devices shall be set in a manner that:

- i. will minimize the risk to non-target animals;
- ii. will minimize the risk to the public and to pets;

and

- iii. is out of the view of the general public.

j. The NWCO permit does not authorize the use of firearms, except that nutria, beaver, coyotes, armadillos and feral hogs where legal, may be taken as provided by existing

law. Firearms may also be used in accordance with the American Veterinary Medical Association (AVMA) guidelines on euthanasia. Discharge of any firearms shall be subject to all state, parish and municipal restrictions and ordinances.

k. When relocation is authorized, the NWCO may have the wildlife in possession for no more than 24 hours unless specifically authorized by the department.

l. Wildlife that is relocated shall be released at least five miles outside of any city limit and must be released within the state of Louisiana.

m. Wildlife shall not be released on private land without written permission of the landowner or landowner designee.

n. Wildlife shall not be released on public land without first obtaining written permission from the governmental entity owning or administering the release property.

o. Captured wildlife that appears to be sick or injured shall be turned over to a licensed rehabilitator or euthanized rather than be relocated. Burial or incineration of these carcasses is required.

p. Raccoons and skunks shall not be relocated and shall be euthanized, within 12 hours of capture, in accordance with the current American Veterinary Medical Association (AVMA) guidelines on euthanasia.

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), and (15), and R.S. 56:112, et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 30:2080 (September 2004).

Dwight Landreneau
Secretary

0409#030

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Structural Pest Control (LAC 7:XXV.101, 119 and 121)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, proposes to amend regulations regarding definitions and minimum specifications for the wood destroying insect report (WDIR). Affected persons are paying for these services now. These rules allow the Department to update the WDIR form rules for using the document and to insure that the state's citizens are getting the services for which they are paying.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to provide for uniform minimum specifications for inspections done using the WDIR documents. This rule better defines wood-destroying insects and the requirements for conducting the inspection. These rules insure that pest control operators conduct WDIR inspections by using, at the very least, a minimum set of requirements.

These rules comply with and are enabled by R.S. 3:3203.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§101. Definitions

* * *

Wood-Destroying Insects Subterranean termites, drywood termites, powder post beetles, old house borers, carpenter ants, and carpenter bees.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3362 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission LR 15:954 (November 1989), 17:251 (March 1991), LR 23:855 (July 1997), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 30:

§119. Contracts for Termite Control Work

A. - D. ...

E. The licensee must report to the commission, no later than the tenth day of each month, each contract for post construction and initial pre-treatment termite work which he has entered into, and performed or completed during the previous month. If no contracts were entered into or performed during the previous month, the licensee must report this fact to the commission no later than the tenth of each month.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3363 and R.S. 3:3370.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 26:2437 (November 2000), LR 27:1179 (August 2001), LR 27:2084 (December 2001), LR 28:1171 (June 2002), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 30:

§121. Wood Destroying Insect Report

A. A wood destroying insect report approved by the Structural Pest Control Commission shall be issued when any inspection is made to determine the presence of wood destroying insects, specifically for acts of sale of structures, but not limited for this purpose.

B. Any wood destroying insect report or written instrument issued for the transfer of real property, shall be issued by a person who is licensed by the Structural Pest Control Commission as a wood destroying insect report (WDIR) inspector or a registered wood destroying insect technician and is working under the supervision of a person who is licensed by the Structural Pest Control Commission as a WDIR inspector. This instrument shall carry a guarantee that the structure(s), listed in 5 C. of the WDIR, will be treated without charge should live wood destroying insects with the exception, the presence of frass will be acceptable as evidence of a live infestation of Power Post Beetles; however, frass must be exuding or streaming from the holes on the outside of the wood, covered by this report, and be found in or on the inspected structure(s) within 90 days from date of inspection.

1. A contract approved by the Structural Pest Control Commission shall be issued on date of treatment.

2. This contract shall be reported to the commission and a fee paid as required by the Structural Pest Control Commission Law.

C. Regulations for completing wood destroying insect reports LPCA-143 WDIR without the Arbitration clause and 143 A. with the Arbitration clause. The following numbered sections correspond to the numbered sections on WDIR Form LPCA 143 and 143 A. LPCA 143 and 143 A shall be completed as follows.

1. Enter HUD/FHA/VA Case number (if available).
2. Enter date of structure(s) inspection.
- 3.A. Enter name of inspection company.
- 3.B. Enter address (including street, city, state, and zip code) of inspection company.
- 3.C. Enter telephone number (include area code) of inspection company.
4. Enter pest control inspector license number.
- 5.A. Enter name and address of property owner/seller at the time of inspection.
- 5.B. Enter address of property inspected (including street, city, state, and zip code).
- 5.C. List only structures located at address in 5B that are part of this report.
- 5.D. Information only. This area shall not be checked, circled or marked in any way.
6. If any areas of the structure(s) were obstructed or inaccessible mark box YES. If no, mark box NO.
7. Check the appropriate block as to the construction of the structure(s) inspected. More than one block can be checked.

8.A. Check this block only when there is no visible evidence of wood destroying insects in accessible areas on the structure(s) inspected. Evidence includes but is not limited to: live or dead wood destroying insects, wood destroying insect parts, shelter tubes, shelter tube stains, frass, exit holes or damaged wood due to wood destroying insects. When this block is checked, no other block in Section 8 shall be checked.

8.B. Check this block if evidence of wood destroying insects is observed. Evidence includes but is not limited to: live or dead wood destroying insects, wood destroying insect parts, shelter tubes, shelter tube stains, frass, exit holes or evidence of damage due to wood destroying insects. If live wood destroying insects are observed, identify and list the insect(s) observed and the location(s) in this Section.

8.C. Check this box if visible evidence of damage due to wood destroying insects was observed. Evidence of damage is defined as obvious feeding or removal of wood by wood destroying insects including "etching" or "scabbing" marks on the wood surface(s). Identify the wood destroying insect and list the location(s) of evidence of damage caused by wood destroying insects in this Section.

8.D. Treatment was or will be performed by inspection company? YES or Number If YES, explain as follows:

a. Inspecting company with a current treatment contract on the structure(s) inspected: list the original treatment date for all structures treated and the contract type.

b. Inspecting company without a current treatment contract on the structure(s) inspected: list the structure(s) to be treated and the type of treatment and contract.

9. Additional comments (If necessary, continue on reverse side).

10. Make no marks in this section.

11. Do not mark in this section.

a. If any of the conditions listed in this paragraph on the WDIR (LPCA 143 & 143 A) are present under or to within 12 inches of the inspected structure(s), list them in section #10 of this report.

12. Signature and registration/licensee number of inspector conducting the inspection.

13. Enter date of inspector signature.

14. Enter name of person requesting the WDIR (if available).

15. Signature of person WDIR received by (if available).

16. Title of person in Number 15 (if available).

17. Date of signature of Number 15 (if available).

D. Minimum Specifications for conducting a Wood Destroying Insect Report

1. No person shall conduct a WDIR inspection unless that person is properly licensed with the Louisiana Structural Pest Control Commission to conduct WDIR inspections or is working under the supervision of a licensed WDIR inspector and is properly registered to conduct WDIR inspections.

2. WDIR inspector/technician shall inspect all unobstructed or accessible areas including but not limited to bath traps with visible access, crawl spaces of raised pier construction, and attics having a permanent ladder or staircase specifically to provide access to the attic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:856 (July 1997), LR 24:631 (April 1998), LR 25:235 (February 1999), LR 25:829 (May 1999), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 30:

Family Impact Statement

The proposed amendments to rules 7:XXV.Chapter 1 regarding definitions and the wood destroying insect report 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.

A public hearing will be held on these rules on October 29, 2004 at 9 a.m. at the address listed below. Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through close of business on October 28, 2004 at 5825 Florida Boulevard, Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these rules is available.

Signed and attested to this 24th day of August 2004.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Structural Pest Control

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is estimated to be no implementation costs or savings to state or local governmental units. The Louisiana Department of Agriculture and Forestry proposes to amend regulations regarding wood destroying insect reports (WDIR). There will be no increase in the costs because the rules are updating and standardizing the requirements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no increase in revenue collections to the Structural Pest Control Commission. The rule amends the definitions and minimum specifications for WDIR.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no increase in costs to individuals. The rule amends the definitions and minimum specifications for WDIR. Affected persons are paying for these services now. These rules allow the Department to update the WDIR form and rules for using the document to insure that the state's citizens are getting the services for which they are paying.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have a net effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0409#017

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agro-Consumer Services

Market Bulletin Subscriber Fee (LAC 7:I.101)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner, proposes to amend regulations regarding the market bulletin subscriber fee.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary due to the current regulations being redundant and outdated. This department is committed to eliminating and simplifying regulations when it is prudent and practical.

These rules comply with and are enabled by R.S. 43:31.

Title 7

AGRICULTURE AND ANIMALS

Part I. Administration

Chapter 1. Administration Procedure

§101. Market Bulletin Subscriber Fee

A. There is hereby established and henceforth shall be a biennial fee to be paid by the subscribers to the *Louisiana Market Bulletin* of \$10, which shall be known as the subscription fee.

B. The subscription fee shall be paid by the subscriber to the Department of Agriculture and Forestry biennially and when paid shall entitle the subscriber to 52 issues of the *Louisiana Market Bulletin*.

C. - D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 43:31.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 15:75 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 30:

Family Impact Statement

The proposed amendments to rules LAC 7:I.101 regarding the market bulletin subscriber fee 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.

Interested persons should submit written comments on the proposed rules to Marvin Montgomery through October 27, 2004 at 5825 Florida Boulevard, Baton Rouge, LA 70806. No preamble regarding these rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Market Bulletin Subscriber Fee

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is estimated to be no implementation costs or savings to state or local governmental units. The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary due to the current regulations being redundant and outdated. This department is committed to eliminating and simplifying regulations when it is prudent and practical.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no effect on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is estimated to be no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0409#018

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agro-Consumer Services Division of Weights and Measures

Petroleum Product Specifications (LAC 7:XXXV.Chapter 3)

Editor's Note: The following Notice of Intent is being reprinted for corrections. The original text may be viewed in its entirety on pages 1421-1429 of the July 2004 edition of the *Louisiana Register*.

The Commissioner of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures intends to adopt the following rules and regulations governing specifications for petroleum products, including motor vehicle fuels. These Rules are being adopted in accordance with R.S. 3:4608, R.S. 3:4671, R.S. 3:4673, R.S. 3:4678, R.S. 3:4679, R.S. 3:4681, R.S. 3:4682, R.S. 3:4683, and the Administrative Procedure Act, R.S. 49:950 et seq.

Petroleum products, including motor vehicle fuels, are essential to the community, to industry including agriculture and forestry, and to the welfare of the citizens of Louisiana. The production, distribution and sale of petroleum products that meet established standards are necessary to protect industry and the consumer.

The specifications adopted by the state for petroleum products need to track developments in the industry. Recent changes in industry specifications and further environmental restrictions require that Louisiana's regulations regarding the specifications of petroleum products be updated.

These rules are enabled by R.S. 3:4608, R.S. 3:4618, R.S. 3:4671, R.S. 3:4673, 3:4678, 3:4679, 3:4681, 3:4682, and 3:4683.

Adoption of these Rules terminates Rules promulgated by DOTD at LAC Title 73, Part III, Chapter 1, §101-§109, as authorized by Section 4 of Act 38 of the First Extraordinary Session of 1998.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 3. Petroleum Products

Subchapter A. Standards

§301. Definitions

A. As used in this Subchapter, the terms defined in this Section have the meanings herein given to them, except where the context expressly indicates otherwise.

ASTM or ASTM International The national voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials, products, systems, and services, and the promotion of related knowledge.

Antiknock Index or AKI The arithmetic average of the Research Octane Number (RON) and Motor Octane Number (MON): $AKI = (RON+MON)/2$. In addition to anti-knock index, this value is called by a variety of names including: octane rating, posted octane, and $(R+M)/2$ octane.

Automotive Fuel Rating The automotive fuel rating required under federal law.¹ The automotive fuel rating for gasoline is the antiknock index. The automotive fuel rating for alternative liquid fuels consists of the common name of the fuel and the disclosure of the amount, expressed as a minimum percentage, by volume of the principal component of the fuel.

Automotive Gasoline or Automotive Gasoline-Oxygenate Blend A type of fuel suitable for use in automotive spark-ignition internal combustion engines and also commonly used in marine and non-automotive applications.

Aviation Gasoline A type of gasoline suitable for use as a fuel in an aviation spark-ignition internal combustion engine.

Aviation Turbine Fuel A refined middle distillate suitable for use as a fuel in an aviation gas turbine internal combustion engine.

Base Gasoline All components other than ethanol in a blend of gasoline and ethanol.

Biodiesel A blend consisting of diesel fuel and a substantial amount of esterified animal fats and/or vegetable oil(s).

Cetane Index An approximation of the cetane number of distillate diesel fuel, which does not contain a cetane improver additive, calculated from the density and distillation measurements.

Cetane Number A numerical measure of the ignition performance of a diesel fuel obtained by comparing it to reference fuels in a standardized engine test.

Diesel Fuel A refined middle distillate suitable for use as a fuel in a compression-ignition (diesel) internal combustion engine.

Distillate Any product obtained by condensing the vapors given off by boiling petroleum or its products.

EPA The United States Environmental Protection Agency.

E85 Fuel Ethanol A blend of ethanol and hydrocarbons of which the ethanol portion is nominally 75 to 85 volume percent denatured fuel ethanol.

Engine Fuel Any liquid or gaseous matter used for the generation of power in an internal combustion engine.

Engine Fuels Designed for Special Use Engine fuels designated by the commissioner as requiring registration. These fuels normally do not have ASTM or other national consensus standards applying to their quality or usability; common special fuels are racing fuels and those intended for agricultural and other off-road applications.

Ethanol or Denatured Fuel Ethanol Nominally anhydrous ethyl alcohol meeting ASTM D 4806 standards. It is intended to be blended with gasoline for use as a fuel in a spark-ignition internal combustion engine.

Fuel Oil Refined oil middle distillates, heavy distillates, residues of refining, or blends of these suitable for use as a fuel for heating or power generation, the classification of which shall be defined by ASTM D 396.

Gasoline A volatile mixture of liquid hydrocarbons, generally containing small amounts of additives, suitable for use as a fuel in a spark-ignition internal combustion engine.

Gasoline-Alcohol Blend A fuel consisting primarily of gasoline and a substantial amount (more than 0.35 mass percent of oxygen, or more than 0.15 mass percent of oxygen if methanol is the only oxygenate) of one or more alcohols.

Gasoline-Oxygenate Blend A fuel consisting primarily of gasoline along with a substantial amount (more than 0.35 mass percent of oxygen, or more than 0.15 mass percent of oxygen if methanol is the only oxygenate) of one or more oxygenates.

Kerosene or Kerosine A refined middle distillate suitable for use as a fuel for heating or illuminating, the classification of which shall be defined by ASTM D 3699.

Lead Substitute An EPA-registered gasoline additive suitable, when added in small amounts to fuel, to reduce or prevent exhaust valve recession (or seat wear) in automotive spark-ignition internal combustion engines designed to operate on leaded fuel.

Lead Substitute Engine Fuel For labeling purposes, a gasoline or gasoline-oxygenate blend that contains a "lead substitute."

Leaded For labeling purposes, any gasoline or gasoline-oxygenate blend that contains more than 0.013 g of lead per liter (0.05 g lead per U.S. gal).²

Low Sulfur Low sulfur diesel fuel that meets ASTM D 975 standards, e.g., Grade Low Sulfur No. 1-D or Grade Low Sulfur No. 2-D.

Low Temperature Operability A condition that allows the uninterrupted operation of a diesel engine through the continuous flow of fuel throughout its fuel delivery system at low temperatures. Fuels with adequate low temperature operability characteristics have the ability to avoid wax precipitation and clogging in fuel filters.

Lubricity A qualitative term describing the ability of a fluid to affect friction between surfaces and wear to surfaces in relative motion under load.

M100 Fuel Methanol C A nominally anhydrous methyl alcohol, generally containing small amounts of additives, suitable for use as a fuel in a compression-ignition internal combustion engine.

M85 Fuel Methanol C A blend of methanol and hydrocarbons of which the methanol portion is nominally 70 to 85 volume percent.

Motor Octane Number or MON C A numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D 2700 Motor Method engine test.

Oxygen Content of Gasoline C The percentage of oxygen by mass contained in a gasoline.

Oxygenate C An oxygen-containing, ashless, organic compound, such as an alcohol or ether, which can be used as a fuel or fuel supplement.

Reformulated Gasoline C A volatile mixture of liquid hydrocarbons and oxygenates meeting the reformulated gasoline requirements of the Clean Air Act Amendments of 1990 and suitable for use as a fuel in a spark-ignition internal combustion engine.

Research Octane Number or RON C A numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D 2699 Research Method engine test.

SAE C The Society of Automotive Engineers, a technical organization for engineers, scientists, technicians, and others in positions that cooperate closely in the engineering, design, manufacture, use, and maintainability of self-propelled vehicles.

Substantially Similar C The EPA's "Substantially Similar" rule, Section 211(f) of the Clean Air Act [42 U.S.C. 7545(f)].

Thermal Stability C The ability of a fuel to resist the thermal stress that is experienced by the fuel when exposed to high temperatures in a fuel delivery system.

Total Alcohol C The aggregate total in volume percent of all alcohol contained in any fuel defined in this Subchapter.

Total Oxygenate C The aggregate total in volume percent of all oxygenates contained in any fuel defined in this Subchapter.

Unleaded (when used in conjunction with *engine fuel* or *gasoline*) C Any gasoline or gasoline-oxygenate blend to which no lead or phosphorus compounds have been intentionally added and which contains not more than 0.013 gram of lead per liter (0.05 g lead per U.S. gal) and not more than 0.0013 gram of phosphorus per liter (0.005 g phosphorus per U.S. gal).

Wholesale Purchaser Consumer C Any person who is an ultimate consumer of gasoline, fuel methanol, fuel ethanol, diesel fuel, biodiesel, fuel oil, kerosene, aviation turbine fuel, or aviation gasoline and who purchases or obtains the product from a supplier and receives delivery of that product into a storage tank.

¹16 CFR Part 306, adopted pursuant to 15 U.S.C. 2801, et seq.

²NOTE: EPA defines leaded fuel as one which contains more than 0.0013 g of phosphorus per liter (0.005 g per U.S. gal), or any fuel to which lead or phosphorus is intentionally added.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§303. Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends

A. Gasoline and gasoline-oxygenate blends sold, offered for sale, or distributed in Louisiana shall meet the following requirements.

1. The latest revision of ASTM D 4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel," as approved and published by ASTM International, except that volatility standards for unleaded gasoline blended with ethanol shall not be more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. Environmental Protection Agency.¹ Gasoline blended with ethanol shall be blended under any of the following three options:

- a. the base gasoline used in such blends shall meet the requirements of the latest revision of ASTM D 4814; or
- b. the blend shall meet the requirements of the latest revision of ASTM D 4814; or
- c. the base gasoline used in such blends shall meet all the requirements of the latest revision of ASTM D 4814 except distillation, and the blend shall meet the distillation requirements of the ASTM specification.

2. Blends of gasoline and ethanol shall not exceed the ASTM D 4814 vapor pressure standard by more than 1.0 pounds per inch.

3. The Antiknock Index (AKI) shall not be less than the AKI posted on the product dispenser or as certified on the invoice, bill of lading, shipping paper, or other documentation.

4. The minimum motor octane number shall not be less than 82 for gasoline with an AKI of 87 or greater.

5. Gasoline and gasoline-oxygenate blends sold as "leaded" shall contain a minimum of 0.013 gram of lead per liter (0.05 g per U.S. gal).

6. Gasoline and gasoline-oxygenate blends sold as "lead substitute" gasoline shall contain a lead substitute which provides protection against exhaust valve seat recession equivalent to at least 0.026 gram of lead per liter (0.10 g per U.S. gal).

a. Upon the request of the commissioner, the lead substitute additive manufacturer shall provide documentation to the commissioner that demonstrates that the treatment level recommended by the additive manufacturer provides protection against exhaust valve seat recession equivalent to or better than 0.026 gram per liter (0.1 g per U.S. gal) lead. The commissioner may review the documentation and approve the lead substitute additive before such additive is blended into gasoline. This documentation shall consist of:

- i. test results as published in the Federal Register by the EPA Administrator as required in Section 211(f)(2) of the Clean Air Act; or
- ii. until such time as the EPA Administrator develops and publishes a test procedure to determine the additive's effectiveness in reducing valve seat wear, test results and description of the test procedures used in comparing the effectiveness of 0.026 gram per liter lead and the recommended treatment level of the lead substitute additive shall be provided.

7. Blending. Leaded, lead substitute, and unleaded gasoline-oxygenate blends shall be blended according to the

EPA "substantially similar" rule or an EPA waiver for unleaded fuel.

8. Gasoline or gasoline-oxygenate blends sold or delivered to consumers in Louisiana shall meet all the foregoing specifications and, in addition, shall have on all retail pumps a posted Antiknock Index. The Antiknock Index of the gasoline or gasoline-oxygenate blend shall not be less than the Antiknock Index posted on the pump.

¹For referenced ASTM standards, visit the ASTM website, www.astm.org, or contact ASTM Customer Service at service@astm.org. Copies of referenced ASTM standards may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pa 19428-2959, Tel: (610) 832-9500, Fax: (610) 832-9555 or may be inspected at the Division of Weights and Measures, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§305. Standard Fuel Specifications for Diesel Fuel

A. Diesel fuel sold, offered for sale, or distributed in Louisiana shall meet the following requirements:

1. The latest revision of ASTM D 975, "Standard Specification for Diesel Fuel Oils," as approved and published by ASTM International.¹

2. All diesel fuels identified on retail dispensers, bills of lading, invoices, shipping papers, or other documentation with terms such as premium, super, supreme, plus, or premier must conform to the following requirements.

a. Cetane Number. A minimum cetane number of 47.0 as determined by ASTM Standard Test Method D 613.

b. Low Temperature Operability. A cold flow performance measurement which meets the ASTM D 975 tenth percentile minimum ambient air temperature charts and maps by either ASTM Standard Test Method D 2500 (Cloud Point) or ASTM Standard Test Method D 4539 (Low Temperature Flow Test or LTFT). Low temperature operability is only applicable October 1 - March 31 of each year.

c. Thermal Stability. A minimum reflectance measurement of 80 percent as determined by ASTM Standard Test Method D 6468 (180 minutes, 150 °C).

d. Lubricity. A maximum wear scar diameter of 520 microns as determined by ASTM D 6079. If a single test of more than 560 microns is determined, a second test shall be conducted. If the average of the two tests is more than 560 microns, the sample does not conform to the requirements of this Part.

¹For referenced ASTM standards, visit the ASTM website, www.astm.org, or contact ASTM Customer Service at service@astm.org. For Annual Book of ASTM Standards volume information, refer to the standard's Document Summary page on the ASTM website. Copies of referenced ASTM standards may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959, Tel: (610) 832-9500, Fax: (610) 832-9555 or may be inspected at the Division of Weights and Measures, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§307. Standard Fuel Specifications for Aviation Turbine Fuels

A. Aviation Turbine Fuels sold, offered for sale, or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 1655, "Standard Specification for Aviation Turbine Fuels," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§309. Standard Fuel Specifications for Aviation Gasoline

A. Aviation Gasoline sold, offered for sale, or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 910, "Standard Specification for Aviation Gasoline," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§311. Standard Fuel Specifications for Fuel Oils

A. Fuel Oils sold, offered for sale or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 396, "Standard Specification for Fuel Oils," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§313. Standard Fuel Specifications for Kerosene

A. Kerosene (Kerosine) sold, offered for sale, or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 3699, "Standard Specification for Kerosine," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§315. Standard Specifications for Ethanol

A. Ethanol intended for blending with gasoline sold, offered for sale, or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§317. Standard Fuel Specifications for Fuel Ethanol

A. E85 Fuel Ethanol sold, offered for sale, or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 5798, "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines" as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§319. Standard Fuel Specifications for Fuel Methanol

A. M85 Fuel Methanol sold, offered for sale or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 5797, "Standard Specification for Fuel Methanol M70-M85 for Automotive Spark Ignition Engines," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§321. Classification and Method of Sale of Petroleum Products

A. When gasoline, gasoline-oxygenate blends, reformulated gasoline, M85 and M100 fuel methanol, E85 and E100 fuel ethanol, biodiesel, diesel fuel, kerosene, aviation gasoline, aviation turbine fuels, or fuel oils are sold, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery other than a retail sale. This documentation must identify the quantity, the name of the product, the particular grade of the product, the applicable automotive fuel rating, oxygenate type and content (if applicable), the name and address of the seller and buyer, and the date and time of the sale. This documentation must be retained at the retail establishment for a period not less than one year. The sale of any product under any grade name that indicates to the purchaser that it is of a certain Antiknock Index or ASTM grade shall not be permitted unless the Antiknock Index or ASTM grade indicated in the grade name is consistent with the value and meets the requirements of this Subchapter.

B. All retail dispensing devices must identify conspicuously the type of product, the particular grade of the product, and the applicable Antiknock Index (AKI). The device shall automatically show on its face the initial zero condition and the quantity delivered (up to the nominal capacity). However, the first 0.03 L (or 0.009 gal.) of a delivery and its associated total sales price need not be indicated. In the event of a power loss, the information needed to complete any transaction in progress at the time of the power loss (such as the quantity and unit price, or sales price) shall be determinable for at least 15 minutes at the dispenser or at the console if the console is accessible to the customer. The device memory shall retain information on the quantity of fuel dispensed and the sales price totals during power loss. The primary indicating elements, and primary recording elements if the device is equipped to record, shall be readily returnable to a definite zero indication. However, a key-lock operated or other self-operated device may be equipped with cumulative indicating or recording elements, provided that it is also equipped with a zero-return indicating element. It shall not be possible to return primary indicating elements or primary recording elements beyond the correct zero position.

C. A computing or money-operated device shall be able to display on each face the unit price at which the device is set to compute or to dispense. Whenever a grade, brand,

blend, or mixture is offered for sale from a device at more than one unit price, then all of the unit prices at which that product is offered for sale shall be displayed or shall be capable of being displayed on the dispenser using controls available to the customer prior to the delivery of the product. It is not necessary that all of the unit prices for all grades, brands, blends, or mixtures be simultaneously displayed prior to the delivery of the product. This Subsection shall not apply to fleet sales, other contract sales, or truck refueling sales (e.g., sales from dispensers used to refuel trucks).

D. A device shall be able to display conspicuously on each side the identity of the product being dispensed. A device designed to dispense more than one grade, brand, blend, or mixture of product also shall be able to display on each side the identity of the grade, brand, blend, or mixture being dispensed.

E. A computing device shall compute the total sales price at any single-purchase unit price (i.e., excluding fleet sales, other price contract sales, and truck stop dispensers used only to refuel trucks) for which the product being measured is offered for sale at any delivery possible within either the measurement range of the device or the range of the computing elements, whichever is less. The analog sales price indicated for any delivered quantity shall not differ from a mathematically computed price (quantity x unit price = total sales price) by an amount greater than the value in Paragraph E.1. The values of the graduated intervals representing money values on a computing type device shall be no greater than those in Paragraph E.1. Money-Value Divisions and Maximum Allowable Variations for Money-Value Computations on Mechanical Analog Computers. A computing type device with digital indications shall comply with the requirements of Paragraph E.1 and the total price computation shall be based on quantities not exceeding 0.05 L for devices indicating in metric units and 0.01 gal. intervals for devices indicating in inch-pound units. If a system is equipped with auxiliary indications, all indicated money value divisions of the auxiliary element shall be identical with those of the primary element.

1. Money-Value Divisions and Maximum Allowable Variations for Money-Value Computations on Mechanical Analog Computers

Unit Price		Money Value Division	Maximum Allowable Variation	
From	To and including		Design Test	Field Test
0	\$0.25/liter or \$1.00/gallon	\$0.01	± \$0.01	± \$0.01
\$0.25/liter or \$1.00/gallon	\$0.75/liter or \$3.00/gallon	\$0.01 or 0.02	± \$0.01	± \$0.02
\$0.75/liter or \$3.00/gallon	\$2.50/liter or \$10.00/gallon	\$0.01 or 0.02	± \$0.01	± \$0.02
\$0.75/liter or \$3.00/gallon	\$2.50/liter or \$10.00/gallon	\$0.05	± \$0.02 1/2	± \$0.05

F. When a product or grade is offered for sale at more than one unit price through a computing device, the selection of the unit price shall be made prior to delivery using controls on the device or other customer-activated controls except for dispensers used exclusively for fleet sales, other price contract sales, and truck refueling, e.g., truck stop dispensers used only to refuel trucks. A system shall not

permit a change to the unit price during delivery of product. When a delivery is completed, the total price and quantity for that transaction shall be displayed on the face of the dispenser for at least five minutes or until the next transaction is initiated by using controls on the device or other customer-activated controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4672, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§323. Automotive Gasoline and Automotive Gasoline-Oxygenate Blends

A. All dispensing devices for automotive gasoline and automotive gasoline-oxygenate blends shall post the Antiknock Index in accordance with applicable federal regulations (16 CFR Part 306, adopted 44 FR 19169, as amended 58 FR 41372-4, 59 FR 48798, 61 FR 54549, and 61 FR 55840).

B. The term *leaded* shall only be used when the fuel meets specification requirements of §303.A.5.

C. Each dispensing device from which gasoline or gasoline-oxygenate blends containing a lead substitute is dispensed shall display the following legend: "Contains Lead Substitute." The lettering of this legend shall not be less than 12 mm (1/2 in) in height and the color of the lettering shall be in definite contrast to the background color to which it is applied.

D. Each dispensing device from which gasoline or gasoline-oxygenate blends that contain lead in amounts sufficient to be considered "leaded" gasoline or lead substitute engine fuel are sold shall be equipped with a nozzle spout having a terminal end with an outside diameter of not less than 23.63 mm (0.930 in).

E. It is prohibited to use specific terms to describe a grade of gasoline or gasoline-oxygenate blend unless it meets the minimum Antiknock Index requirement shown in Paragraph E.1: Minimum Antiknock Index Requirements.

1. Minimum Antiknock Index Requirements

Term	Minimum Antiknock Index
Premium, Super, Supreme, High	91
Midgrade, Plus	89
Regular Leaded	88
Regular, Unleaded	87

F. The retailer shall be provided at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of the predominant oxygenate or combination of oxygenates present in concentrations sufficient to yield an oxygen content of at least 1.5 mass percent in the fuel. Where mixtures of only ethers are present, the fuel supplier may identify either the predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent oxygen) or, alternatively, use the phrase "contains MTBE or other ethers." In addition, any gasoline containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol. This documentation is only for dispenser labeling purposes; it is the responsibility of any potential blender to determine the total oxygen content of the engine fuel before blending.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§325. Diesel Fuel

A. Diesel Fuel sold, offered for sale, or distributed in Louisiana shall be identified by grades No. 1-D, No. 1-D (low sulfur), No. 2-D, No. 2-D (low sulfur), or No. 4-D. Each retail dispenser of diesel fuel shall be labeled according to the grade being dispensed except the words "low sulfur" are not required.

B. These labels shall be located on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position, in a type at least 12 mm (1/2 in) in height and 1.5 mm (1/16 in) stroke (width of type).

C. Before or at the time of delivery of premium diesel fuel, the retailer or the wholesale purchaser consumer shall be provided on an invoice, bill of lading, shipping paper, or other documentation a declaration of all performance properties that qualifies the fuel as premium diesel fuel as required in §305.A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§327. Aviation Turbine Fuels

A. Aviation turbine fuels sold, offered for sale, or distributed in Louisiana shall be identified by Jet A, Jet A-1, or Jet B.

B. Each dispenser or airport fuel truck dispensing aviation turbine fuels shall be labeled in accordance with the "Standard for Aircraft Fuel Servicing," NFPA Standard 407.¹

C. Each aircraft fuel-servicing vehicle shall have a sign on each side and the rear to indicate the product. The sign shall have letters at least 3 inches (75 mm) high of color sharply contrasting with its background for visibility. It shall show the word "FLAMMABLE" and the name of the product carried, such as "JET A," "JET B," "GASOLINE," or "AVGAS."

¹National Fire Protection Association. A copy of the standard may be obtained from the NFPA web page www.nfpa.org or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Ma. 02169-7471, Telephone (617) 770-3000, Fax (617) 770-0700.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§329. Aviation Gasoline

A. Aviation gasoline sold, offered for sale, or distributed in Louisiana shall be identified by Grade 80, Grade 100, or Grade 100LL.

B. Each dispenser or airport fuel truck dispensing aviation gasoline shall be labeled in accordance with the "Standard for Aircraft Fuel Servicing," NFPA Standard 407.¹

C. Each aircraft fuel-servicing vehicle shall have a sign on each side and the rear to indicate the product. The sign shall have letters at least 3 inches (75 mm) high of color sharply contrasting with its background for visibility. It shall show the word "FLAMMABLE" and the name of the

product carried, such as "JET A," "JET B," "GASOLINE," or "AVGAS."

¹National Fire Protection Association. A copy of the standard may be obtained from the NFPA web page www.nfpa.org or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Ma. 02169-7471, Telephone (617) 770-3000, Fax (617) 770-0700.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§331. Fuel Oils

A. Fuel Oil sold, offered for sale, or distributed in Louisiana shall be identified by the grades of No. 1, No. 2, No. 4 (Light), No. 4, No. 5 (Light), No. 5 (Heavy), or No. 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§333. Kerosene (Kerosine)

A. Kerosene sold, offered for sale, or distributed in Louisiana shall be identified by the grades No. 1-K or No. 2-K.

B. Each retail dispenser of kerosene shall be labeled as 1-K Kerosene or 2-K Kerosene. In addition, No. 2-K dispensers shall display the following legend: "Warning Not Suitable For Use In Unvented Heaters Requiring No. 1-K." The lettering of this legend shall not be less than 12 mm (1/2 in) in height by 1.5 mm (1/16 in) stroke; block style letters and the color of lettering shall be in definite contrast to the background color to which it is applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§335. Fuel Ethanol

A. Fuel ethanol sold, offered for sale, or distributed in Louisiana shall be identified by the capital letter E followed by the numerical value volume percentage of ethanol.

B. Each retail dispenser of fuel ethanol shall be labeled with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol", e.g., "E85 Ethanol."

C. Fuel ethanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§337. Fuel Methanol

A. Fuel methanol sold, offered for sale, or distributed in Louisiana shall be identified by the capital letter M followed by the numerical value volume percentage of methanol.

B. Each retail dispenser of fuel methanol shall be labeled by the capital letter M followed by the numerical value volume percent and ending with the word "methanol", e.g., "M85 Methanol."

C. Fuel methanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§339. Retail Storage Tanks

A. No water phase greater than 6 mm (1/4 in), as determined by an appropriate detection paste, is allowed to accumulate in any tank utilized in the storage of gasoline-alcohol blend, aviation gasoline, and aviation turbine fuel.

B. Water shall not exceed 50 mm (2 in) in depth when measured with water indicating paste in any tank utilized in the storage of biodiesel, diesel, gasoline, gasoline-ether blends, and kerosene sold at retail except as required in Subsection A.

C. The fill connection for any petroleum product storage tank or vessel supplying engine-fuel devices shall be permanently, plainly, and visibly marked as to the product contained.

D. When the fill connection device is marked by means of a color code, the color code shall be conspicuously displayed at the place of business.

E. Each retail location shall maintain on file a calibration chart or other means of determining the volume of each regulated product in each storage tank and the total capacity of such storage tank(s). This information shall be supplied immediately to the commissioner or his designee on request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4672, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§341. Sampling

A. The commissioner or his designee may obtain samples of any and all petroleum products provided for in this Subchapter that are sold, offered for sale, distributed, or used in this state. The samples may be taken from any commercial weighing or measuring device used in the sale or distribution of petroleum products, from any tank or other container used in the transporting of such products, or from any tank or other container containing petroleum products intended for distribution or use in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4678, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§343. Nonconforming Product

A. When the analysis of a sample of a petroleum product performed in conformity with the provisions of this Subchapter discloses that the product from which the sample was taken does not conform to the specifications fixed by this Subchapter, it is the duty of the commissioner to immediately serve notice on the manufacturer, distributor or seller that the product must not be sold in the state. If the petroleum product is in the process of transportation and has not yet been delivered to the consignee or retailer, the commissioner or his designee may immediately notify the consignor of the result of the test and instruct said consignor to withdraw the product from sale in this state. Failure on the part of the consignor to obey these orders shall constitute a violation of this Subchapter.

B. If the petroleum product is not in the process of transportation, but is exposed or offered for sale or distribution, the commissioner or his designee may, by written order, stop the sale or distribution of this product. The retailer or distributor upon whom a stop-sale order is served is prohibited from exposing for sale, selling, or distributing this product until formally released by order of the commissioner. The stop-sale order given by the commissioner must apply only to that product and may not be extended to cover other petroleum products sold or distributed by a retail dealer or distributor which are found to conform to specifications fixed under the provisions of this Subchapter.

C. When the commissioner or his designee issues a written order to stop the offering for sale, sale, or distribution of a particular product which is maintained at a terminal or bulk plant facility, the terminal or bulk storage plant shall immediately notify all customers that received those product(s) and make any arrangements necessary to replace or adjust to specifications those product(s). The terminal or bulk storage plant shall also immediately notify the commissioner of those customers, their business locations, and the quantity of product delivered to each location. A release from a stop-sale order will be issued only after the commissioner or his designee has agreed upon final disposition of the product. Confirmation of disposition of products shall be made available in writing to the commissioner. Specific variations or exemptions may be made for fuels used for blending purposes or designed for special equipment or services and for which it can be demonstrated that the distribution will be restricted to those uses.

D. The commissioner or his designee may placard or seal any pump, dispenser, tank or container which contains a nonconforming product or which would dispense a petroleum product that does not conform to the appropriate specification in this Subchapter. No person shall deface, remove, or obscure any placard or seal posted or placed by the commissioner or his designee or act in any manner so as to interfere with or obstruct the commissioner or his designee in the discharge of his duties under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4678, 4680, 4681, 4682, and 4683.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§345. Product Registration

A. All engine fuels designed for special use that do not meet ASTM specifications or standards set out in this Subchapter shall be registered with the commissioner, on forms prescribed by the commissioner, 30 days prior to when the registrant wishes to engage in sales. The registration form shall include all of the following information.

1. Identity business name, address(es), and telephone number(s).

2. Address mailing address if different than business address.

3. Business Type type of ownership of the distributor or retail dealer, such as an individual, partnership, association, trust, corporation, or any other legal entity or combination thereof.

4. Signature an authorized signature, title, and date for each registration.

5. Product Description product brand name and product description.

6. Product Specification a product specification sheet shall be attached.

B. Registration is subject to annual renewal.

C. Renewal of a registration is required 30 days prior to any changes in the information required by Subsection A.

D. The commissioner may decline to register any product that actually or by implication would deceive or tend to deceive a purchaser as to the identity or the quality of the engine fuel.

E. Transferability the registration is not transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4678, 4680, 4681, 4682, and 4683.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§347. Test Methods and Reproducibility Limits

A. ASTM Standard Test Methods referenced for use within the applicable Standard Specification shall be used to determine the specification values for enforcement purposes.

B. Reproducibility Limits

1. When determining the Antiknock Index acceptance or rejection of a gasoline sample, the AKI reproducibility limits as outlined in ASTM D 4814 Appendix X1 shall be utilized for enforcement purposes.

2. The reproducibility limits of the ASTM standard test method used for each test performed shall be utilized for enforcement purposes, except as indicated in Paragraph 1 above.

3. Dispute Resolution. In the event of a dispute over a reported test value, the guidelines presented in the specifications of ASTM D 3244, "Standard Practice for Utilization of Test Data to Determine Conformance with Specifications," shall be used to determine the acceptance or rejection of the sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

Family Impact Statement

The proposed amendments to Title 7:XXXV.Chapter 3 governing specifications for petroleum products, including motor vehicle fuels should not have any known or foreseeable impact on any family as defined by R.S. 49:97(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.

Interested persons should submit written comments on the proposed rules to Benjy Rayburn through October 25, 2004

at 5825 Florida Blvd., Baton Rouge, LA 70806 or P.O. Box 91081, Baton Rouge, LA 70821-9081. No preamble regarding these rules is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Petroleum Products Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no implementation costs or savings to state or local governmental units. The Commissioner of Agriculture and Forestry intends to amend Rules and Regulation governing specifications for petroleum products, including motor vehicle fuels. Motor vehicle fuels are essential to the community, to industry including agriculture and forestry, and to the welfare of the citizens of Louisiana. The production, distribution and sale of petroleum products, including motor vehicle fuels, which meet established standards, is necessary to protect the consumer and motoring public. Environmental restrictions require that only reformulated gasoline may be sold in East Baton Rouge, West Baton Rouge, Ascension, Livingston and Iberville parishes. The impending adoption of the reformulated gasoline requirement mandates that the state adopt emergency regulations to update the fuel specifications for the state.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no effect on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This regulation will not, by itself, have an estimated cost and/or economic benefit to directly affected persons or non-governmental groups. If the courts uphold the mandate by the Environmental Protection Agency requiring sale of reformulated gasoline in the five parish area, that mandate likely will increase the price of gasoline 3 to 5 cents per gallon. This regulation does not mandate that reformulated gasoline be sold. It only establishes a technical specification for such gasoline.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0409#046

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Seed Commission**

Bulk Seed Certification Standards and Packaging
(LAC 7:XIII.139 and 141)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry, Office of the

Louisiana Seed Commission, proposes to amend regulations governing bulk certification standards and packaging.

The proposed changes to the bulk certification standards are in order to accommodate the current industries trend towards bulk packaging. Traditionally, rice and small grains have been packaged in 50 or 100 pound containers, but due to the introduction of bulk bags and bulk Q-bit containers (holding up to 2000 pounds of seed and widely used in the seed industry), the industry trend is toward these larger containers and away from the smaller packaging. The bulk certification of the certified class of rice and small grain is currently being allowed. This proposal would extend bulk certification to the registered class of rice and small grain. This trend potentially results in reduced labor costs and packaging costs which is passed on the grower.

Also, Louisiana's certification program is bound by AOSCA (Association of Official Certification Agencies), in order to be in compliance with AOSCA, Louisiana Certification Standards in respect to certified seed conditioning plant inspections must be amended to allow the inspection of a plant's equipment, storage, and processing facilities.

This Rule is enabled by R.S. 3:1433 and 3:1434.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

Subchapter B. General Seed Certification Requirements

§139. Listing of Certified Seed Conditioning Plants

A. - C.3. ...

4. Processors shall permit inspection by the certifying agency of all records, equipment, storage and processing facilities pertaining to all classes of certified seed.

5. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:196 (April 1983), LR 12:825 (December 1986), LR 20:642 (June 1994), LR 30:

§141. Processing of Certified Seed

A. Bagging

1. All seed approved for certification must be packaged in new 50 or 100 pound containers or less, except as provided by §141.A.1-2.

2. Registered Class of rice and small grains (wheat and oats):

a. new super-bags or Q-Bit bulk containers (or its equivalent as determined by the Louisiana Department of Agriculture and Forestry);

b. after filling and sampling, containers (or their equivalent) used for the packaging of registered seed must be sealed in an LDAF approved manner that prevents removal and re-attachment without tampering being obvious.

3. Certified class of rice and small grains (wheat and oats):

a. new or reusable super-bags or Q-Bit bulk containers (or its equivalent as determined by the Louisiana Department of Agriculture and Forestry).

NOTE: Reusable containers must be cleaned in a manner approved by the Louisiana Department of Agriculture and Forestry.

B. Tagging

1. Each container of all classes of certified seed offered for sale must have an official Department of Agriculture and Forestry tag attached.

2. The lot number of the tag attached to each container must be the same as the lot number marked on the container.

3. The tag shall contain the following information:

- a. kind and variety;
- b. where grown;
- c. percentage of pure seed, crop seed, weed seed and inert matter;
- d. name and number of noxious weed seeds per pound;
- e. grower's name and address or code number;
- f. germination percentage;
- g. hard seed;
- h. total germination and hard seed percentage;
- i. net weight;
- j. lot number; and
- k. date of test.

4. Tags will be issued only for seed proven by laboratory analysis to meet required germination and purity standards.

5. The number of tags issued will be determined by the inspector's estimate of the quantity of seed at the time of sampling. All unused tags must be returned to the Department of Agriculture and Forestry.

6. Pretagging. In order to permit seedsmen to bag and label seed in advance of final laboratory reports, certification tags may be issued in advance. Such labels can be pre-issued upon receipt of completed field inspection reports showing that field production standards have been met. The state may grant a waiver on the movement of seed if an acceptable preliminary test is made on the seed lot. If pretagged lots fail laboratory analysis standards, all tags shall be destroyed or returned to the Louisiana Department of Agriculture and Forestry. Failure to comply with this regulation will result in suspension of future pre-tag privileges.

7. The official certification label may be printed directly on the container with prior approval of the Department of Agriculture and Forestry.

8. Labels other than those printed on the containers shall be attached to containers in a manner that prevents removal and reattachment without tampering being obvious.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 9:196 (April 1983), LR 12:825 (December 1986), LR 20: 643 (June 1994), LR 30:

Family Impact Statement

The proposed amendments to Title 7, Part XIII, §§139 and 141 regarding bulk certification standards and packaging 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 Rule through October 25, 2004, to Eric Gates, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rule is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulk Seed Certification Standards and Packaging

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is estimated to be no implementation costs or savings to state or local governmental units. The Louisiana Seed Commission is proposing to allow the bulk certification of registered class of rice and small grain. The commission is also proposing new language in §139 "Listing of Certified Seed Conditioning Plants" to allow for the inspection of certified seed conditioning equipment, storage, and processing facilities.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no effect on revenue collections of state or local government units. Regarding inspection of certified seed conditioning equipment, storage, and processing facilities, that activity is already included in the current fee structure. As to bulk certification of registered seed, the change would result in fewer containers inspected. However that activity does not occur until February or March and the Department is currently in the process of changing the fee structure from a per package to a per hundredweight rate. This pending change in fee structure would reverse any reduction in revenue from the decrease in certification activity due to the addition of bulk certification. Thus, the effect on revenue of the change to bulk certification is neutral.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Certified seed conditioners and growers, and commercial farmers will be affected by these proposed changes. There should be no additional costs, workload adjustments, or additional paperwork placed upon these groups. Due to the increased capacity of superbags and other bulk containers, processors who package and farmers who use these larger containers could potentially see a reduction in costs. Labor to handle and cost to purchase the smaller containers will be reduced. Those costs are not readily susceptible to calculation. These larger containers essentially takes the place of as many as 40 of the smaller containers. As in the revenue estimate, the reduction in certification activity due to allowance of bulk containers would normally be estimated to reduce costs to processors. However, the Department in proceeding to change its fee structure to shift from a per container to a per hundredweight fee schedule. As this fee schedule will be implemented before the time for the certification activity (February 2005), it is estimated that costs to processors will remain approximately the same. Any difference in cost to processors of the change will be estimated in the change in fee schedule impact statement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

These proposed amendments will have no effect on competition and employment.

Skip Rhorer Robert E. Hosse
Assistant Commissioner General Government Section Director
0409#044 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Board of Ethics**

Receipt of Campaign Funds
(LAC 52:I.101, 1608, and 1912-1923)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to promulgate rules concerning the receipt of campaign funds by a legislator or the governor during a legislative session, rules concerning the notification given to persons doing business with the state retirement systems concerning the laws under the jurisdiction of the Board of Ethics, and the form for the filing required by those lobbying executive branch agencies pursuant to R.S. 49:71, et seq.

The proposed Rule has no impact on family formation, stability or autonomy, as described in R.S. 49:972.

**Title 52
ETHICS**

**Part I. Board of Ethics
Chapter 1. Definitions
§101. Definitions**

* * *

Lobbyist Disclosure Act refers to R.S. 24:50 et seq. and R.S. 49:71 et seq.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1288 (October 1997), amended LR 24:1893 (October 1998), LR 30:

**Chapter 16. The Board as Supervisory Committee of
the Louisiana Campaign Finance
Disclosure Act**

**§1608. Return of Funds Accepted during a Legislative
Session or 30 Days Thereafter**

A. A legislator who wishes to accept a contribution, loan, or transfer of funds during a regular legislative session as a candidate for an office described in R.S. 18:1505.2Q(3)(b), or a governor who wishes to accept a contribution, loan, or transfer of funds during a regular legislative session or within 30 days thereafter as a candidate for an office described in R.S. 18:1505.2R(3)(b), must open a bank account, separate from any existing campaign or personal accounts, into which such contributions, loans, or transfer of funds are deposited.

B. A legislator or governor who determines he will not seek the office for which he accepted funds during a regular legislative session, or who fails to qualify for the office for which funds were collected, must return each such contribution, loan, or transfer collected during the regular

legislative session, or within 30 days thereafter in the case of the governor, which remains unencumbered or unexpended for expenses directly related to his campaign for an office other than a federal office, no later than 15 days after the legislator or governor determines he will not seek the office, after the close of the qualifying period for the office declared by the legislator of the governor and for which he did not qualify, or after the close of the qualifying period in which he qualified for an office other than one described above, whichever occurs first.

C. In determining whether a contribution, loan, or transfer was expended or encumbered for expenses directly related to a campaign, a "first in, first out" basis of accounting shall be used, with the candidate deemed to have expended funds as they were collected. Funds still on hand, and therefore subject to return, will be the latest funds collected.

D. To determine whether the expenditure or encumbrance was directly related to an office described in R.S. 18:1505.2Q(3)(b) or in R.S. 18:1505.2R(3)(b), whichever is applicable, other than a federal office, the Supervisory Committee will examine the nature of expenditures made or debts incurred including the nature of the advertising, geographic distribution of the advertising, and whether the advertising specifically promoted the elected official for a particular office. Expenditures other than advertising will be examined using similar criteria.

E. Any loans accepted by a legislator in accordance with R.S. 18:1505.2Q(3)(a)(ii) or a governor in accordance with R.S. 18:1505.2R(3)(a)(ii) may be repaid at any time with funds collected during or after a regular legislative session.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

**Chapter 19. Lobbyist Disclosure Act
§1912. Notice to Persons Attempting to Do Business
with Retirement Systems**

A. The chairman of the board of trustees of each state or statewide public retirement system shall provide a written notice to every person whom the chairman knows, or reasonably should know, has or is seeking to obtain a contractual or other business or financial relationship with his system, which shall include the following information:

1. the need to file disclosure statements pursuant to R.S. 42:1114.2 and a form to file the statement;
2. the gift restrictions in the Code of Governmental Ethics set out at R.S. 42:1115; and
3. the requirements of registration and disclosure pursuant to the Executive Branch Lobbying Law, R.S. 49:71 through 78.

B. By December 15 of each year, the board shall provide a sample notice to the chairman of each state or statewide public retirement system to assist the chairman in his responsibility.

C. Within 15 days of the chairman's dissemination of the notice required in Subpart A, he shall provide to the board a copy of the notice distributed, as well as the name and address of each person to whom the notice was sent.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

**EXECUTIVE LOBBYING
REGISTRATION FORM**

Executive Lobbyist Registration No. _____

2. Name _____
Address _____
Business or purpose _____
Does this person pay you? _____
If No, who pays you? _____
3. Name _____
Address _____
Business or purpose _____
Does this person pay you? _____
If No, who pays you? _____
4. Name _____
Address _____
Business or purpose _____
Does this person pay you? _____
If No, who pays you? _____

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information, and belief; and that no information required by LSA-R.S. 49:71 et seq. has been deliberately omitted.

Signature of Lobbyist

ATTACH
2" x 2"
PHOTOGRAPH
HERE

**EXECUTIVE LOBBYING
REGISTRATION/RENEWAL
ATTACHMENT FORM**

Executive Lobbyist Registration No. _____

Instructions:

- Please make as many copies of this form as necessary in order to complete Question 7 of the Executive Lobbying Registration/Renewal Form.
- Fill in your Executive Lobbyist Registration No. in the space provided in the upper right hand corner of the page.
- Please identify each page with a page number and indicate the total number of pages being submitted.

1. Name _____

Address _____

Business or purpose _____

Does this person pay you? _____

If No, who pays you? _____

2. Name _____

Address _____

Business or purpose _____

Does this person pay you? _____

If No, who pays you? _____

3. Name _____

Address _____

Business or purpose _____

Does this person pay you? _____

If No, who pays you? _____

4. Name _____

Address _____

Business or purpose _____

Does this person pay you? _____

If No, who pays you? _____

Page _____ of _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

§1915. Executive Lobbying Supplemental Registration

Executive Lobbyist Registration No.

EXECUTIVE LOBBYING SUPPLEMENTAL REGISTRATION FORM

Instructions

- Print in ink or type. Complete form and return to Board of Ethics, 2415 Quail Dr., 3rd Floor, Baton Rouge LA 70808, or fax to (225) 763-8787. For information or assistance, call (225) 763-8777 or (800) 842-6630. No fee is required. This form must be submitted within 5 days of any changes in your registration form or to add employers or those you represent. It must be submitted within 10 days of any termination of employment or representations.

FOR OFFICE USE ONLY Postmark Date: _____

1. NAME Last First MI

NAME CHANGE Last First MI

2. BUSINESS PHONE (Area Code) Phone Number

3. FAX PHONE

4. BUSINESS ADDRESS Street and No. City State Zip

MAILING ADDRESS Street and No. City State Zip

5. EMPLOYER

6. EMPLOYER'S ADDRESS Street and No. City State Zip

7. Have you ceased or terminated all lobbying activities requiring registration? Yes No

8. LIST BELOW (a) Names of persons, groups, or organizations which you are adding or eliminating; (b) the address of each such person, group, or organization listed; (c) the type of business each is engaged in or the purpose or function of the organization or group; (d) whether or not the client or someone else pays you to lobby; and (e) the date of termination if applicable.

1) Name

Address

Business or purpose

New Representation Does this person pay you?

If No, who pays you?

Terminated Representation as of

**EXECUTIVE LOBBYING
SUPPLEMENTAL REGISTRATION FORM**

Executive Lobbyist Registration No. _____

2) Name _____

Address _____

Business or purpose _____

G New Representation

Does this person pay you? _____

If No, who pays you? _____

G Terminated Representation as of _____

3) Name _____

Address _____

Business or purpose _____

G New Representation

Does this person pay you? _____

If No, who pays you? _____

G Terminated Representation as of _____

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information, and belief; and that no information required by LSA-R.S. 49:71 et seq. has been deliberately omitted.

Signature of Lobbyist

EXECUTIVE LOBBYING EXPENDITURE REPORT

Executive Lobbyist Registration No. _____

10. PROVIDE BELOW (a) the name of the executive branch agency as listed in the executive branch schedule; (b) the aggregate total of all expenditures attributable to the agency made during the January 1-June 30 reporting period; (c) the aggregate total of all expenditures attributable to the agency made during the July 1-December 31 reporting period when applicable; (d) the aggregate total of all expenditures made in a calendar year attributable to the agency.

1) a. Name of Agency: _____

b. Total of all expenditures made January 1 through June 30: \$ _____

c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)

d. Total of all expenditures made during the calendar year: \$ _____

2) a. Name of Agency: _____

b. Total of all expenditures made January 1 through June 30: \$ _____

c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)

d. Total of all expenditures made during the calendar year: \$ _____

3) a. Name of Agency: _____

b. Total of all expenditures made January 1 through June 30: \$ _____

c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)

d. Total of all expenditures made during the calendar year: \$ _____

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information, and belief; that all reportable expenditures have been included herein; and that no information required by LSA-R.S. 39:71 et seq. has been deliberately omitted.

Signature of Lobbyist

**EXECUTIVE LOBBYING EXPENDITURE REPORT
ATTACHMENT**

Executive Lobbyist Registration No. _____

Instructions:

- Please make as many copies as necessary to complete Item #10 of Your executive lobbying expenditure report.
- Fill in your executive lobbyist registration number in the space provided in the upper right hand corner of the page.
- Identify each page with a page number and indicate the total number of pages being submitted.

- 1) a. Name of Agency: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____
- 2) a. Name of Agency: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____
- 3) a. Name of Agency: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____
- 4) a. Name of Agency: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____

Page _____ of _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

- 4) Name: _____
Last First MI
EXEC.ID.# _____
- 5) Name: _____
Last First MI
EXEC.ID.# _____
- 6) Name: _____
Last First MI
EXEC.ID.# _____
- 7) Name: _____
Last First MI
EXEC.ID.# _____
- 8) Name: _____
Last First MI
EXEC.ID.# _____
- 9) Name: _____
Last First MI
EXEC.ID.# _____
- 10) Name: _____
Last First MI
EXEC.ID.# _____

7. PROVIDE BELOW: (a) the aggregate total of all expenditures made by the principal/employer during the January 1-June 30 reporting period; (c) the aggregate total of all expenditures made by the principal/employer during the July 1-December 31 reporting period when applicable; (d) the aggregate total of all expenditures made by the principal/employer in a calendar year.

- a. Total of **all** executive lobbying expenditures made January 1 through June 30: \$ _____
(Include expenditures from Schedules A and B)
- b. Total of all executive lobbying expenditures made July 1 through December 31: \$ _____
(When Applicable) (Include expenditures from Schedules A and B)
- c. Total of all executive lobbying expenditures made during calendar year: \$ _____
(Line "a" added to Line "b" should equal Line "c")
8. COMPLETE AN ATTACHMENT FORM for each of your registered executive lobbyists.

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information and belief; and that no information required by LSA-R.S. 49:71 et seq. has been deliberately omitted.

Signature of Employer/Principal or Representative

Print or Type Full Name

E. PROVIDE BELOW (a) the name of the executive branch agency as listed in the executive branch schedule; (b) the aggregate total of all expenditures attributable to the agency made by this lobbyist during the January 1-June 30 reporting period; (c) the aggregate total of all expenditures attributable to the agency made by this lobbyist during the July 1-December 31 reporting period when applicable; (d) the aggregate total of all expenditures made by this lobbyist in a calendar year attributable to the agency.

1) a. Name of Agency: _____
b. Total of all expenditures made January 1 through June 30: \$ _____
c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
d. Total of all expenditures made during the calendar year: \$ _____

2) a. Name of Agency: _____
b. Total of all expenditures made January 1 through June 30: \$ _____
c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
d. Total of all expenditures made during the calendar year: \$ _____

3) a. Name of Agency: _____
b. Total of all expenditures made January 1 through June 30: \$ _____
c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
d. Total of all expenditures made during the calendar year: \$ _____

8. PROVIDE BELOW (a) the name of the state or statewide public retirement system; (b) the aggregate total of all expenditures attributable to the retirement system made during the January 1-June 30 reporting period; (c) the aggregate total of all expenditures attributable to the retirement system made during the July 1-December 31 reporting period when applicable; (d) the aggregate total of all expenditures made in a calendar year attributable to the retirement system.

1) a. Name of Retirement System: _____

b. Total of all expenditures made January 1 through June 30: \$ _____

c. Total of all expenditures made July 1 through December 31:\$ _____

(When applicable)

d. Total of all expenditures made during the calendar year: \$ _____

2) a. Name of Retirement System: _____

b. Total of all expenditures made January 1 through June 30: \$ _____

c. Total of all expenditures made July 1 through December 31:\$ _____

(When applicable)

d. Total of all expenditures made during the calendar year: \$ _____

3) a. Name of Retirement System: _____

b. Total of all expenditures made January 1 through June 30: \$ _____

c. Total of all expenditures made July 1 through December 31: \$ _____

(When applicable)

d. Total of all expenditures made during the calendar year: \$ _____

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information, and belief; that all reportable expenditures have been included herein; and that no information required by LSA-R.S. 42:1114.2 has been deliberately omitted.

Signature of Filer

Page _____ of _____

Interested persons may direct their comments to R. Gray Sexton, Louisiana Board of Ethics, 2415 Quail Drive, 3rd Floor, Baton Rouge, LA 70808, telephone (225) 763-8777, until 4:45 p.m. on October 11, 2004.

R. Gray Sexton
Ethics Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Receipt of Campaign Funds

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated cost to implement the rules/amendments is \$6, 123 in FY 04-05, \$211 in FY 05-06 and \$211 in FY 06-07, which accounts for the cost to publish the Notice of Intent and the rules in the *Louisiana Register* and printing of the promulgated forms.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules/amendments will have no anticipated effect on revenue collections of state or local governmental units.

R.S. 49:78 provides that any person who violates a provision of R.S. 49:71 et seq. will be assessed a penalty of up to \$10,000. R.S. 49:78 also provides that any person who does not timely register or file shall be assessed a penalty of \$50 per day, up to a maximum of \$1,500. It is not known if any people will violate provision of the act or how many people will register or file reports late.

R.S. 42:1114.2 provides that any person who does not timely file a report pursuant to said provision is assessed a per day penalty of \$100, up to a maximum of \$2,500. It is known how many people will file such reports late.

For a violation of R.S. 18:1505.2Q, R.S. 18:1505.5 provides that a penalty not in excess of \$500 shall be imposed on a governor or in excess of \$300 for a legislator. It is not known if any people will violate a provision of the act.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Those persons submitting the registration form are required to pay a registration fee of \$110 pursuant to R.S. 49:71, et seq. Also, where applicable, the following fines/penalties can be assessed:

R.S. 49:78 provides that any person who violated a provision of R.S. 49:71 et seq. will be assessed a penalty of up to \$10,000. R.S. 49:78 also provides that any person who does not timely register or file shall be assessed a penalty of \$50 per day, up to a maximum of \$1,500. It is not known if any people will violate a provision of the act or how many people will register or file reports late.

R.S. 42:1114.2 provides that any person who does not timely file a report pursuant to said provision is assessed a per day penalty of \$100, up to a maximum of \$2,500. It is not known how many people will file such reports late.

For a violation of R.S. 18:1505.2Q, R.S. 18:1505.5 provides that a penalty not in excess of \$500 shall be imposed on a governor or in excess of \$300 for a legislator. It is not known if any people will violate a provision of the act.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules/amendments will not have an effect on competition and employment.

Maris E. Leblanc
Deputy General Counsel
0409#042

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Culture, Recreation, and Tourism Office of State Museums

Building Rental Fees (LAC 25:III.103)

The Department of Culture, Recreation and Tourism, Office of State Museums, proposes to amend/change the following Rule relative to building rental fees for state museum buildings, per authority of R.S. 25:342. The purpose of amendment/change is to adjust and align building rental use fees for state museum buildings to that of similar type and size buildings housing the same types of activities in the area. Baton Rouge, Louisiana Branch Museum and the E.D. White Historic Site in Thibodaux are included due to addition to the museum by legislative action.

Title 25

CULTURAL RESOURCES

PART III. Office of State Museums

Chapter 1. Public Access

§103. Building Rental Policy

A. The Louisiana State Museum is responsible for the preservation and maintenance of the historic buildings placed in its care and the irreplaceable collections items contained within these buildings. In order to meet this responsibility, the board of directors of the Louisiana State Museum has adopted the following policy for use of the museum's statewide facilities for functions or events not sponsored by the Louisiana State Museum.

1. Requests for Usage. Requests for the use of state museum buildings will be considered from:

a. nonprofit organizations with purposes similar to the educational and historical museum purposes of the Louisiana State Museum;

b. official governmental agencies for governmental functions or events;

c. groups or companies whose proposed usage does not involve merchandising or political promotion or fundraising and whose usage is, in the opinion of the Museum Board of Directors, not in conflict with the purpose of the Louisiana State Museum. Certain types of parties, such as wedding receptions, retirement parties and private individual parties are usually of a nature that could cause damage to the museum buildings and/or the irreplaceable collections within the buildings, therefore these types of functions/events will normally not be approved.

2. Procedures

a. Requests will be considered from eligible organizations/agencies/groups/companies:

- i. for receptions, dinners, and similar functions occurring during non-public hours (after 5 p.m.);
- ii. for business meetings, lectures, and/or slide presentations occurring during non-public hours (after 5 p.m.);
- iii. for business meetings, lectures, and slide presentations occurring during public hours.

b. Numbers for consideration of each type function as stated in a. above will not exceed the maximum building capacity as stated below.

i. Baton Rouge Museum

Reception after hours:	775
Meetings after hours:	200
Meeting during public hours:	200

ii. Cabildo/Presbytere/Old U.S. Mint

Reception after hours:	500
Meetings after hours:	200
Meeting during public hours:	100

iii. Madame John's Legacy/The Arsenal

Reception after hours:	200
Meetings after hours:	200
Meeting during public hours:	100

iv. Patterson Museum

Reception after hours:	200
Meetings after hours:	200
Meeting during public hours:	100

v. Natchitoches Museum

Reception after hours:	200
Meetings after hours:	200
Meeting during public hours:	100

vi. E.D. White Historic Site

(a). Due to the size of the house, access during public hours is limited to no more than 20 persons at a time with purchased admissions.

(b). Access to the house after hours is limited to no more than 20 persons at a time viewing the house as part of rental of the grounds. Rental of the grounds will not be considered for more than 100 persons.

c. The Director of the State Museum is authorized to approve usage of museum buildings within the provisions of this policy, in addition to all museum-sponsored programs/functions/activities.

d. Requests for usage of the buildings that do not clearly come within this policy will be submitted to the State Museum Board of Directors, Executive Committee for a recommendation for final action by the board of directors.

e. The Museum Board of Directors will deny an application if, in the board's opinion, the proposed usage would endanger the museum's building and/or collections, or

interfere with its exhibitions and/or other programs/activities.

f. The Museum Board of Directors may waive the donation portion when the board determines that to do so would be in the best interest of the museum. However, the base service charge fees will not be waived for non-museum functions.

g. The base service charge fees are established based on the museum's cost of all security, custodial, utilities, and administrative support required to service previous functions of the same size.

i. The state museum may, at its discretion, make additional charges based on the nature of the requested function and/or additional requirements as agreed upon. Such additional charges will be included in the written agreement.

h. All building usage requests must be submitted in writing (at least 30 days prior to the date of the functions is preferred) to allow for proper planning, coordination, and completion of all required paperwork, including but not limited to the required written agreement.

i. All rentals will be based on a written agreement which will specify all costs and fees, arrangement requirements, and the specific space to be used in the specified building. Certain spaces in each building may be designated as being not available for rental use. The agreement must be completed and signed by both the designated representative of the museum and the renting organization/group, at least 10 days prior to the date of the function.

j. The host organization must make arrangements with the caterer of their choice, however, the museum reserves the right to reject caterers that do not comply with the museum's instructions concerning proper care of museum facilities. The museum does not provide or recommend catering services.

k. The museum will not provide parking facilities to the host organization. The host organization is responsible for its own parking arrangements.

l. The museum will not remove collections/exhibition items to accommodate the host organization.

m. Smoking is prohibited in all museum buildings.

n. The host organization/agency will designate an authorized representative to be present at the function and to have decision-making authority. This representative will be responsible for all coordination with the state museum.

o. If, after the completion of the function, the actual number of persons in attendance exceeded the planned number, or the time and space used was greater than planned, the host organization will be billed for the additional fees in accordance with the provisions of this policy.

p. A deposit of not less than 50 percent of the total indicated in the written agreement will be paid by the host organization to the museum at least one week prior to the date of the function. The balance and any additional charges required will be payable upon billing by the museum, following the function/event.

q. Host organizations will be charged the total costs involved in any repairs necessary to the museum building, collections, or exhibitions that are the result of the rental.

These charges will be in addition to all other charges and fees and will be payable immediately upon notification.

r. A function request which would require the closing of any portion of the museum prior to its normal closing time will be charged an additional gate fee of \$250 per hour for the period closed during public hours.

i. This requirement request must be agreed to in advance by the museum director and be included in the written agreement, otherwise it will be considered as a disapproval of the request.

s. The museum does not provide special equipment or tables for a sit-down type dinner or other after hours events. The organization renting the building is responsible for arrangements for such equipment. However, the museum must approve all equipment prior to the function/event.

3. Rates. Established rates apply to the buildings as indicated. Only buildings that are open to the public and/or available for use at the time of the request will be considered.

a. Donation. All applicants eligible under Subparagraph 1.c above will donate a gift to the Louisiana State Museum fund in the foundation designated for state museum use as endowment, education, acquisition, publications, conservation and building function support purposes. The museum must get prior approval of the legislative joint committee on the budget before making expenditures of funds generated by these donations.

i. Donations will be in accordance with the following schedule.

Location	Building	Rate (3 hrs.)	Each Additional Hour
Baton Rouge	Museum	\$3,000	\$1,000
New Orleans	Cabildo	\$3,000	\$1,000
New Orleans	Presbytere	\$3,000	\$1,000
New Orleans	Old U.S. Mint	\$3,000	\$1,000
New Orleans	Arsenal	\$1,500	\$ 500
New Orleans	Mme. John's Legacy	\$1,500	\$ 500
Patterson	Museum	\$1,500	\$ 500
Natchitoches	Museum	\$1,500	\$ 500
Thibodaux	Historical Site with Grounds	\$1,000	\$ 350

NOTE: Time will be rounded to the next quarter hour for determination of donation requirements above the initial three hour gift rate.

b. Base Service Charge Fees **C**All Buildings.

i. Business meetings, lectures, slide presentations:

- (a) 9 a.m.-5 p.m., maximum 100 persons:
 - (i). 1-4 hours \$400;
 - (ii). 4-8 hours, \$600
- (b) After 5 p.m., maximum 200 persons

Guests	First Hour	Each Additional Hour
1-100	\$400	\$100
101-200	\$650	\$150

(c) Minimum fee in (a) and (b) above is \$400.

(d) An additional cleaning and repair fee of \$200 during public hours and \$300 during non-public hours will be charged for costs involved in preparation and post-function requirements.

ii. Receptions and Similar Functions. After 5 p.m., maximum numbers to be considered are as established

in Subparagraphs 2.a and b above, per designated building. Minimum requirement will be one hour plus set-up and cleaning.

Guests	First Hour	Each Additional Hour
1-200	\$600	\$150
201-300	\$700	\$200
301-500	\$800	\$250

(a). An additional cleaning repair fee of \$300 will be charged for costs involved in preparation and post-function responsibilities.

iii. Sit-Down Dinner. After 5 p.m., maximum 100

Guests	First Hour	Each Additional Hour
1-100	\$800	\$300

(a). An additional cleaning repair fee of \$500 will be charged for costs involved in preparation and post-function requirements.

(b). All sit-down dinners must be catered to include waiters serving dinners to each table. The ratio of waiters to diners must be at least 1 to 10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museums, LR 11:683 (July 1985), amended LR 13:83 (February 1987), LR 16:295 (April 1990), LR 20:783 (July 1994), LR 24:2233 (December 1998), LR 30:

Family Impact Statement

1. The proposed Rule will not affect the stability of the family.
2. The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.
3. This Rule will not affect the functioning of the family.
4. This Rule will not affect the family earning or family budget.
5. This Rule will not affect the behavior or personal responsibility of children.
6. No the action proposed is strictly a State function.

Written comments may be addressed to Robert E. Wheat, Assistant Secretary, Department of Culture, Recreation and Tourism, P.O. Box 2448, New Orleans, LA, 70176-2448.

Robert E. Wheat
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Building Rental Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no estimated implementation costs or savings to state or local governmental units. The proposed rule aligns current rental fees with those of similar activity in the area and adjusts rates according to building size.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

As a result of this rule change, it is anticipated the Office of State Museum will generate an additional \$20,000 in the

current fiscal year and approximately \$40,000 of self generated revenue annually thereafter.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individual patrons/organizations renting museum buildings will be the only entities affected by the new fees. The new fee structure brings the State Museum's fees to closer alignment with that of other comparable attractions in the localities and around the state.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No anticipated effect on employment. Places state museum more in competition with organizations engaged in similar activity.

Tamra Carboni Deputy Assistant Secretary 0409#093
 Robert E. Hosse General Government Section Director Legislative Fiscal Office

NOTICE OF INTENT

**Department of Culture, Recreation, and Tourism
 Office of State Museums**

Museum Fees (LAC 25:III.105)

The Department of Culture, Recreation, and Tourism, Office of State Museums proposes to amend the following Rule relative to admissions fees to buildings of the Louisiana State Museum system, per authority of R.S. 25:342. The purpose of the amendment is to establish fees for museums recently added to the State Museum system by Legislative action and to align all museum building admission fees to that of similar types of activities and attractions throughout the state.

**Title 25
 CULTURAL RESOURCES**

PART III. Office of State Museums

Chapter 1. Public Access

§105. Admissions Fees

A. Admission fees for single admissions to the Louisiana State Museum buildings are as indicated.

B. Combination admissions may be purchased by selecting two or more buildings, to which a 20 percent discount will be applied. Visitor may select from any Louisiana State Museum listed building.

C. Special or group tour rates and requirements for Louisiana State Museum buildings are as indicated.

1. There must be a minimum of 15 persons in the group or tour which are old enough to require an admissions fee.

2. Groups/tours should make advance arrangements by calling the following telephone numbers.

- New Orleans (504) 568-6968 or 1-800-568-6968
- Patterson (985) 395-7067
- Thibodaux (985) 395-7067
- Natchitoches (318) 357-2270
- Baton Rouge (225) 219-0715

3. Groups/tours which meet the criteria in Paragraph C.1. above will be discounted by 20 percent from the appropriate single building rate.

D. School Groups

1. Must be affiliated with a recognized public or private school system.

2. Must be accompanied by at least one chaperon per every five children as a minimum, these chaperons will be admitted free, up to one per every five children. Additional chaperons will be required to pay the admission fee.

3. Prefer advance arrangements be made to accommodate scheduling. For advance arrangements, call:

- New Orleans (504) 568-6968 or 1-800-568-6968
- Patterson (985) 395-7067
- Thibodaux (985) 395-7067
- Natchitoches (318) 357-2270
- Baton Rouge (225) 219-0715

4. School groups admitted free when criteria stated above is met.

E. Visitors may choose from any/all museum buildings which are open to the public on the date of the visit.

F. Scheduling/reserving a visit to any State Museum building may be done using the 1-800-568-6968 number, from any location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342.

HISTORICAL NOTE: Promulgated by the Dept. of Culture, Recreation and Tourism, Office of the State Museum, LR 12:89 (February 1986), amended LR 13:82 (February 1987), LR 20:784 (July 1994), LR 24:2235 (December 1998), LR 30:

Family Impact Statement

1. The proposed Rule will not affect the stability of the family.

2. The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. This Rule will not affect the functioning of the family.

4. This Rule will not affect the family earning or family budget.

5. This Rule will not affect the behavior or personal responsibility of children.

6. No the action proposed is strictly a State function.

Written comments may be addressed to Robert E. Wheat, Acting Assistant Secretary, Department of Culture,

Building	Location	Adult Single Building	Student, Senior Citizen, Active Military, Single Building	12 Years of Age and Under
Cabildo with Arsenal	New Orleans	\$6	\$5	Free
Presbytere	New Orleans	\$6	\$5	Free
Old U.S. Mint	New Orleans	\$6	\$5	Free
Louisiana State Museum				
Baton Rouge	Baton Rouge	\$6	\$5	Free
1850 House	New Orleans	\$3	\$2	Free
Madame John's Legacy	New Orleans	\$3	\$2	Free
Louisiana State Museum				
Patterson	Patterson	\$3	\$2	Free
Louisiana State Museum				
North Louisiana	Natchitoches	\$3	\$2	Free
E.D. White Historic House	Thibodaux	\$2	\$1	Free

Robert E. Wheat
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Museum Fees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no additional cost as a result of this rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
As a result of this rule change, it is anticipated that the Office of State Museum will generate an additional \$67,000 in the current fiscal year and approximately \$260,000 of self generated revenue annually thereafter.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Individual patrons/visitors to the State Museum will pay an additional \$1.00 for large buildings. The new fee structure brings the State Museum's fees to closer alignment with that of other comparable attractions in the localities and around the state.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No anticipated effect on employment. Places state museum more in competition with other non-profits of similar activity.

Tamra Carboni Deputy Assistant Secretary 0409#092	Robert E. Hosse General Government Section Director Legislative Fiscal Office
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NOTICE OF INTENT

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

Scholarship/Grant Programs 2004 Legislation
(LAC 28:IV. 301, 501, 504, 505, 509,
703, 803, 1903, 2107, 2301-2313)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28
EDUCATION**

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

Chapter 3. Definitions

§301. Definitions

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

* * *

Award Year - The academic year (college) or program year (non-academic program) during which a TOPS award is paid.

* * *

Eligible Non-Graduate - A student who has not graduated from high school or completed a home study program approved by BESE, but who meets all the criteria listed in §703.A.5.g.

* * *

Louisiana Resident

a. - f. ...

g. effective for high school graduates of Academic Year (High School) 2001-2002 and 2002-2003, any dependent student who was continuously enrolled in a Louisiana public high school or nonpublic high school that is approved by BESE during his last two full years of high school, whose parent or court ordered custodian:

- i. is a resident of a state that adjoins Louisiana, and;
- ii. actually resides in a county that adjoins a Louisiana parish having a population greater than 41,600 and less than 42,400 according to the federal 2000 census, and
- iii. has filed a Louisiana state income tax return and complied with state income tax laws and regulations; or
- iv. is assessed ad valorem taxes on property owned in Louisiana.

In order to qualify pursuant to this Subsection, the student's high school transcript must reflect that the student earned credit for the last four semesters of high school immediately prior to graduation and graduated from an approved Louisiana high school.

* * *

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

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

Chapter 5. Applications, Federal Grant Aid and ACT Test

§501. Initial Application

A. - A.2.c. ...

B. Initial Application for a TOPS Award for High School Graduates and Home Study Completers of 2003-2004 and Thereafter, and Eligible Non-Graduates.

1. - 2.f. ...

3. Eligible Non-Graduates must:

- a. submit a Free Application for Federal Student Aid, (FAFSA), or
- b. if the student can demonstrate that he does not qualify for federal grant aid because of his family's financial

condition, submit the initial FAFSA after completing all applicable sections except those sections related to the income and assets of the student and the student's parents, or

- c. complete an On-Line Application.

4. Applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards who submit the on-line application in lieu of the FAFSA or who do not complete all sections of the FAFSA will be ineligible for federal grant aid and federally guaranteed student loans.

5. In the event of a budgetary shortfall, applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards who submit the On-Line Application in lieu of the FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

C. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:635 (April 1998), repromulgated LR 24:1900 (October 1998), amended LR 26:1994 (September 2000), repromulgated LR 27:1846 (November 2001), amended LR 29:554 (April 2003), LR 30:2015 (September 2004), LR 30:

§504. Out-of-State and Out-of-Country High School Graduates and Eligible Non-Graduates

- A. A student who graduates from a high school outside the state of Louisiana or is an Eligible Non-Graduate will not be considered for a TOPS award unless LASFAC receives the student's FAFSA information from the federal processor or On-Line Application and the student's ACT and/or SAT score(s). In order for a student who will graduate from a high school outside the state of Louisiana or an Eligible Non-Graduate to assure that his FAFSA information and his ACT/SAT score(s) are received by LASFAC, he should:

1. enter a Louisiana postsecondary institution in the section of the FAFSA that asks the applicant to name the colleges he plans to attend; and

2. enter a Louisiana postsecondary institution and/or 1595 (code for the Louisiana Tuition Opportunity Program/Students, Baton Rouge, LA.) in the "score report choices" section of the ACT and/or 9019 (code for Tuition Opportunity Program for Students) in the "send scores" section of the SAT registration form.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 30:2017 (September 2004), amended LR 30:

§505. Application Deadlines for High School Graduates and Home Study Completers of 2004 and Later and Eligible Non-Graduates

- A.1. To be considered for a TOPS award, students who graduate from high school or complete an approved home study program in 2004 or later and eligible non-graduates must:

- 1.a. - 3. ...

- B. Deadline for Priority Consideration

1. In order for students who enroll for the first time as full-time students at an eligible college or university to ensure timely consideration and the earliest possible

eligibility determination for the initial semester of enrollment, the FAFSA or the on-line application must be submitted so that it is received no later than May 1 of the year prior to the academic year (college) the student first enrolls in an eligible college or university.

2. In order for returning students to ensure timely consideration and the earliest possible eligibility determination for the initial semester of enrollment at an eligible college or university, the FAFSA or the on-line application must be received no later than May 1 prior to the academic year (college) the student first enrolls in an eligible college or university.

B.3. - G. ...

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

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 30:2017 (September 2004), LR 30:

§509. ACT Testing Deadline

- A.1. The student must take the official ACT test (including national, international, military or special test types) on or before the official April test date in the academic year (high school) in which the student graduates or completes a home study program approved by BESE

2. An eligible non-graduate must take the official ACT test (including national, international, military or special test types) before the first day of the semester the student first enrolls in an eligible college or university.

- B.1. The student may substitute an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT) taken on or before the official April test date in the academic year (high school) in which the student graduates. In order to substitute a SAT score, the student must direct the college board to send the score to LOSFA so that the score is electronically reported to LOSFA by the college board within 45 days of the final test date allowed by Section 509. SAT scores received in any other manner shall not be considered.

2. An eligible non-graduate may substitute an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT) taken before the first day of the semester the student first enrolls in an eligible college or university. In order to substitute an SAT score, the student must direct the College Board to send the score to LOSFA so that the score is electronically reported to LOSFA by the College Board within 45 days of the final test date allowed by Section 509. SAT scores received in any other manner shall not be considered.

C - C.1.c. ...

- d. Tests taken by an eligible non-graduate after the first day of the semester the student first enrolls in an eligible college or university shall not be accepted.

C.2. - E. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 26:1995 (September 2000), amended LR 26:2000 (September 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), repromulgated LR 27:1847 (November 2001), amended LR 30:1159 (June 2004), LR 30:

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

§703. Establishing Eligibility

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

(b). Beginning with the graduates of academic year (high school) 2007-2008, at the time of high school graduation, an applicant must have successfully completed 17.5 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for one unit; provided however, that such Agriscience unit shall not be considered a science elective for the purpose of the math or science elective requirement below)
1	An elective from among other math or science subjects listed in this core curriculum
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE) or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum). BESE has approved the following courses as computer related for purposes of satisfying the ½ unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1 credit) Computer/Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (1/2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (1/2 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1 credit) Multimedia Productions (1 credit) Technology Education Computer Applications (1 credit) Telecommunications (1/2 credit) Web Mastering (1/2 credit) Word Processing (1 credit) Independent Study in Technology Applications (1 credit)

A.5.a. - d. ...

i.. successfully complete at the twelfth grade level a home study program approved by BESE; or

ii. if ever was enrolled in a Louisiana public or nonpublic school approved by BESE, successfully completed at least the eleventh and twelfth grade levels of a home study program approved by BESE; and

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

e. graduate from a high school defined in §1701.A.5 or successfully complete at the twelfth grade level a home study program approved by BESE and conducted outside the United States and its territories; or

f.i. for students graduating in Academic Years (High School) 2000-2001 and 2001-2002, successfully complete a minimum of ten units in honors courses graded on a 5.00 scale and graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3. and have completed the core curriculum defined in §703.A.5.a.i.; or

ii. for students graduating Academic Year (High School) 2002-2003 through 2005-2006, successfully complete a minimum of ten units in Honors Curriculum Courses used to satisfy the core curriculum requirement and graded on a 4.00 or higher scale and graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3. and have completed the core curriculum defined in §703.A.5.a.i.; or

g. beginning with the 2004-2005 Award Year, Eligible Non-Graduates who meet the following criteria:

i. be a United States citizen or be a permanent resident as defined by the United States Citizenship and Immigration Services and be eligible to apply for United States citizenship meet the requirements of §703.A.3, above; and

ii. actually reside in Louisiana for at least two years prior to the student's first enrollment in an Eligible College or University; and

iii. as certified by a psychologist or psychiatrist licensed to practice in Louisiana, the student has a score that is at least in the superior range on the Wechsler Intelligence Scale for Children (Third Edition) or revised version of such instrument; and

iv. as certified by a psychologist or psychiatrist licensed to practice in Louisiana, the student has a composite score that is at least at the ninetieth percentile at the twelfth grade level in the reading, mathematics, and written language portions of the Wechsler Individual Achievement Test (Second Edition) or revised version of such test; and

v. prior to enrolling for the first time in an Eligible College or University, the student's score on the ACT must meet the requirements of §703.A.6.a., as specified for the respective award, or have an equivalent score on the Scholastic Aptitude Test; and

vi. before the student's nineteenth birthday:

(a). enrolls in an Eligible College or University and successfully earns twelve hours of course credits; and

(b). enrolls in an Eligible College or University as a Full-Time Student to pursue an academic undergraduate degree at the baccalaureate level; and

vii. after meeting all the requirements in §703.A.5.g.i. through vi, the student will qualify for a TOPS award.

6. Have achieved an ACT Score, as defined in §301 of at least:

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

i. the state's reported prior year ACT composite average, rounded, but never less than 20 for the Opportunity Award; or

ii. a 23 for the Performance Award; or

iii. a 27 for the Honors Award; or

A.6.b - H.3. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 and 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999 and 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219 and 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330 and 2332 (November 2002), LR 29:125 (February 2003), LR 30:2019 (September 2004), LR 30:

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.5.d.iii. ...

6. if qualifying under the terms of §803.A.5.a., at the time of high school graduation:

a. have successfully completed one of the following core curriculums:

i. 16.5 units of high school course work constituting the TOPS core curriculum as defined in §703.A.5. and documented on the student's official transcript as approved by the Louisiana Department of Education; or

ii. for students graduating in the 2000-2001 school year and thereafter, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-TECH core curriculum.

Core Curriculum **C**TOPS-TECH Award

Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute one unit of Business English.
1	Algebra I; or both Algebra I, Part I and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II.
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Discrete Mathematics, or Probability and Statistics (two units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the three required math units.
1	Biology.
1	Chemistry or Applied Chemistry.

Units	Course
1	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for one unit).
1	American History.
1	World History, Western Civilization, or World Geography.
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic).

Remaining core courses shall be selected from one of the following options:

Option 1	Total of 17 units.
1	Fine Arts Survey or substitute two units of performance courses in music, dance, or theater; or substitute two units of visual art courses; or substitute two units of studio art courses; or a course from the career and technical program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute one unit as an elective from among the other subjects listed in this core curriculum.
2	Foreign Language, Technical Writing, Speech I or Speech II.
1	One unit from the secondary computer education program of studies that is approved by the BESE.
or	
Option 2	Total of 19 Units
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

or

iii. For students graduating through the 2001-2002 school year, the TOPS-TECH core curriculum as follows.

Core Curriculum **C**TOPS-TECH Award

Units	Course
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (one unit) or Applied Algebra IA and IB (two units)
1	Algebra II
1	Geometry or Applied Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry or Applied Physics
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II or Physics for Technology or Agriscience I and II (both for one unit)
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute two units of performance courses in music, dance or theater; or two units of studio art or two units of visual art courses; or one elective from among the other subjects listed in this core curriculum)

Units	Course
2	In a single Foreign Language. (one unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (two units).
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

6.b. - 10. ...

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

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

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1903. Responsibilities of Postsecondary Institutions

A. - B.8. ...

9. Unless otherwise directed by the student, before applying a TOPS award to pay a student's tuition, institutions shall first apply the student's "out-of-pocket" payments, including student loans, toward tuition charges. In those cases when a student's tuition as defined in 26 U.S.C. 25A is paid from a source other than the TOPS award, the institution shall apply the TOPS award toward payment of expenses other than tuition which are described in the term "cost of attendance" as that term is defined in 20 U.S.C. 108711, as amended, for the purpose of qualifying the student or his parent or custodian for the federal income tax credits provided for under 26 U.S.C. 25A.

C. - D2.b. ...

3. for Tuition Payment Program for Medical School Students:

a. verify enrollment at one of the Louisiana State University Health Sciences Center medical schools or at the Tulane University School of Medicine; and

b. verify the recipient is in good standing; and

c. verify the student has continued to make satisfactory progress towards a medical degree in a primary care field.

4. release award funds by crediting the student's account within 14 days of the institution's receipt of funds or disbursing individual award checks to recipients as instructed by LASFAC. Individual award checks for the Rockefeller State Wildlife Scholarship, TOPS Teacher Award and Tuition Payment Program for Medical School Students must be released to eligible recipients within 30 days of receipt by the school or be returned to LASFAC.

E. - G. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998),

amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:

Chapter 21. Miscellaneous Provisions and Exceptions §2107. Funding and Fees

A. - D. ...

E. Repealed.

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

HISTORICAL NOTE: HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:1998 (September 2000), repromulgated LR 27:1869 (November 2001), amended LR 28:449 (March 2002), LR 28:777 (April 2002), LR 28:2333 (November 2002), LR 30:

Chapter 23. Tuition Payment Program for Medical School Students

§2301. General Provisions

A. Legislative Authority. The Tuition Payment Program for Medical School Students was created by Act 281 of the 1997 Regular Session of the Louisiana Legislature and amended by Act 894 of the 2004 Regular Session of the Louisiana Legislature.

B. Description, History and Purpose. The Tuition Payment Program for Medical School Students:

1. annually awards not more than ten monetary loans to eligible students attending a medical school of the Louisiana State University Health Sciences Center and not more than five monetary loans to eligible students attending the Tulane University School of Medicine who commit to practice the profession of medicine as a primary care physician, as defined herein, for at least five consecutive years in a rural or medically disadvantaged area in Louisiana designated by the Louisiana State University Health Sciences Center, acting jointly with the Tulane University School of Medicine, (hereinafter referred to as a "Designated Area"). When the individual receiving the award practices medicine in a Designated Area for five consecutive years as provided in these rules, the loans are forgiven in full.

2. was first funded for the 1998-99 award year;

3. The Legislature's purpose for this program is to bring about an adequate supply of doctors of medicine who will engage in the general practice of medicine in the rural or medically disadvantaged areas of the state by inducing a sufficient number of the graduates from the Louisiana State University Health Sciences Center and the Tulane University School of Medicine to remain in or relocate to Designated Areas of Louisiana to practice their profession, thus affording adequate medical care to the people of Louisiana.

C. Award Amounts

1. Loans for students enrolled at one of the Louisiana State University Health Sciences Center medical schools shall be made in an amount not to exceed the full tuition and room and board amount for that school. Loans for students enrolled at the Tulane University School of Medicine shall be made in an amount not to exceed the tuition and room and board amount for a student enrolled at the most expensive medical school of the Louisiana State University Health Sciences Center.

2. Recipients may receive funding for each year of enrollment at an eligible medical school, until awarded a doctorate degree in medicine.

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15 and 17:3041.21-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1460 (August 1999) amended LR 25:2177 (November 1999), repromulgated LR 27:1872 (November 2001), LR 30:

§2303. Establishing Eligibility

A.1. - 3. ...

4. be enrolled at one of the Louisiana State University Health Sciences Center medical schools or in the Tulane University School of Medicine as a Full-Time Student in a course of study leading to a doctorate degree in medicine with the intent to enter a residency program leading to a specialization in a primary care field or has earned such a degree prior to commencement of residency. A "primary care field" shall include the following fields of medicine: family medicine, general internal medicine, general pediatrics, obstetrics/gynecology or a medical/pediatrics practice.

5. agree to the full time practice of the profession of medicine as a primary care physician in a Designated Area for at least five consecutive years after graduating from medical school and completing a residency program in a primary care field as defined in §2303.A.4, above; and

6. - 6.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15 and 17:3041.21-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999) amended LR 25:2177 (November 1999), LR 26:2754 (December 2000), LR 27:1220 (August 2001), repromulgated LR 27:1872 (November 2001), amended LR 28:777 (April 2002), LR 28:2333 (November 2002), LR 30:

§2305. Application Process and Selection Criteria

A. The Louisiana State University Health Sciences Center and the Tulane University School of Medicine shall seek applications from medical students desiring to apply for a loan under this program and shall determine and report to the Commission, no later than the date specified by the Commission:

1. the academic standing of those applicants who meet the prerequisites of §2303.4 and 5. In determining the academic standing of applicants, the Louisiana State University Health Sciences Center and the Tulane University School of Medicine shall employ an evaluation system which is equitable to all applicants regardless of the medical school they attend, and

2. those applicants who have demonstrated an interest in primary care medicine through involvement in student activities which are supportive of the future practice of medicine as a primary care physician and which have been identified by the Louisiana State University Health Sciences Center or the Tulane University School of Medicine and approved by the administrator as meriting the award of extra points in the ranking of applicants.

B. From the lists of applicants submitted by the Louisiana State University Health Sciences Center and the Tulane University School of Medicine, the Commission shall rank the applicants in order of merit and select no more than ten individuals to receive the award in any one year to attend one of the Louisiana State University Health Sciences

Center medical schools and no more than five individuals to receive the award in any one year to attend the Tulane University School of Medicine (hereinafter "Recipient(s)"). The applicant's order of merit shall be determined by the academic standing of the applicant as reported by the Louisiana State University Health Sciences Center or the Tulane University School of Medicine and the extra points earned through student activities related to the practice of primary care medicine. The award shall be in the form of a loan to the Recipient as described in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15 and 17:3041.21-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999), repromulgated LR 27:1872 (November 2001), LR 30:

§2307. Award Amount

A. The loan shall not exceed the full cost of tuition plus room and board, as those terms are defined herein.

B. The loan disbursement will be in two increments during each academic year based upon requests for disbursements submitted by the Louisiana State University Health Sciences Center or by the Tulane University School of Medicine, which are consistent in timing with the normal payment of tuition by medical school students.

C. ...

D. The cost of room and board included in an award under this section shall not exceed the cost allocated to room and board in the calculation of "cost of attendance" determined in accordance with 20 U.S.C. 1087 11 for the highest cost Louisiana State University Health Sciences Center medical school.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15 and 17:3041.21-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999), amended LR 26:2754 (December 2000), repromulgated LR 27:1873 (November 2001), amended LR 30:

§2309. Maintaining Eligibility

A. To continue receiving the Tuition Payment for Medical School Students, Recipients must meet all of the following criteria:

1. have not graduated from medical school ; and

2. be considered in good standing by the Louisiana State University Health Sciences Center or the Tulane University School of Medicine and continue to make satisfactory progress towards a medical degree in a primary care field or have completed studies in good standing; and

3. - 5. ...

B. Upon receiving a doctorate degree in medicine, an award Recipient will be continued in a deferred payment status under the terms of the Tuition Payment Program for Medical Students Promissory Note ("Promissory Note") as long as the Recipient is enrolled in a residency program leading to a medical specialty in a primary care field. The Recipient shall notify LASFAC of the place and duration of the Recipient's residency program no later than the date the Recipient receives a doctorate in medicine. The notice shall include an endorsement from the Louisiana State University Health Sciences Center or its designee or from the Tulane University School of Medicine or its designee that the residency program is a program that will lead to the ability

to practice as a primary care physician as defined herein. The Louisiana State University Health Sciences Center or the Tulane University School of Medicine shall make available to the Recipient a list of Designated Areas. The Recipient shall identify the Designated Area in which the Recipient intends to practice medicine and include this selection in the notice sent to LASFAC. By July 30 of each year following receipt of a doctorate degree in medicine, the Recipient shall notify LASFAC of the Recipient's current address and include in such notice an endorsement from an appropriate official of the residency program in which the Recipient is engaged that the Recipient is making satisfactory progress in the program. The Recipient shall notify LASFAC in writing of the completion of the residency program and the date the Recipient will initiate practice in a Designated Area. Each year thereafter, on the anniversary of the date the Recipient enters a primary care practice in a Designated Area, the Recipient shall send a written confirmation to LASFAC that the Recipient has practiced medicine during that year as required under the terms of the Promissory Note. The written confirmation shall be in the form of an affidavit executed before a notary public and shall be endorsed by the Louisiana Department of Health and Hospitals, affirming that the Recipient has practiced in a Designated Area. Failure of the Recipient to send any of the notices required under the terms of the Promissory Note in a timely manner shall cause the Recipient to be placed in a repayment status.

C. Students who fail to maintain eligibility for a subsequent year of the loan will be placed in a repayment status six (6) months from the date of their loss of eligibility, unless granted an exception for cause by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15 and 17:3041.21-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999), LR 26:2754 (December 2000), repromulgated LR 27:1873 (November 2001), amended LR 28:777 (April 2002), LR 30:

§2311. Completion of Promissory Note and Acceptance of Award

A. Prior to receiving an award, the Recipient must agree to the terms and conditions contained in and execute the Tuition Payment Program for Medical Students Promissory Note ("Promissory Note"). The Promissory Note obligates the Recipient to initiate a primary care practice in a Designated Area upon the completion of a primary care residency program. The Recipient shall complete the primary care residency program within four years of the date of graduation from medical school and shall initiate the full-time practice of medicine as a primary care physician in a Designated Area within six months from the date of completion of the residency program. The Designated Area in which the Recipient initiates practice shall be that area designated in the notice required by §2309.B, above, or such other Designated Area chosen by the Recipient, upon completion of the residency program. The Promissory Note shall provide that if the area chosen in the notice provided for in §2309.B, above, is no longer a "Designated Area at the time the Recipient finishes the residency program, it shall continue to be considered a Designated Area for purposes of discharge of the loan amount under these rules. The Recipient shall be deemed to be in a full-time primary care

practice if the Recipient performs direct patient care for an average of at least 36 hours per week in a normal annual work schedule. Should a Recipient fail to enter into the practice of medicine on a full-time basis as a primary care physician within the time specified herein, the loan shall be placed in a repayment status and double the amount of the loans shall be repaid together with all accrued interest and any collection costs incurred by the Commission, as specified in the Promissory Note and as required by §2313, below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15 and 17:3041.21-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999), repromulgated LR 27:1874 (November 2001), LR 30:

§2313. Discharge of Obligation

A. The loan may be discharged by engaging in a full-time primary care medical practice in a Designated Area for a period of five years, by monetary repayment or by cancellation.

B. - B.1. ...

2. practice as a primary care physician on a full time basis for a period of at least five consecutive years in a Designated Area.

C. ...

D. Discharging the Promissory Note by Monetary Repayment. Recipients who elect not to discharge the obligation by practicing medicine as required in these rules and the Promissory Note and who are not eligible for discharge by cancellation must immediately repay double the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

D.1. - E.1.c. ...

2. determination that a recipient has entered repayment status, LASFAC will send written notice of the recipient's repayment status including the total amount of tuition that must be repaid, the amount of interest accrued and instructions for repayment.

3. The recipient must repay double the amount of the total tuition disbursed no later than thirty days from the date of the written notice of the recipient's repayment status. Accrued interest may be amortized in accordance with §2313.E.4.

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

a. the amount necessary to amortize the accrued loan interest, together with accruing interest, within five years; or

b. \$5,000 per year or the unpaid balance, whichever is less;

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

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

7. the period of time for completion of repayment will be extended by a period of time equal to the length of time the Recipient is in deferment status.

F. Cancellation. The obligation to repay any remaining unpaid balance of the Promissory Note shall be canceled in the event either of the following occurs:

1. upon submission to LASFAC of a sworn affidavit from a qualified physician that the Recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

2. upon submission to LASFAC of a death certificate or other evidence conclusive under state law, that the Recipient is deceased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15 and 17:3041.21-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25: 1463 (August 1999), LR 25:2177 (November 1999). Repromulgated LR 27:1874 (November 2001), amended LR 30: (September 2004).

Interested persons may submit written comments on the proposed changes until 4:30 p.m., October 11, 2004, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant
Programs 2004 Legislation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

These amendments to the Scholarship and Grant Rules implement the following Acts of the 2004 Regular Session of the Louisiana Legislature: Act 472, Act 507, Act 800 and Act 804, which amend the Tuition Opportunity Program for Students and Act 894, which revises the Tuition Payment Program for Medical School Students. The Fiscal Note for Act 472 does not anticipate additional costs for the agency. The Fiscal Note for Act 507 indicates an increase in costs by an unknown amount. The Fiscal Note for Act 800 indicates an increase in costs by an unknown amount. Based on the number of 2003 graduates who had earned Agriscience I and II, the Fiscal Office estimated that an additional \$278,000 might be necessary in the first year. The Fiscal Note for Act 804 indicates a cost of \$15,000 for the first year, \$7,5000 the second and third years and no cost thereafter. The fiscal Note for Act 894 indicates a cost of \$450, 000 the first year, \$468,000 the second year, \$487,000 the third year, \$506,000 the fourth year and \$526,000 the fifth year. This Act was not funded.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no estimated effects on revenue collections of state or local governmental units resulting from these measures.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The 2004 Acts make various changes to aspects of the TOPS program that affect both existing and future TOPS recipients. To the extent that these acts may make additional students eligible for TOPS Awards, such students will benefits from payment of some or a portion of their college costs of attendance.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There are no estimated effects on competition or employment resulting from these measures.

George Badge Eldredge
General Counsel
0409#010

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Tuition Trust Authority
Office of Student Financial Assistance**

Student Tuition and Revenue Trust (START Saving)
Program Education Savings Account
(LAC 28:VI.107 and 311)

The Louisiana Tuition Trust Authority announces its intention to amend its START Savings Program Rules (R.S. 17:3091 et seq.).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 28

EDUCATION

**Part VI. Student Financial Assistance—Higher
Education Savings**

Chapter 1. General Provisions

Subchapter A. Student Tuition Trust Authority

§107. Applicable Definitions

Deposits—The actual amount of money received from an account owner for investment in an education savings account. Deposits do not include earnings on deposits nor earnings enhancements or interest earned thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:566 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:

Chapter 3. Education Savings Account

**§311. Termination and Refund of an Education
Savings Account**

A. - C.1. ...

2. All other requests for refund will result in the termination of the account and in the refund of:

a. the deposits invested in fixed earnings, if the account has been open for less than twelve months;

b. the redemption value, if the account has been open for 12 or more months;

c. the deposits or the current value (less earning enhancements allocated to the account and earnings thereon) of an account invested in variable earnings, whichever is less, if the account has been open for less than twelve months;

d. the current value (less earning enhancements allocated to the account and earnings thereon) of an account invested in variable earnings, if the account has been open for twelve or more months.

C.3. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002) LR 30:790 (April 2004), LR 30:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., October 11, 2004, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Student Tuition and Revenue Trust (START Saving) Program Education Savings Account

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These rules are required to implement Act 329 of the 2004 Regular Session of the Louisiana Legislature, which modified the Student Tuition Assistance and Revenue Trust (START) Program. This Act revised the statute to limit refunds for accounts open for less than twelve months to "the amount of the deposits or the current value of the account, whichever is less." Other than the costs of rulemaking, there should be no implementation costs or savings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from these rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No impact on directly affected persons or nongovernmental groups is anticipated to result from this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

George Badge Eldredge
General Counsel
0409#011

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment

Accident Prevention Regulations Incorporation by Reference
(LAC 33:III.5901)(AQ245*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been

initiated to amend the Air regulations, LAC 33:III.5901 (Log #AQ245*).

This proposed Rule is identical to federal regulations found in 69 FR 18819-18832, April 9, 2004, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the proposed Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule change incorporates by reference amendments published in the *Federal Register* to "Accidental Release Prevention Requirements: Risk Management Program Requirements Under Clean Air Act Section 112(r)(7)"; Amendments to the Submission Schedule and Data Requirements. EPA made several changes to the reporting requirements of the accident prevention regulations. Provisions of these changes may be operative before the department proceeds with its annual incorporation by reference in 2005. This action is required to keep the federal and state rules consistent with one another. The basis and rationale for this Rule are to mirror the federal regulations.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2003. Also incorporated by reference are amendments to EPA rule entitled "Accidental Release Prevention Requirements: Risk Management Program Requirements Under Clean Air Act Section 112(r)(7)"; Amendments to the Submission Schedule and Data Requirements, promulgated on April 9, 2004, in the *Federal Register*, 69 FR 18819-18832.

B. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:

A public hearing will be held on October 25, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals

with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ245*. Such comments must be received no later than October 25, 2004, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ245*. This regulation is available on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

0409#085

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment

Records Confidentiality/Increase in Penalty Fees (LAC 33:I.503, 505, 507, and 705)(OS060)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.503, 505, 507, and 705 (Log #OS060).

This proposed Rule amends the regulations regarding the confidentiality of public records. Records processing, requests for confidentiality, and confidential information availability are clarified. This proposed Rule also reflects an increase in the penalty fee for a major violation event and corrects the statutory maximum in circumstances where the penalty event constitutes a violation of a previous enforcement action. The increase in the penalty amount for environmental violations was enacted by Act 52 of the 2004 Regular Session of the legislature. The basis and rationale for this Rule are to clarify the regulations regarding confidentiality of information obtained in public records and to correct the required amounts for penalty fees for environmental violations.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 5. Confidential Information Regulations

§503. Requests for Confidentiality

A. - E.8. ...

F. All records submitted in accordance with R.S. 44:3.2 will be processed as a complete request for confidentiality as described in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:743 (April 2004), amended by the Office of Environmental Assessment, LR 30:

§505. Responses to Requests for Confidentiality

A. The department shall make a determination and send a written response to the requester by certified mail within a reasonable time from receipt of a complete request for confidentiality, except for:

1. requests made in accordance with R.S. 30:2074(D), in which case the department shall send a written response by certified mail within 21 working days from receipt of the complete request for confidentiality; and

2. requests made in accordance with R.S. 44:3.2, in which case the department shall send a written response by certified mail within 30 days from receipt of the complete request for confidentiality.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:743 (April 2004), amended by the Office of Environmental Assessment, LR 30:

§507. Accessibility

A. Information that is confidential shall not be made available to the public.

B. If a request for confidentiality is granted, such confidentiality shall not prevent the necessary use of the information or records by department employees or duly authorized officers or employees of local, state, or federal governments in carrying out their responsibilities under law. The secretary or the secretary's designee must duly authorize any officer or employee of local, state, or federal government who seeks access to confidential information or records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030 and 30:2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:343 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:744 (April 2004), amended by the Office of Environmental Assessment, LR 30:

Chapter 7. Penalties
§705. Penalty Determination Methodology

A. ...

Table 1. Penalty Matrix				
Degree of Risk/Impact to Human Health or Property	Nature and Gravity of the Violation			
		Major	Moderate	Minor
	Major	\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
	Moderate	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
Minor	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100	

A.1. - D. ...

E. The information obtained from the violation-specific and violator-specific factors can be entered into one of the following formulas to obtain a penalty amount (P_n) for each penalty event:

$$P_n = A_n + (B_n \times [C_n - A_n])$$

$$P_n = 2(A_n + [B_n \times (C_n - A_n)])^*$$

where:

P_n = penalty amount for a given penalty event.

A_n = the minimum value of the penalty range for the cell located on the penalty matrix for a given penalty event.

B_n = the sum of percentage adjustments calculated for a given penalty event, where 100 percent ≥ B ≥ -100 percent.

C_n = the maximum value of the penalty range for the cell located on the penalty matrix for a given penalty event.

* [NOTE: The statutory maximum is \$50,000 in circumstances where the penalty event constitutes a violation of a previous enforcement action as stated in R.S. 30:2025(E)(2).]

F. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:658 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2400 (December 1999), LR 30:421 (March 2004), amended by the Office of Environmental Assessment, LR 30:

A public hearing will be held on October 25, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS060. Such comments must be received no later than November 1, 2004, at 4:30 p.m., and should be sent to Judith A. Schuerman,

Ph.D., Office of Environmental Assessment, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS060. This regulation is available on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
 Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
 FOR ADMINISTRATIVE RULES**
**RULE TITLE: Records Confidentiality/Increase in
 Penalty Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no expected implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect on revenue collections of state or local governmental units is anticipated. However, whenever major violations of environmental law warrant the assessment of civil penalties at the maximum rate, the department will receive approximately an 18 percent increase for those collected penalties.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Major violators of environmental law may be assessed an increase in civil penalties.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment by the proposed Rule.

Wilbert F. Jordan, Jr.
 Assistant Secretary
 0409#087

Robert E. Hosse
 General Government Section Director
 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
 Office of Environmental Assessment**

Social Security Number Confidentiality
 (LAC 33:III.2799 and 2805; XI.1305; and
 XV.487, 712, and 1013)(OS059)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the

secretary gives notice that rulemaking procedures have been initiated to amend the Environmental Quality regulations, LAC 33:III.2799 and 2805; XI.1305; and XV.487, 712, and 1013 (Log #OS059).

This Rule replaces those provisions in the regulations requiring a social security number with provisions requiring a driver's license or state identification number and the issuing state. Provisions in the regulations requiring social security numbers provide unnecessary exposure of personal, security-related identification information. The department sees no compelling reason to continue to collect social security number information. The basis and rationale for this proposed Rule are to conform to the federal government's position on social security number confidentiality (5 USC 552a Pub. L.93-579 SEC.7.).

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 III. Air

Chapter 27. Asbestos-Containing Materials in Schools and State Buildings Regulation

§2799. Appendix A Agent Accreditation Plan

Appendix A Agent Accreditation Plan

The duration of initial and refresher training courses is specified in numbers of days. A day of training equals eight consecutive hours, including breaks and lunch.

In several instances, initial training courses for a specific discipline (e.g., workers, inspectors) require hands-on training. For asbestos abatement supervisors, and workers, hands-on training should include working with asbestos-substitute materials, fitting and using respirators, use of glove-bags, donning protective clothing, constructing a decontamination unit, as well as other abatement work activities. Hands-on training must permit all supervisors, and workers to have actual experience performing tasks associated with asbestos abatement. For inspectors, hands-on training should include conducting a simulated building walk-through inspection and respirator fit testing.

Training requirements for each of the five accredited disciplines are outlined below. Persons in each discipline perform a different job function and distinct role. Inspectors identify and assess the condition of ACBM, or suspect ACBM. Management planners use data gathered by inspectors to assess the degree of hazard posed by ACBM in schools to determine the scope and timing of appropriate response actions needed for schools. Project designers determine how asbestos abatement work should be conducted. Lastly, workers and contractor/supervisors carry out and oversee abatement work. Each accredited discipline and training curriculum is separate and distinct from the others. A person seeking accreditation in any of the five accredited MAP disciplines cannot attend two or more courses concurrently, but may attend such courses sequentially. All courses, both initial and refresher, shall be completed within 14 days of the commencement of the course.

A. - E.2. ...

a. A completed Asbestos Accreditation Affidavit, Form AAC-1 (which may be obtained from the Office of Environmental Services, Permits Division, or through the department's website) that contains:

- i. the applicant's name, address, and telephone number;
- ii. the applicant's driver's license or state identification number and the issuing state;
- iii. the name, address, and telephone number of the applicant's employer;
- iv. an identification of the disciplines in which accreditation is sought;
- v. completed statements of regulation possession and understanding and of regulatory enforceability;
- vi. the applicant's previous accreditation number, if applicable; and
- vii. the applicant's signature and the date of application.

E.2.b. - F.5. ...

a. Unique sequentially-numbered certificates must be issued to students who successfully pass the training course. The numbered certificate must indicate the student's name, his or her driver's license or state identification number and the issuing state, the course completed, and the dates of the course and the examination when applicable. The certificate must also include an expiration date for training that is one year after the date on which the student completed the course. The name, address, and telephone number of the training organization must also be indicated on the certificate. The discipline for which training was received shall be stated on each certificate, and a statement must be included that the person receiving the certificate has completed the requisite training for asbestos accreditation as required under TSCA Title II. States or training providers who reaccredit persons based upon completion of required refresher training must also provide accreditation certificates with all of the above information, except the examination date may be omitted.

b. - c. ...

i. The notification must be received in writing by the Office of Environmental Services, Permits Division, at least five days prior to class commencement. (Notification must be made at least three days prior to a course when only the state regulations are to be taught.)

ii. Cancellation of classes must be received by the Office of Environmental Services, Permits Division, before the class should have commenced.

d. Within 10 days of the completion of a class a complete roster of trainees, their driver's license or state identification numbers and the issuing states, and their examination grades, with a 1" x 1 1/4" photograph of the face of each trainee, must be submitted to the Office of Environmental Services, Permits Division, on a form approved by the department.

5.e. - 9.e.iii. ...

NOTE: Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:397 (May 1990), LR 16:1057 (December 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality

Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2458 (November 2000), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004), LR 30:

Chapter 28. Lead-Based Paint Activities Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities

§2805. Recognition and Standards for Training Providers

A. - B.8.a. ...

b. the name, driver's license or state identification number and the issuing state, and the address of the individual;

B.8.c. - G.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1666 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2337 (November 2002), amended by the Office of Environmental Assessment, LR 30:

Part XI. Underground Storage Tanks

Chapter 13. Certification Requirements for Persons Who Install, Repair, or Close Underground Storage Tank Systems

§1305. Categories of Certification and Requirements for Issuance and Renewal of Certificates

A. - F.2.b. ...

G. Issuance and Display of Identification Cards and Certificates

1. Upon issuance of a UST certificate, the department will issue an identification card to the successful applicant that shows the person's name, driver's license or state identification number and the issuing state, categories of certification, certificate number, certificate issuance date, and certificate expiration date.

G.2. - 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, Underground Storage Tank Division, 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 29:691 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:

Part XV. Radiation Protection

Chapter 4. Standards for Protection Against Radiation

Subchapter J. Reports

§487. Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Constraints or Limits

A. - B.1.e. ...

2. Each report filed in accordance with Subsection A of this Section shall include for each occupationally overexposed individual the name, driver's license or state identification number and the issuing state, and date of birth. With respect to the limit for the embryo/fetus in LAC

33:XV.417, the identifiers should be those of the declared pregnant woman. The report shall be prepared so that this information is stated in a separate and detachable portion of the report.

C. ...

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 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000), LR 26:2771 (December 2000), LR 27:1231 (August 2001), LR 30:1679 (August 2004), amended by the Office of Environmental Assessment, LR 30:

Chapter 7. Use of Radionuclides in the Healing Arts
§712. Notifications, Reports, and Records of Medical Events

A. - C.4.b. ...

D. Each licensee shall retain a record of each medical event for five years. The record shall contain the names of all individuals involved (including the prescribing physician, allied health personnel, the individual affected by the medical event, and the individual's referring physician), the individual's driver's license or state identification number and the issuing state, a brief description of the medical event, why it occurred, the effect on the individual, what improvements are needed to prevent recurrence, and the actions taken to prevent recurrence.

E. - F.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 18:34 (January 1992), amended LR 24:2102 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2588 (November 2000), LR 30:1174 (June 2004), LR 30:1679 (August 2004), amended by the Office of Environmental Assessment, LR 30:

Chapter 10. Notices, Instructions, and Reports to Workers; Inspections

§1013. Notifications and Reports to Individuals

A. Radiation exposure data for an individual and the results of any measurements, analyses, and calculations of radioactive material deposited or retained in the body of an individual shall be reported to the individual as specified in this Section. The information reported shall include data and results obtained pursuant to the Louisiana Radiation Protection Regulations (LAC 33:Part XV), orders or license conditions, as shown in records maintained by the licensee or registrant pursuant to LAC 33:XV.476. Each notification and report shall be in writing and shall include:

1. appropriate identifying data such as:
 - a. the name of the licensee or registrant;
 - b. the name of the individual; and
 - c. the individual's driver's license or state identification number and the issuing state;
2. the individual's exposure information; and
3. the following statement:

"This report is furnished to you under the provisions of the Louisiana Radiation Protection Regulations, LAC 33:XV.Chapter 10. You should retain this report for further reference."

B. - E. ...

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 19:1421 (November 1993), LR 22:976 (October 1996), LR 24:2111 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2593 (November 2000), amended by the Office of Environmental Assessment, LR 30:

A public hearing will be held on October 25, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS059. Such comments must be received no later than November 1, 2004, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS059. This regulation is available on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Social Security Number Confidentiality

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no expected costs or savings to state or local governmental units by the proposed Rule.
- 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 by the proposed Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs and/or economic benefits to directly affected persons or non-governmental groups by the proposed Rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment by the proposed Rule.

Wilbert F. Jordan, Jr.
Assistant Secretary
0409#086

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Examiners for New Orleans and
Baton Rouge Steamship Pilots**

Mandatory Rest Period (LAC 46:LXX.6653)

In order to provide for the continued safe and efficient pilotage of vessels along the Mississippi River, as well as to prevent any imminent peril to public health, safety and welfare, the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots finds that it is necessary that all pilots perform their duties while adequately and completely rested. To that end, the Board of Examiners finds an immediate need to provide rules and regulations regarding a mandatory rest period for New Orleans and Baton Rouge Steamship Pilots.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXX. River Pilots

**Subpart 7. Board of Examiners for the New Orleans and
Baton Rouge Steamship Pilots**

Chapter 66. Standards of Conduct

§6653. Mandatory Rest Period

A. All New Orleans-Baton Rouge Steamship Pilots shall have a minimum six hour rest period between turns.

B. For the purpose of this rule, the "rest period" begins at the termination of the allotted travel time at the completion of one turn and ends at the time of dispatching for the next turn.

C. For the purpose of this rule, a "turn" is the time period from dispatch to the termination of the allotted travel time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The proposed Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? The proposed Rule will not effect family earnings or family budgets.

5. What effect will this have on the behavior and personal responsibility of children? The proposed Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the action proposed is strictly a state enforcement function.

All interested persons are invited to submit comments in writing on this proposed Rule. All comments should be submitted in writing to Captain Henry G. Shows, 3900 River Road, Suite 7, Jefferson, LA 70121, by 5 p.m. on October 8, 2004.

Henry G. Shows
President

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Mandatory Rest Period**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no cost to the Board of Examiners, the State of Louisiana or any local governmental entity associated with the promulgation of this Rule.

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)

There will be no economic cost or benefit to the NOBRA pilots affected by this Rule, as their compensation will remain unchanged. There will no economic impact on industry, as pilotage will not be affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Rule will have no effect on competition or employment.

Henry G. Shows
President
0409#080

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

EPO Plan of Benefits
Hearing Aids & Minor Dependents
(LAC 32:V.301 and 317)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2) vesting the Office of Group Benefits (OGB) with

the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to authorize limited benefits for hearing aids for covered dependent children under the age of 18. This action is necessary to comply with the provisions of La. R. S. 22:215.25 enacted by Acts 2003, No. 816.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Medical Benefits Apply When Eligible Expenses Are Incurred by a Covered Person

A. - A.32. ...

33. hearing aids for use by a covered dependent child under the age of 18, subject to the following limitations:

a. the hearing aids must fitted and dispensed by a licensed audiologist or licensed hearing aid specialist following medical clearance by a licensed doctor of medicine (M.D.) and an audiological evaluation medically appropriate to the age of the child;

b. the maximum amount payable is \$1,400 per hearing aid for each hearing-impaired ear every 36 months; and

c. this benefit shall apply whether or not the hearing impairment is a pre-existing condition.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1810 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002), LR 29:334, 338 (March 2003), LR 30:1190 (June 2004), LR 30:

§317. Exceptions and Exclusions for All Medical Benefits

A. - A.26. ...

27. Hearing aids or any examination to determine the fitting or necessity, except as specifically provided in §301.A.33.

28. - 41. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1813 (October 1999), amended LR 26:487 (March 2000), LR 27:717 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:2340 (November 2002), LR 30:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows: This Rule will authorize limited benefits not previously available for hearing aids for families participating in the EPO Plan who have hearing impaired covered dependent children under the age of 18.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group

Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on October 22, 2004.

A. Kip Wall
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: EPO Plan of Benefits
Hearing Aids & Minor Dependents**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification would cost the EPO plan (Statewide EPO and Region 6-United Healthcare EPO) of OGB approximately \$7,447 in FY 04/05, \$4,964 in FY 05/06, and \$4,964 in FY 06/07. This benefit would provide coverage for one hearing aid for each qualified child under the age of 18 up to a maximum cost of \$1,400 per hearing aid.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections of State or Local Governmental units should not be affected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This rule will result in OGB-EPO members (approximately 3-4) under the age of 18 being eligible for coverage of one hearing aid every three years at a maximum cost of \$1,400. This could result in an additional \$300 in out of pocket costs for the EPO member as this cost could be applied to the annual \$300 deductible.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition and employment will not be affected.

A. Kip Wall
Chief Executive Officer
0409#078

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

**NOTICE OF INTENT
Office of the Governor
Division of Administration
Office of Group Benefits**

MCO Plan of Benefits
Hearing Aids & Minor Dependents
(LAC 32:IX.301 and 317)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2) vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the MCO Plan Document to authorize limited benefits for hearing aids for covered dependent children under the age of 18. This action is necessary to comply with the provisions of R. S. 22:215.25 enacted by Acts 2003, No. 816.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

**Part IX. Managed Care Option (MCO) Plan of Benefits
Chapter 3. Medical Benefits**

**§301. Medical Benefits Apply When Eligible Expenses
Are Incurred by a Covered Person**

A. - A.32. ...

33. hearing aids for use by a covered dependent child under the age of 18, subject to the following limitations:

a. the hearing aids must fitted and dispensed by a licensed audiologist or licensed hearing aid specialist following medical clearance by a licensed doctor of medicine (M.D.) and an audiological evaluation medically appropriate to the age of the child;

b. the maximum amount payable is \$1,400 per hearing aid for each hearing-impaired ear every 36 months; and

c. this benefit shall apply whether or not the hearing impairment is a pre-existing condition.

B. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:888 (June 2003), amended LR 30:1191 (June 2004), LR 30:

**§317. Exceptions and Exclusions for All Medical
Benefits**

A. - A.26. ...

27. hearing aids or any examination to determine the fitting or necessity, except as specifically provided in §301.A.33;

28. - 41. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:892 (June 2003), amended LR 30:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows: This Rule will authorize limited benefits not previously available for hearing aids for families participating in the MCO Plan who have hearing impaired covered dependent children under the age of 18.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on October 22, 2004.

A. Kip Wall
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: MCO Plan of Benefits
Hearing Aids & Minor Dependents**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification would cost the MCO plan

of OGB approximately \$50,836 in FY 04/05, \$33,890 in FY 05/06, and \$33,890 in FY 06/07. This benefit would provide coverage for one hearing aid for each qualified child under the age of 18 up to a maximum cost of \$1,400 per hearing aid.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of State or Local Governmental units should not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will result in OGB-MCO members (approximately 24-35) under the age of 18 being eligible for coverage of one hearing aid every three years at a maximum cost of \$1,400. There will be no additional cost for co-payments or deductibles under this plan.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

A. Kip Wall
Chief Executive Officer
0409#076

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

PPO Plan of Benefits
Hearing Aids & Minor Dependents
(LAC 32:III.301 and 317)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2) vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document to authorize limited benefits for hearing aids for covered dependent children under the age of 18. This action is necessary to comply with the provisions of R. S. 22:215.25 enacted by Acts 2003, No. 816.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Medical Benefits Apply When Eligible Expenses Are Incurred by a Covered Person

A. - A.32. ...

33. Hearing aids for use by a covered dependent child under the age of 18, subject to the following limitations:

a. the hearing aids must fitted and dispensed by a licensed audiologist or licensed hearing aid specialist following medical clearance by a licensed doctor of medicine (M.D.) and an audiological evaluation medically appropriate to the age of the child;

b. the maximum amount payable is \$1,400 per hearing aid for each hearing-impaired ear every 36 months; and

c. this benefit shall apply whether or not the hearing impairment is a pre-existing condition.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002), LR 29:339, 343 (March 2003), LR 30:1192 (June 2004), LR 30:

§317. Exceptions and Exclusions for All Medical Benefits

A. - A.26. ...

27. hearing aids or any examination to determine the fitting or necessity, except as specifically provided in §301.A.33;

28. - 41. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1834 (October 1999), amended LR 26:488 (March 2000), LR 27:720 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:2343 (November 2002), LR 30:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows: This Rule will authorize limited benefits not previously available for hearing aids for families participating in the PPO Plan who have hearing impaired covered dependent children under the age of 18.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on October 22, 2004.

A. Kip Wall
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: PPO Plan of Benefits
Hearing Aids & Minor Dependents**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification would cost the PPO plan of OGB approximately \$38,873 in FY 04/05, \$25,915 in FY 05/06, and \$25,915 in FY 06/07. This benefit would provide coverage for one hearing aid for each qualified child under the age of 18 up to a maximum cost of \$1,400 per hearing aid.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of State or Local Governmental units should not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will result in OGB-EPO members (approximately 18-20) under the age of 18 being eligible for coverage of one

hearing aid every three years at a maximum cost of \$1,400. This could result in an additional \$500 in out of pocket costs for the PPO member as this cost could be applied to the annual \$500 deductible for active employees or an additional \$300 in out of pocket costs as this cost could be applied to the annual \$300 deductible for retirees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

A. Kip Wall
Chief Executive Officer
0409#077

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Planning and Budget**

Annual Program Evaluation Reports
(LAC 4:I.Chapter 1)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 36:8(B)(1), the Office of the Governor, Division of Administration, Office of Planning and Budget, hereby gives notice of its intent to repeal LAC 4:I.Chapter 1 deleting the requirements regarding annual program evaluation reports.

The proposed Rule was promulgated to establish forms for an annual report summarizing the activities of undersecretaries' offices relating to management and program analysis. Act 20 of 2004 repealed the requirement of R.S. 36:8(B)(1) that the Division of Administration must prepare and review the forms in accordance with the Administrative Procedure Act. R.S. 36:8 specifically prescribes what the reports must contain. Act 20 of 2004 allows the commissioner of administration to prescribe the manner for developing the reports and any other information as he may require.

This Chapter is being repealed because it is in nonconformance with existing law.

Title 4

ADMINISTRATION

Part I. General Provisions

Chapter 1. Annual Program Evaluation Reports

§101. Reports from Undersecretaries to Governor

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 20 of 2004.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), repealed by the Office of the Governor, Division of Administration, Office of Planning and Budget, LR 30:

§103. Form 160-1 Significant Problem, Deficiency, or Abuse

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 20 of 2004.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), repealed by the Office of the Governor, Division of Administration, Office of Planning and Budget, LR 30:

§105. Form 160-2 Reports to the Secretary

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 20 of 2004.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), repealed by the Office of the Governor, Division of Administration, Office of Planning and Budget, LR 30:

§107. Form 160-3 List of Program Evaluations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 20 of 2004.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), repealed by the Office of the Governor, Division of Administration, Office of Planning and Budget, LR 30:

§109. Form 160-4 Summary of Evaluation or Report

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 20 of 2004.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), repealed by the Office of the Governor, Division of Administration, Office of Planning and Budget, LR 30:

§111. Form 160-5 Significant Recommendations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 20 of 2004.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), repealed by the Office of the Governor, Division of Administration, Office of Planning and Budget, LR 30:

Family Impact Statement

The proposed repeal of LAC 4:I.Chapter 1 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.

Interested persons may submit written comments until 4:30 p.m., October 10, 2004, to Sarah Wallace, Office of Planning and Budget, P.O. Box 94095, Baton Rouge, LA 70804-9095.

David Hoppenstedt
Deputy Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Annual Program Evaluation Reports

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Whit Kling
Deputy Undersecretary
0409#068

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Risk Management**

Reporting of Claims
(LAC 4:V.2101, and 37:I.101, 301, 303, 307, 309,
311, 313, 501, 701, 703, 705, 2502, 2701, 2901,
3101, 3103, 3105, 3107, 3109, 3111, 3113, 3115,
3117, 3119, 3121, 3201, 3301, and 5101)

Under the authority of R.S. 39:1535, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Risk Management proposes to amend LAC 4:V.2101, LAC 37:I.101, 301,303, 307, 309, 311, 313, 501, 701, 703, 705, 2502, 2701, 2901, 3101, 3103, 3105, 3107, 3109, 3111, 3113, 3115, 3117, 3119, 3121, 3201, 3301, and 5101 to make technical changes and update the process of submitting claims in a timely fashion. The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memoranda

Chapter 21. Repair and Replacement of Damaged Property Covered Under the State's Risk Management Program
PPM No. 53

§2101. Responsibilities and Rights

A. The Office of Risk Management, Division of Administration, has the responsibility to manage all state insurance covering property and liability exposure through commercial underwriters or by self-insuring. Personnel benefits, group health, and life coverage are excepted. In discharging this responsibility, the Office of Risk Management has the right of access to all information relating to the state's Self-Insurance and Loss Control Program. This will be accomplished by affording the Office of Risk Management opportunity of inspections of all locations throughout the state.

B. The Office of Risk Management has most rights normally afforded a commercial insurance company. Among these rights is the opportunity to inspect any damage to insured property prior to repair or disposal. Therefore, the Office of Risk Management must be contacted before any repairs or disposal of insured, damaged material is accomplished. Submit all appropriate information relative to incurred losses to the Office of Risk Management at the

following address: Office of Risk Management, Division of Administration, P.O. Box 91106, 1201 N. Third Street, Baton Rouge, LA 70821-9106, Phone (225) 342-8500.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:171.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, July 1, 1973, promulgated LR 1:132 (February 1975), amended LR 12:231 (April 1986), amended LR 30:

Title 37

INSURANCE

Part I. Risk Management

Subpart 1. Structured Settlements

Chapter 1. Definitions

§101. Definitions

Commissioner The Commissioner of Administration, the chief executive officer of the Division.

Division The Division of Administration of the Office of the Governor of Louisiana.

May denotes the permissive, the having discretion and authority.

Office of Risk Management The Office of Risk Management created within the Division by R. S. 39:1528.

Plan Offeror or Offeror Any insurer or any bank, trust company, investment fund, or company, or other financial institution or any other legal person or entity which offers to provide an annuity, trust, or other investment product or opportunity to finance, in whole or in part, a structured payment plan and offers to accept an assignment of liability in accordance with Section 130 of the Internal Revenue Code of the United States of America for such purpose. A *plan offeror* is a potential *plan provider*.

Plan Provider or Provider Any insurer or any bank, trust company, financial institution, investment fund, or company, or other financial institution or any other legal person or entity which has offered and been accepted and contracted with to provide an annuity, trust, or other investment product or opportunity to finance, in whole or in part, a structured payment plan and has accepted an assignment of liability in accordance with Section 130 of the Internal Revenue Code of the United States of America for such purpose.

Recipient The ultimate beneficiary of a structured payment plan and/or reversionary medical trust.

Reversionary Medical Trust A trust established by a public entity for the exclusive benefit of an injured person to pay the necessary and reasonable medical expenses of said injured person and shall include, but not be limited to, reasonable amounts for all the diagnosis, cure, mitigation, or treatment of any disease or condition from which the injured person suffers as a result of the injuries, and the sequelae thereof, sustained by said injured person on the date of the accident or happening which caused the injury, where any and all or a portion of the funds remaining in the reversionary medical trust upon its dissolution, caused by the death of the injured party or such other event as may be stated in the trust agreement, shall revert to the public entity which established the trust. The trustee may obtain the services of an administrator to assist in the administration of the trust. All costs, fees, taxes, or other amounts shall be paid by the trust. The trust agreement may impose such other reasonable duties, powers, provisions, and dispute resolution clauses as may be deemed appropriate. Nothing herein provided for shall preclude the public entity from devising

other supplemental funding mechanisms for the exclusive benefit of the trust established for the benefit of the injured party and any such supplemental funding mechanisms shall not be used to determine the present value of the reversionary medical trust.

Shall denotes the imperative, the mandatory.

State Governmental Entity the state or any branch, department, office, division, commission, council, board, bureau, committee, institution, agency, state government corporation, or other establishment or official, officer, or employee thereof. The commissioner, the attorney general and his assistants, and the Office of Risk Management are included in this item. Political subdivisions, as defined in Article 6, Section 44(2), of the Louisiana Constitution, shall not be included within this term, but may acquire structured payment plans, in accordance with R.S. 13:5114.G, at their discretion and with their funds by adopting similar procedures as provided herein for *state governmental entities*.

Structured Payment Plan or Plan a method by which the public entity held liable for damages, or the public entity which agrees to compromise a cause of action for damages, is held responsible. The plan may include immediate payments and the funding of an investment, the principal and fruits of which are to be used to pay in future years damages in accordance with the terms of the plan. Such plans may include, but shall not be limited to, cash payments, annuities, trusts, reversionary medical trusts, qualified assets as defined by Section 130 of the United States Internal Revenue Code (26 USC Section 130), or any combination of them.

Structured Settlement Firm any individual, partnership, corporation, unincorporated association, company, joint stock company, joint venture, or any legal person or entity engaged in the business of rendering structured settlement services whether for the right, opportunity, or hope of acting as a commissioned agent or broker in the purchasing of any insurance annuity and/or other investment to be used in a structured payment plan or not.

Structured Settlement Services the furnishing of labor, time, or effort to a party against whom a legal action has been filed or a claim for damages or other monetary value has been made or to the attorney for such part for the purpose of attempting to resolve such action or claim by the use, in whole or in part, of a structured payment plan. Such services may include consultation; negotiation; preparation of information, data, or arguments for negotiation, for hearings or for other decision-making activities on possible structures; the ascertainment of availability of various possible structured payment plans and the costs thereof; the purchase of insurance annuities or other investments, as a commissioned agent or broker or otherwise, to be used in a structured payment plan; and/or the preparation of quotes, reports, and/or other records in connection with these services.

Using Agency any state governmental entity which has the procedural capacity to be sued in its own name, which has been sued in an action for damages or other monetary value, or has been notified that there is an outstanding claim for such damages or value being made against it, and which seeks to compromise such liability by the use, in whole or in part, of a structured payment plan or has been actually cast

in a judgment of liability incorporating a structured payment plan.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:234 (April 1986), amended LR 30:

Chapter 3. Structured Settlement Services

§301. Qualifying Criteria for Acceptable Structured Settlement Firms

A. A structured settlement firm desirous of rendering structured settlement services to a state governmental entity shall first meet the following criteria and possess the following qualifications.

1. It shall have been, for at least three immediately preceding and successive years, successfully engaged in the business of rendering to private attorneys, to private entities or persons, or to attorneys or entities of local governments, or governments of other jurisdictions the same or substantially similar structured settlement services as defined in Part I.

2. It employs at least one person who has actually been, for a period of three successive years or more, successfully engaged in performing the same or similar structured settlement services as defined in this part and who will personally supervise the rendering of any such services to every state governmental entity receiving them from such firm.

3. It shall be able to make such purchases as agent or broker from at least five valid structured settlement annuity carriers which meet the qualifying criteria for plan offerors and providers established in these rules and regulations and with none of which it has an ownership, equity, capital, or proprietary relationship or interrelationship whatsoever. For each case the broker's top three quotes and the names of the carriers will be furnished to the Office of Risk Management.

4. It shall furnish good and sufficient recommendatory references as follows:

a. five persons or entities to whom it has actually rendered successful and satisfactory services relating to structured payment plans within the past three years;

b. five financial references whose ownership, equity, capital, or proprietary relationship or interrelationship with or other interest in such structured settlement firm, if any, is fully disclosed to the Office of Risk Management together with or prior to the recommendation(s) made by any such reference.

5. It shall provide the following information:

a. a copy of Louisiana agents/brokers license;

b. proof of coverage of \$1,000,000 for errors and omissions which specifically covers structured settlements;

c. a copy of the firm's audited financial statement (If the firm is a division of a larger corporation, a copy of the corporate financial statement will satisfy this requirement.);

d. proof of National Structured Settlement Trade Association (NSSTA) membership;

e. a complete list of qualifying structured settlement carriers which the firm regularly utilizes in providing structured settlement services.

6. Firms shall be responsible for the immediate notification to the Office of Risk Management if the license referred to in §301.A.5.a. expires or is terminated and if the policy referred to in §301.A.5.b. expires or is terminated.

Additionally, the firm shall notify the Office of Risk Management within 30 days of change of carrier for the policy referred to in §301.A.5.b.

7. It shall be otherwise qualified to do business in the state of Louisiana generally and shall have promptly paid all taxes due to the state of Louisiana as provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:235 (April 1986), amended LR 12:832 (December 1986), LR 16:614 (July 1990), LR 17:1206 (December 1991), LR 30:

§303. Application, Investigation, Verification, List-Keeping of Qualified Structured Settlement Firms

A. Any structured settlement firm meeting the qualifying criteria set forth therefor in these rules and regulations and desiring to render structured settlement services to a state governmental entity shall first submit an application to the Office of Risk Management on a form to be approved by the commissioner and obtain from the Office of Risk Management a notice of verification of its meeting all qualifying criteria. Such application shall state the bases for and provide all information relevant and material to its meeting all such qualifying criteria.

B. Within a reasonable period, not to exceed 120 days, after receipt of such application, the Office of Risk Management shall investigate applicant's qualifications and have sent applicant notice of either verification of its meeting all qualifying criteria or rejection of the application based on failure to meet all qualifying criteria. Such notice of rejection shall indicate in what particulars the applicant failed to meet the qualifying criteria.

C. The Office of Risk Management shall maintain a list of all structured settlement firms whose applications and qualifying criteria have been verified.

D. For any reason and at any time whatsoever, the Office of Risk Management may inquire, investigate, and/or update an investigation into the continuing qualification of any structured settlement firm and may request of such firm any additional information, data, or references relevant thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:235 (April 1986), amended LR 30:

§305. Grounds for Removal from List

A. A structured settlement firm shall be removed from the list maintained by the Office of Risk Management of acceptable structured settlement firms meeting all qualifying criteria, on the following grounds.

1. It no longer meets all qualifying criteria in fact.

2. It fails, in accordance with §301.B to produce sufficient proof to the Office of Risk Management, upon the request thereof, that it continues to meet all qualifying criteria.

3. It violates any of these rules and regulations.

4. It engages in any criminal activity, acts involving moral turpitude, fraud, or misrepresentation including, but not limited to, the making of any material misrepresentation in any reports, notices, applications, statements, quotes, offers, or documents required by these rules and regulations

or by law to be filed with or sent to any state governmental entity or any attorney thereof.

B. If at any time the Office of Risk Management discovers that a structured settlement firm which has been already verified as to qualifying criteria and is currently on the list of such firms meeting qualifying criteria has become no longer qualified to render structured settlement services to state governmental entities, then the Office of Risk Management shall issue a notice of such discovery to such firm. If the firm fails to provide to the Office of Risk Management proof of its continuing to meet all qualifying criteria as provided in these rules and regulations within 30 days after such notice is sent, the firm shall be removed from the list and shall not be acceptable as a qualified structured settlement firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:235 (April 1986), amended LR 30:

§307. Selection of Structured Settlement Firm for Structured Settlement Services

A. Because the Code of Professional Responsibility for lawyers requires that they represent their respective clients with full competence and shall exercise their independent judgment in such representation and because structured settlement services are primarily in the nature of consulting negotiation services, the attorney actually representing a using agency in a particular legal action or claim shall request from the Office of Risk Management the designation of a firm from among those firms currently on the list of qualified structured settlement firms maintained by the Office of Risk Management, a structured settlement firm to render structured settlement services in such particular legal action and claim, when the circumstances indicate that a structured payment plan may be an appropriate way of resolving the particular legal action or claim, and the services of a structured settlement firm are necessary or highly desirable from the attorney's point of view to assist in such resolution of the action or claim. Copies of any contracts or agreements with the structured settlement firm shall be maintained on file in the Office of Risk Management.

B. Whenever the attorney general is consulted pursuant to the provisions and requirements of R. S. 13:5114.C or whenever the attorney for a using agency is one whose professional services were contracted for with the approval of the attorney general or commissioner of Administration, as may be provided by statute, then the selection of the structured settlement firm by the attorney representing the interests of the State shall be with the consent of the commissioner of Administration or the assistant commissioner of Administration designated by her for such purpose.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:236 (April 1986), amended LR 12:832 (December 1986), LR 30:

§309. Qualified Plan Offerors and Providers

A. Only annuities, trusts funded with obligations of the United States of America, and reversionary medical trusts will be used to finance the future payments to be made in all

structured payment plans used by the state governmental entity.

B. All annuities to be used in structured payment plans shall be purchased from plan offerors or providers which are insurance companies qualified to do business in Louisiana and which have, from the most recently issued *Best Insurance Report*, a rating of "A + " with a classification of "IX" or higher and have either a designation of "AA" or better by Standard and Poor or Duff and Phelps or the equivalent "Aaz" by Moody. Company must have these ratings from two of the three rating services.

C. Trusts funded with obligations of the United States of America shall be established only with financial institutions which have:

1. the corporate or other power and authority to administer the trust sought to be established;

2. a trust department, division, or office which is then administering at least \$20,000,000 in trust assets; and

3. at least one trust officer or employee who has been successfully engaged, for a period of five or more years, in administering the kind of large trusts which contain \$1,000,000 or more worth of assets each.

D. Reversionary medical trusts shall be established only with financial institutions which meet the qualifying criteria set forth in §309.C for trusts funded with obligations of the United States of America and which also have the ability to establish a system, through consultants or otherwise, to accomplish, at least competently as exists among prudent health and medical insurers, the review, evaluation, and approval or rejection, as appropriate, of all medical requests submitted by beneficiary for payment.

E. No plan offeror or provider shall have any ownership, equity, capital, or proprietary relationship or interrelationship with any structured settlement firm which has rendered, or is rendering, structured settlement services to a state governmental entity or to the attorney thereof in a particular legal action or claim and which has proposed to contract as an agent or broker with such plan offeror or provider for any annuity, trust, or other investment product or opportunity to finance a structured settlement plan with respect to such legal action or claim.

F. The Office of Risk Management will not maintain a list of qualified offerors or providers. It shall be the duty of the structured settlement firm to exercise due diligence in certifying that only qualified plan offerors and providers are dealt with in accordance with these rules and regulations. The Office of Risk Management shall maintain, however, a list of plan offerors or providers which might otherwise meet the qualifications and criteria of §309 but which have been disqualified under §313 of these rules and regulations. A copy of this list shall be made available to any qualified structured settlement firm upon request and upon payment of the requisite fee. The failure of a structured settlement firm to deal with and accept quotes and/or offers only from qualified plan offerors and providers shall be a violation of these rules and regulations and grounds, under §305 of these rules and regulations, for removal of such firm from the list maintained by the Office of Risk Management of acceptable structured settlement firms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114 and 39:1527.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:236 (April 1986, amended LR 12:832 (December 1986), LR 16:615 (July 1990), LR 17:1207 (December 1991), LR 30:

§311. Selection of Plan Providers from among Plan Offerors

A. A structured settlement firm which is qualified under §301 of these rules and regulations and which has rendered, or is rendering, structured settlement services to a state governmental entity or to the attorney thereof in a particular legal action or claim being resolved, in whole or in part, by a structured payment plan shall select the plan providers as provided hereinbelow for the implementation of such plan. Such selection shall be made only in accordance with the following conditions and procedures:

1. the structured settlement firm has obtained cost and availability quotes from not less than three qualified plan offerors on each annuity or trust to be used in the plan, unless after diligent search there are not three qualified plan offerors willing to provide the particular trust or annuity sought to be established, and then, in that case, the full details of the search and its results shall be reported to the Office of Risk Management, and the best evaluated annuity and/or trust considering cost, performance, and stability is proposed to be selected; and

2. notice and the details of each such quote, each plan offeror's qualifications, and each proposed selection have been received by the Office of Risk Management; and

3. no objection by the Office of Risk Management has been received by the structured settlement firm within three days, excluding holidays and weekends, after the receipt by the Office of Risk Management of the notice and details of each quote, each plan offeror's qualifications, and each proposed selection; and

4. either:

- a. the plan has received the approval of the Joint Legislative Committee on the Budget and the notification thereof has been made upon the Office of Risk Management; or

- b. a legislative enactment making a specific appropriation to fund the particular structure payment plan makes such funding executory without the need for further approval from the Joint Legislative Committee on the Budget; and

5. properly appropriated funds for payment of the judgment or the structured payment plan are made available therefor.

B. Only the qualified plan offeror(s) offering and quoting the best evaluated annuity, trust, and/or other investment product or opportunity which is available and which meets all the requirements, conditions, and specifications of the structured payment plan shall be selected as the plan provider(s). The details of the proposed selection shall include, as a minimum, an evaluation of each offering and quote considering the cost, performance, and stability thereof, and the reasons that the offering(s) and quote(s) proposed to be selected will best serve the state's interests.

C. In addition to a sworn statement that there is no ownership, equity, capital, or proprietary relationship, no interrelationship whatsoever between the structured settlement firm and each offeror, the details of each offeror's

qualifications shall also include, as a minimum, the following:

1. with respect to each offeror which is an insurer offering an annuity, the date of the most recently published *Best Insurance Report* and the page(s) therein on which such insurer's rating and classification are reported;

2. with respect to each offeror which is a financial institution offering a trust funded with obligations of the United States of America:

a. a description of the overall organization, charter, purposes, and fields of business and financial endeavors of the financial institution and of the trust department, division, or office which will actually administer the trust and the value of trust assets being administered by such department, division, or office. If the most recently issued financial statement of such financial institution contains and fairly represents this information, then a copy of such financial statement shall suffice for such information;

b. the full names of the executive personnel of the trust department, division, or office which will actually administer the trust and synopses of their respective educational backgrounds and professional experience;

c. a summary of the experience of that financial institution and of its principal trust officers and employees in administering trusts which are similar to the one sought to be established for the structured payment plan, including all relevant information and data concerning such performance indicators as the yields on trust investment, the payout to beneficiaries, and the planned, anticipated and the unplanned, unanticipated depletion or growth of trust corpus as a result of unwise or wise management and/ or imprudent or prudent investment and also including, as a means for verification, the names and addresses of the makers (especially makers which are federal, state, or local public entities) and the beneficiaries of such trusts (unless such names and addresses are confidential or privileged under law or by prior agreement between the financial institution and the parties to such trusts);

3. with respect to each offeror which is a financial institution offering a reversionary medical trust:

a. the same information, descriptions, and summaries as required in §311.C.2 for financial institutions offering a trust funded with obligations of the United States of America but made applicable to reversionary medical trusts;

b. the particulars on the system whereby beneficiary medical requests will be reviewed, evaluated, and approved or rejected, as appropriate, including the names and addresses of the persons and/or consultants who will actually perform these functions, a history of their respective educational backgrounds and professional experience, a history of their past performance of these functions (including, but not limited to, all relevant information and data concerning such performance indicators as the efficiency and effectiveness of beneficiary medical request monitoring and review, the promptness with which beneficiary medical requests are acted on and, if approved, are paid, circumstances wherein additional injections of funds into the trust corpus after the inception of the trust, if provided for in the trust agreement, become necessary, and the final outcome or resolutions of situations where there are refusals to pay or rejections of beneficiary medical requests),

and an evaluation of their past performance of these functions.

D. Properly appropriated funds for payment of the judgment or the structured payment plan refer to funds available for such purpose under the constitution or law and includes funds appropriated by any specific appropriation of the legislature to pay a judgment, compromise, or structured payment plan; funds from the final judgment fund when the amount of payment to satisfy the judgment meets the conditions and criteria of such fund; and/or any pool of funds appropriated by the legislature to finance structured payment plans.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:236 (April 1986), amended LR 30:

§313. Disqualification of Plan Offerors and Providers

A. Notwithstanding the fact that an insurer meets the qualifications and criteria of §309.B of these rules and regulations and/or that a financial institution meets the qualifications and criteria of §309.C and/or §309.D of these rules and regulations, any plan offeror or provider, including such insurer and/or such financial institution, may be disqualified by the Office of Risk Management from thenceforth making offers to provide and/or providing any annuities, trusts, or other investment products or opportunities to finance, in whole or in part, any structured settlement plans for any state governmental entities, upon any of the following grounds:

1. it violates any of these rules and regulations;

2. it engages in any criminal activity, acts involving moral turpitude, fraud, or misrepresentation, including, but not limited to, the making of any material misrepresentation in any reports, notices, applications, statements, quotes, offers, policies, contracts, or documents required by these rules and regulations or by law to be filed with or sent to any state governmental entity or any attorney thereof.

B. The Office of Risk Management shall maintain a list of plan offerors and providers which have been disqualified under §309. Such list shall be open to the public for inspection during regular office hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:237 (April 1986), amended LR 30:

Chapter 5. Insurance Policies, Trust Contracts, and Other Evidence of Obligations Implementing Structured Payment Plans

§501. Depository for Annuities

A. The State Treasurer's Office shall be used as the depository for all annuity policies, trust policies, trust contracts, and other evidence of obligations used to implement structured payment plans and purchased pursuant to the rules and regulations set forth herein and the structured judgment or compromise documents. These documents shall be retained until final satisfaction of such judgment or compromise.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:237 (April 1986), amended LR 30:

Chapter 7. Administrative Procedures

§701. Dissatisfaction with Structured Settlement Firms and/or Plan Providers

A. Any state governmental entity or any attorney therefor dissatisfied with the performance of any structured settlement firm or with any plan offeror or provider or any recipient dissatisfied with the performance of any plan provider in any plan in which he is the recipient may report the grounds for such dissatisfaction, in writing, to the Office of Risk Management which may take any action authorized by law or by these rules and regulations to attempt to rectify the situation. Such reports shall be retained by the Office of Risk Management for additional use as support for any needed future changes in these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:237 (April 1986), amended LR 30:

§703. Appeals from Decisional Acts of the Office of Risk Management

A. Appeals to the commissioner from the Office of Risk Management may be taken in accordance with the procedures and delays set forth in §703:

1. by a structured settlement firm:
 - a. regarding its removal from the list maintained by the Office of Risk Management of acceptable structured settlement firms meeting all qualifying criteria; or
 - b. regarding the refusal or failure of the Office of Risk Management to place such firm on such list, after such firm has properly submitted a completed application therefor and either the delay for notification has elapsed or such firm has received a notification of rejection;

2. by a plan offeror or provider regarding its disqualification under §313 of these rules and regulations.

B. All appeals provided for in §703 shall be taken within 14 days, exclusive of holidays and weekends, after the action complained of. The commissioner may extend this period for good cause shown, if a request for extension is made, in writing, to the commissioner within this initial 14 day period.

C. All appeals provided for in §703 shall be taken by the appellant's filing a written document of appeal with the commissioner. Such document shall include as exhibits copies of all relevant letters, applications, notices, and other writings and shall contain, as a minimum, the full name and address of the appellant, its chief executive officer, and, if it is being represented by legal counsel, the full name(s) and address(es) of its legal counsel, a simple statement of the action of the Office of Risk Management being appealed from, the date on which such action occurred, and a concise presentation of the grounds for the appeal and the reasons for appellant's contention that the action being appealed from should be modified or reversed. The commissioner shall allow the Office of Risk Management to respond, in writing, to each appeal. A copy of the appeal shall be served on the Office of Risk Management, and a copy of a response by the Office of Risk Management shall be served on the appellant or its legal counsel of record in the appeal. The commissioner may then decide the appeal summarily on the basis of the documents and writings presented, may require additional evidence and/or argument or may hold formal or

informal hearings, as the commissioner deems necessary for a just decision.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:237 (April 1986), amended LR 30:

§705. Appeals from the Commissioner

A. Appeals from the commissioner shall be made to the Nineteenth Judicial District Court, Parish of East Baton Rouge, in accordance with the provisions of R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:238 (April 1986), amended LR 30:

Subpart 2. Insurance and Related Matters

Chapter 25. Underwriting

§2501. Underwriting

A. All coverages which are self-insured by the Office of Risk Management are mandatory for all Louisiana state departments, agencies, boards, and commissions.

B. If any department, agency, board, or commission requires or wishes to procure any insurance coverages which are not written through the Louisiana Self Insurance Program, request is to be made to the Office of Risk Management to procure said coverage. It is the responsibility of the department, agency, board, or commission to provide the underwriting information required to procure or underwrite the risk.

C. All leases for real and movable property (including vehicles) which are entered into by any state department, agency, board, or commission are to be forwarded to the Office of Risk Management for review in compliance of insurance requirements.

D. All inquiries regarding interpretation of insurance coverages are to be addressed to the Underwriting Unit. and are to be in a written form.

E. Boiler and machinery equipment at new locations are to be reported to the Underwriting Unit.

F. Builder's risk projects are to be reported to the Underwriting Unit when the construction contract has been awarded or the "Notice to Proceed" has been issued.

G. All newly constructed state-owned buildings are to be reported to the Underwriting Unit upon acceptance/completion.

H. All newly acquired state-owned aircraft are to be reported to the Underwriting Unit immediately but in no event more than 30 days after acquisition. All newly leased or borrowed aircraft are to be reported to the Underwriting Unit immediately but in no event more than 30 days after possession or lease.

I. Any newly acquired, constructed, leased, or borrowed airport or heliport facilities are to be reported to the Underwriting Unit before coverage will be effective.

J. All newly acquired state-owned marine vessels which are over 26 feet in length are to be reported to the Underwriting Unit immediately but in no event more than 30 days after acquisition. All newly leased or borrowed marine vessels which are over 26 feet in length are to be reported to the Underwriting Unit immediately but in no event more than 30 days after possession or lease.

K. Applications for new crime policies are to be submitted to the Underwriting Unit. Coverage does not become effective until the insurance company has accepted the new risk.

L. All departments, agencies, boards, and commissions are to provide the name, address, telephone number, and job title of the following:

1. the department, agency, board, or commission head;
2. the person(s) to receive insurance premium billings;
3. the safety coordinator or person(s) responsible for loss prevention matters;
4. the person(s) responsible for handling and disposition of claims matters;
5. the person(s) responsible for reporting exposure information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:19 (January 1987), amended LR 30:

Chapter 27. Auditing and Statistics

§2701. Auditing and Statistics

A. The exposure data requested by the Office of Risk Management (ORM) are to be submitted in a timely manner and in the form specified. The exposures may include, but are not limited to:

1. payroll;
2. maritime payroll;
3. number of board and commission members;
4. mileage of all licensed vehicles which are state-owned or leased, and all mileage on personal vehicles driven in the course and scope of state employment;
5. number of licensed vehicles;
6. acquisition or appraised value of property including, but not limited to, buildings, improvements, and inventory (includes contents, all equipment including mobile equipment and watercraft 26 feet and under), and boiler and machinery;
7. medical malpractice exposures including, but not limited to, patient days, clinic visits, emergency room visits, number of residents/ interns, and miscellaneous categories;
8. number of employees, and miscellaneous or special classes not falling within these definitions as required.

B. Billed units are to allocate premiums to subunits if required. It is not the ORM's responsibility to provide breakdowns at a lower level than the level to which premiums were budgeted or billed.

C. The Office of Risk Management is to receive immediate written notification of the abolishment, transfer, and/or merger of any department, agency, board or commission.

D. The state agencies are to provide or allow access to ORM representatives to records or information necessary to the effective operation of the Risk Management program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:19 (January 1987), amended LR 15:85 (February 1989), LR 30:

Chapter 29. Billing

§2901. Billing and Collection of Insurance Premiums

A. After an agency receives a billing invoice from the Office of Risk Management for payment of insurance

premiums, the agency is to render payment in full within 30 days from the billing date.

B. Every agency shall timely pay premiums billed by the Office of Risk Management. In the event any agency fails to pay any premiums due the Office of Risk Management within one hundred twenty days of the effective date of the appropriated insurance coverages, the Commissioner of Administration may upon request by the Office of Risk Management draw a warrant against budgeted funds of any delinquent agency directing the treasurer to pay the Office of Risk Management for the unpaid premiums. If an agency is a non-depository agency, the Commissioner of Administration may direct the head of such agency to render payment of insurance premiums due and owing to the Office of Risk Management.

C. All billing inquiries are to be directed to the Office of Risk Management, Accounting Unit, Accounts Receivable Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:20 (January 1987), amended LR 30:

Chapter 31. Reporting of Claims

§3101. Reporting of Property Damage Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states..."you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for damage to state-owned property which includes damage to buildings and improvements, contents, inventories, mobile equipment, heating and air conditioning systems, and marine hulls 26 feet and under.

C. All claims for damage to property owned by the state are to be reported to the Office of Risk Management's Property Claim Unit in writing. If a loss or claim is serious in nature, it is to be reported by telephone to the Office of Risk Management's Property Claim Unit.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. Information required to be submitted when a claim is reported to the Office of Risk Management's Property Claim Unit includes the following:

1. name of insured, location of property or unit;
2. date of loss;
3. description of loss;
4. location of item, state building ID/property control tag number;
5. size, model, and serial number of item, if applicable;
6. name of person reporting claim, listing job title, and telephone number; and
7. proof of ownership.

F. After a loss has occurred, all property which has been damaged is to be protected against further damage and is to be made available for inspection by a claims adjuster assigned by the Office of Risk Management.

G. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authorization from the Office of Risk Management, but should act to protect property and minimize the loss.

H. If repair or replacement is not accomplished within 36 months of the loss date; or, if approval is not obtained from the Commissioner of Administration to use the funds for some other purpose, or to extend the 36 month prescriptive period, the claim file will be closed.

I. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management, Property Claims Unit for further handling.

J. Any objects and/or products which may have caused, contributed to, or which are suspect of causing an accident are to be retained and preserved as evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:20 (January 1987), amended LR 15:85 (February 1989), LR 30:

§3103. Reporting of Boiler and Machinery Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for bodily injury and third party property damage claims where such losses result from state-owned boiler and machinery equipment, and for property damage to state-owned boiler and machinery equipment.

C. All claims for damage to boiler and machinery equipment are to be reported to the Office of Risk Management's Property Claim Unit in writing. Any claim involving bodily injury is to be reported by telephone to the Office of Risk Management's Property Claims Unit.

D. Claims are to be submitted in writing to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. Information required to be submitted when a claim is reported to the Office of Risk Management's Property Claim Unit includes the following:

1. name of insured, location of property or unit;
2. date of loss;
3. description of item, to include size, model, serial number, and tonnage or capacity;
4. name, job title, and telephone number of person reporting claim;
5. name and phone number of person to be contacted by adjuster assigned by ORM.

F. After a loss has occurred, the property which has been damaged is to be protected against further damage and is to be made available for inspection by a claims adjuster.

G. If replacement, repair, reconstruction, or rebuilding is not commenced within 36 months of the loss date for all state property losses; or if a claim remains inactive for 36 months after replacement, repair, reconstruction or rebuilding is commenced; or if approval is not obtained from the commissioner of Administration within the same period of time for expenditure of insurance proceeds for some other purpose, the claim file will be closed.

H. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Property Claim Unit for further handling.

I. Any objects and/or products which may have caused, contributed to, or which are suspect of causing an accident are to be retained and preserved as evidence.

AUTHORITY NOTE: Promulgated in accordance with R. S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:20 (January 1987) amended LR 15:85 (February 1989), LR 30:

§3105. Reporting of Comprehensive General Liability Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides Comprehensive General Liability coverage for bodily injury and property damage claims resulting from operations for which the agency could be held legally liable.

C. All general liability claims are to be submitted, in writing, to the Office of Risk Management on a General Liability Claim Reporting Form or in a narrative format. The General Liability Claim Reporting Form can be found on the Office of Risk Management's web site, www.doa.louisiana.gov/orm.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. If a loss is serious in nature, it is to be reported by telephone to the Office of Risk Management for review to determine if coverage is applicable.

F. Claims which are made against a state agency by a third party are to be submitted to the Office of Risk Management for review to determine if coverage is applicable.

G. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Claim Office for further handling.

H. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

I. If a loss occurs or a claim arises the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:20 (January 1987), amended LR 15:85 (February 1989).

§3107. Reporting of Worker's Compensation and Maritime Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for Worker's Compensation and Maritime Claims.

C. All accidents or occupational diseases involving state employees while in the course and scope of their employment with the state are to be reported to the Office of Risk Management within five days from the date of injury or knowledge. The forms used for this purpose are the Employer's Report of Occupational Injury or Disease Form (E-1, completed at the time of the accident), and the Pre-existing Condition Form (E-2, which was completed when hired). The Office of Risk Management will accept electronic filing of the Employer's Report of Occupational Injury or Disease Form. Access www.doa.louisiana.gov/orm and click on Agency Claims Reporting System.

D. Employer's Report of Occupational Injury or Disease Forms can be obtained from Forms Management, Box 94095, Baton Rouge, LA 70804-9095 and the Pre-existing Condition Form can be obtained from the Office of Risk Management, Claims Section, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. A copy of the Employer's Report of Occupational Injury or Disease Form and a copy of the Pre-existing Condition Form for a claim in which lost time exceeds seven days, is to be submitted to the Office of Worker's Compensation Administration, P.O. Box 94040, Baton Rouge, LA 70804-9040 within 10 days of actual knowledge of injury or death.

F. All Employer's Report of Occupational Injury or Disease Forms and Pre-existing Condition Forms are to be accurately and completely filled out.

G. Information required to be submitted when a worker's compensation claim is reported on the Employer's Report of Occupational Injury or Disease Form includes:

1. agency's location code number (located in a block below the Employer's Federal Tax I.D. Number);

2. the occupation of the employee, inclusive of his/her classified or unclassified job title. A classified job title is to include the civil service job classification code number;

3. an injured employee's monthly wages are to be reported on the Employer's Report of Occupational Injury or Disease Form under "Other Wages."

H. Information which is to be contained on the Preexisting Condition Form includes:

1. complete name, age, social security number, address, and civil service position being applied for;

2. check list of possible pre-existing diseases, disabilities, and/or conditions before employment;

3. description of particulars relative to any checked pre-existing permanent disabilities;

4. name and address of employer at time of previous injury;

5. witnessed and dated signature of applicant as to the completeness, accuracy, and validity of the information contained on the Pre-existing Condition Form.

I. If an injured employee returns to work after having lost time, the Office of Risk Management, Worker's Compensation Claims Unit, is to be notified immediately by telephone, and an Employer's Supplemental Report of Injury is to be submitted confirming the return to work date. Also, an Employer's Supplemental Report of Injury Form is to be submitted to the Office of Risk Management at any time the injured employee's work status changes.

J. All lawsuits, demands, notices, summons, or other legal documents pertaining to claims are to be forwarded immediately to the Office of Risk Management's Claim Office for further handling.

K. Any objects and/or products which may have caused, contributed to, or which are suspected of causing any accident are to be retained and preserved as evidence.

L. Any claim paid by legislative appropriation is to be reported to the Office of Risk Management by Appropriations Control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:21 (January 1987) amended LR 15:85 (February 1989), LR 16:401 (May 1990), LR 30:

§3109. Reporting of State Automobile Liability and Physical Damage Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for liability and physical damage to state-owned and leased licensed vehicles and excess liability coverage for employee's private automobiles while being operated with proper authorization during the course and scope of state employment.

C. All claims for liability or physical damage to state-owned and leased licensed vehicles are to be reported to the Office of Risk Management's Transportation Claims Unit in

writing. If a loss involves property damage estimated at \$5,000 or more or if a loss involves any bodily injury, the loss is to be reported by telephone to the Office of Risk Management Transportation Claims Unit.

D. All claims are to be submitted to the Office of Risk Management, Transportation Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106 on a DA 2041 (revised 12/98) accident report form. This form must be completed within 48 hours after an automobile accident. These forms are available through DOA/Forms Management and The Office of Risk Management's web site, www.doa.louisiana.gov/orm.

E. The Automobile Accident Form (DA 2041) must be completed and submitted to the Office of Risk Management, Transportation Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106 or faxed to (225) 342-4470 within 48 hours after the accident occurred.

F. Automobile accident reports are to be submitted with as much information as possible; however, if certain information is unavailable, the report is to still be submitted. Information which is unavailable can be obtained at a later date.

G. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be submitted immediately to the Office of Risk Management's Claim Office for further handling.

H. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

I. If a loss occurs or a claim arises, do not assume any obligation or incur any expenses without authority from the Office of Risk Management.

J. If repair or replacement of a state vehicle is not completed within 12 months of the loss date, or if approval is not obtained from the Commission of Administration within the same period of time for expenditure of insurance proceeds for some other purpose, the claim file will be closed.

K. More information relative to the reporting of state automobile liability and physical damage claims such as reimbursement of collision deductible on employees' personally-owned vehicle used on state business, towing of state vehicles, reduction of automobile liability limit in a special circumstance, rented motor vehicles and/or courtesy vehicles, and guidelines for in-house repairs to state owned licensed vehicles can be found on the Office of Risk Management's web site, www.doa.louisiana.gov/orm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:21 (January 1987) amended LR 15:85 (February 1989), LR 30:

§3111. Reporting of Aviation Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate

the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for aviation losses which includes liability and hull coverage. All claims are to be reported to the Office of Risk Management's Transportation Claims Unit.

C. Claims are to be submitted within 48 hours after an accident/incident to the Office of Risk Management, Transportation Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106 on the Aviation Accident Report form furnished by the Office of Risk Management. Please contact the Transportation Unit supervisor for these forms.

D. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Transportation Claims Unit for further handling.

E. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

F. If a loss occurs or a claim arises, the agency is not to assume any obligations or incur any expenses without authority from the Office of Risk Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:21 (January 1987) amended LR 15:85 (February 1989).

§3113. Reporting of Wet Marine Claims (Over 26 Feet)

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance for liability and hull damage for marine vessels over 26 feet in length.

C. All claims involving vessels in excess of 26 feet are to be reported, in writing, to the Office of Risk Management's Transportation Unit. All bodily injury claims are to be reported by telephone to the Office of Risk Management's Transportation Unit.

D. Claims are to be submitted in writing within 48 hours after an accident/incident to the Office of Risk Management, Transportation Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E.1. Information required to be submitted when a claim is reported to the Office of Risk Management's Transportation Unit includes the following:

- a. complete description of vessel, including hull identification and coast guard certificate number;
- b. name of captain or master and passengers;
- c. exact location of incident;
- d. date and time of incident;
- e. names and addresses of third parties involved if known;
- f. description of damages;

- g. contact persons who can assist in investigation;
- h. circumstances surrounding and/or cause of accident.

2. All accidents/incidents involving ferry boats are to be reported to the Office of Risk Management on the Department of Transportation (DOTD) accident report forms: DOTD 03-18-3023 for private vehicles and DOTD 03-18-3024 for passenger(s) injured.

F. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Transportation Claims Unit for further handling.

G. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

H. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

I. Refer to the Office of Risk Management's web site, www.doa.louisiana.gov/orm, for procedures for repairing water vessels (over 26 feet) covered by the commercial insurance market.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:21 (January 1987), amended LR 15:85 (February 1989), LR 30:

§3115. Reporting of Bond and Crime Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for bond and crime which includes performance, money and securities. All claims are to be reported, in writing, to the Office of Risk Management's Property Claims Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106.

C. Information required to be submitted includes the following:

1. name of insured agency;
2. date of loss;
3. location of loss;
4. circumstances surrounding the occurrence;
5. approximate value of loss; and
6. name of person reporting claim, listing job title and telephone number.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

F. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:22 (January 1987), amended LR 15:85 (February 1989), LR 30:

§3117. Reporting of Medical Malpractice Liability Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. Prior to July 1, 1988 the State of Louisiana provided medical malpractice coverage in accordance with the provision of R.S. 40:1299.39 which details coverage and liability provisions. Effective July 1, 1988, the State of Louisiana became self-insured for medical malpractice. Medical malpractice coverage is extended to state health care facilities and individuals acting in a professional capacity in providing health care services by or on behalf of the state, including medical, surgical, dental, or nursery treatment of patients.

C. Coverage excludes the following:

1. premises liability;
2. bodily injury to employees arising out of employment by the insured;
3. all obligations under Worker's Compensation or similar laws; and
4. bodily injury in handling or maintenance of automobiles, aircraft, watercraft, or transportation of mobile equipment by an auto owned, operated, rented, or loaned to any insured.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. If a loss is serious in nature, it is to be reported by telephone to the Office of Risk Management for review to determine if coverage is applicable.

F. Claims which are made against a state agency by a third party are to be submitted to the Office of Risk Management for review to determine if coverage is applicable.

G. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Medical Malpractice Claim Unit for further handling.

H. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

I. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:22 (January 1987), amended LR 15:85 (February 1989), LR 30:

§3119. Reporting of Road and Bridge Hazard Claims (Department of Transportation and Development)

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an 'occurrence' or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides road and bridge hazard liability coverage for bodily injury and property damage claims resulting from the establishment, design, construction, existence, ownership, maintenance, use, extension, improvement, repair, or regulation of any state bridge, tunnel, dam, street, road, highway, or expressway for which the agency could be held legally liable.

C. All road and bridge hazard claims are to be submitted, in writing, to the Office of Risk Management on the DOTD/ORM Report of Road Hazard Incident form. Forms can be obtained from the Office of Risk Management's Road and Bridge Hazard Claims Unit or on the ORM web site, www.doa.louisiana.gov/orm.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. If a loss is serious in nature, it is to be reported by telephone to the Office of Risk Management for review to determine if coverage is applicable.

F. Claims which are made against a state agency by a third party are to be submitted to the Office of Risk Management for review to determine if coverage is applicable.

G. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Claim Office for further handling.

H. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

I. If a loss or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

J. It would be the responsibility of the district office of the Department of Transportation and Development to verify the following:

1. that the alleged accident occurred on a state maintained highway/road;
2. existence of the damage;

3. whether the state had knowledge of the defect prior to the alleged accident;

4. the existence of any contract which may exist between the state and any municipality, contractor or other party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 15:85 (February 1989), amended LR 30:

§3121. Claims Unit Contacts

A. For further information on reporting a claim or requesting information regarding a specific claim, contact the Office of Risk Management, in writing, at P.O. Box 91106, Capitol Station, Baton Rouge, LA 70821-9106 or telephone the appropriate claims unit.

Unit	Contact the Following Telephone Number(s)
Claims-Administrative	(225) 219-0012 or (225) 219-0168
Property	(225) 342-8399
1. Buildings and Improvements. Contents and equipment, excluding Boiler and Machinery. 2. Boiler and Machinery 3. Bonds and Crime	
Transportation	(225) 342-8466
1. Auto Liability 2. Automobile Comprehensive and Collision 3. Aviation 4. Wet Marine	
General Liability-All Comprehensive General Liability	(225) 342-8463
Medical Malpractice	(225) 342-8442 (225) 219-0868
Workers' Compensation	(225) 342-7390 or (225) 342-8451 or (225) 342-8458
1. Statutory and Employer's Liability 2. Maritime Compensation	
Road and Bridge Hazards-All Road and Bridge Hazards	(225) 342-5441 or (225) 219-4846
Subrogation	(225) 342-8446

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 15:86 (February 1989), amended LR 30:

Chapter 32. Risk Analysis and Loss Prevention

§3201. Risk Analysis and Loss Prevention

A. R.S. 39:1543(l)(C) requires the development of a comprehensive loss prevention program, for implementation by all state agencies, including basic guidelines and standards of measurement.

B. In order to fully comply with this statute a comprehensive loss prevention plan has been developed, and the following are to be implemented by every state department, agency, board, or commission that employs 15 or more employees.

Any Other Loss Prevention Program developed by the Office of Risk Management, Loss Prevention Unit in conjunction with the Interagency Advisory Council for the prevention and reduction in accident events that may cause injury, illness, or property damage.

Aviation Operator Safety Program program to provide a systematic method of screening, training, and accountability for employees and supervisors required to assign or operate state-owned aircraft in the scope of their employment.

Boiler and Machinery Program written Loss Prevention maintenance program to include, but not limited to, a history of each piece of equipment, designate responsibility, schedule of when maintenance is to be performed, list of equipment to be maintained, how maintenance is to be performed.

Driver Safety Program program to provide a systematic method of screening, training, and accountability for employees and supervisors required to assign or drive state-owned vehicles or personal vehicles in the course and scope of their employment.

Employee Training training to establish a systematic method of training employees to perform the required tasks in a safe and efficient manner and to insure all employees receive periodic refresher training.

First Aid adoption of a first aid program which will provide a trained first aid person at each job site and shift. This policy covers all facilities and crews.

Hazard Control Program program to establish a systematic method of recognizing, evaluating, and controlling hazards prior to them producing injury, illness, or property damage.

Housekeeping Program program to provide a method for systematically inspecting and eliminating safety and fire hazards that result from uncontrolled sources. To establish clearly defined areas of responsibility for orderliness and cleanliness through each state-owned or operated grounds and facilities.

Inspections Program a program to maintain a safe environment and control unsafe acts, roadway hazard inspection reports, and medical malpractice records.

Investigation Program a program to thoroughly investigate and identify, as soon as possible, the actual causes and contributing factors of losses in an attempt to prevent recurrences.

Job Safety Analysis a procedure to be used to review job methods and hazards that relate to the work environment. The job safety analysis should be performed on all tasks or processes that have a higher than normal rate of producing bodily injury or property damage.

Management Policy Statement an expression of management, philosophies and goals toward safety.

Record Keeping records to establish a procedure for the uniform development and maintenance of loss prevention and control documents to be retained for one year. This will include inspection reports, accident investigation reports, minutes of safety meetings, training records, boiler and machinery maintenance records, and/or conditions by regular and periodic facility equipment and roadway inspections.

Responsibility for Safety in an Organization a written document to clearly define supervisory responsibilities at all levels.

Safety Meetings meetings to be conducted by supervisors with employees on a quarterly basis, unless otherwise specified by ORM, to educate, inform, motivate and examine work practices for potentially unsafe acts that

could produce bodily injury and provide a method to preclude recurrences.

Safety Rules general instructions developed by agencies regarding the employees' responsibilities.

Water Vessel Operator Safety Program program to provide a systematic method of screening, training, and accountability for employees and supervisors required to assign or operate state-owned water vessels in the scope of their employment.

C. The minimum requirements are in no way intended to require revisions of existing safety plans which meet or exceed these minimum requirements. However, these existing plans are to be submitted to the Loss Prevention Unit for review and acceptance.

D. The Loss Prevention Unit will audit each department, agency, board, or commission to insure compliance of the development, implementation, and adherence to the program. Audits will be conducted once a year or more often using the audit schedule. The deadline for certification will be April 30 of each year for insurance premiums for the following fiscal year. Any agency, board or commission found to be in compliance with state law and loss prevention standards prescribed by the Office of Risk Management shall receive a credit to be applied to the agency's annual self-insured premium per line of insurance coverage, excluding the coverages for road hazards and medical malpractice, equal to 5 percent of the agency's total annual self-insured premium paid per line of coverage. An agency which has failed to receive certification after undergoing a loss prevention audit shall be liable for a penalty of 5 percent of the agency's total annual self-insured premium paid per line of coverage, excluding the coverages for road hazards and medical malpractice. Such compliance will be certified by major risk groups as follows:

1. workers compensation regular;
2. workers compensation maritime;
3. general liability;
4. auto liability and auto physical damage;
5. property and inland marine;
6. boiler and machinery;
7. bond and crime risk;
8. aviation;
9. marine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 14:349 (June 1988), amended LR 15:86 (February 1989), LR 30:

Chapter 33. Law Enforcement Officers' and Firemen's Survivor Benefit Review Board

§3301. Survivors Benefits

A. Purpose

1. To establish an effective and efficient mechanism for fulfilling the provisions of R.S. 39:1533.A, 33:1981, 33:1947, and 33:2201.B.

2. To govern the submission, evaluation and determination of claims submitted pursuant to R.S. 33:1947, 33:2201, and 33:1981.

B. Application

1. The rules will apply to all claims arising from RS 33:1947, 33:2201, and 33:1981.

C. Definitions

Act refers to Act 308 of 1989.

Board the Law Enforcement Officers and Firemen's Survivors Benefit Board.

Child as defined in 33:1947.C.(1).

Fireman as defined in R.S. 33:1981.B.

Law Enforcement Officer as defined in R.S. 33:2201.B(1)-33:2201.B(17).

Line of Duty any activity performed in which a law enforcement officer suffers death as a result of:

- a. an injury arising out of and in the course of the performance of his official duties; or
- b. arising out of any activity while on or off duty, in his official enforcement capacity, involving the protection of life or property.

Qualifying Claim those claims meeting the criteria of claims request documentation, and the meaning ascribed to line of duty.

Spouse as defined in 33:1947.C(1).

D. Board Membership and Domicile

1. The board's official domicile will be located in Baton Rouge. All claims hearings, presentations etc. will be held in the board's official domicile. Claimant expenses related to claim preparation and presentation are not allowable for reimbursement. Board members serve on a gratuitous basis. The chairman of the board shall be on a rotation basis as follows: attorney general, legislative auditor, and state risk director. The term of each chairman is limited to two years. The attorney general's term shall begin effective September 19, 1989.

2. The board will be comprised of those individuals or their designees as stated in R.S. 33:1947.A.

E. Claims Requests

1. All claims shall be submitted by certified mail to the chairman of Louisiana Law Enforcement and Firemen's Survivors Benefit Board through the Department of Justice-Attorney General.

2. All claim requests must include the following documentation:

- a. notarized affidavit of event(s), reference by the claimant, of the appointing authority of the jurisdiction involved;
- b. original death certificate of law enforcement officer or firemen involved;
- c. validated marriage license of spouse;
- d. validated birth certificate of children or judgment of adoption;
- e. validated investigative report of the event generating the claim;
- f. affidavit of employment from the appointing authority;
- g. affidavit of divorce existed at the time of the law enforcement officer's or fireman's death.

F. Procedures for Hearings

1. Upon receipt of a claim, the chairman will schedule the claim for board hearing within 60 days after all required documentation is received. Each claim shall be assigned a sequential number claim code which shall be utilized for official references.

2. The chairman shall notify the board members, claimant, and appointing authority of the claimant of the claim items up for consideration no later than 10 days prior to hearing.

3. At the hearing date described the board shall officially receive and act upon all claims received.

4. The board may, at its discretion, entertain additional oral presentations from outside parties regarding the claim.

5. The board shall have the following options with regards to the claim action:

- a. approval of the qualifying claim;
- b. denial of the claim;
- c. deferral pending receipt of additional data.

6. The board shall inform the claimant, in writing, of its determination.

7. If approved, the board chairman shall certify to the commissioner of Administration and request payment in accordance with 39:1533.

G. Appeals

1. There shall be no right of appeal to the board of any decision rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:1947, R.S. 33:1981, R.S. 33:2201, and R.S. 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 30:

Subpart 3. Worker's Compensation Fee Schedule

Chapter 51. Fees

§5101. Fee Schedule

A. The director, Office of Risk Management, Division of Administration, pursuant to notice of intent published December 20, 1987, and pursuant to provisions of R.S. 23:1203.1 and R.S. 39:1527 et seq., adopted effective April 1, 1988 a fee schedule for medical, surgical, and hospital services due under the Louisiana Worker's Compensation Act, R.S. 23:1021.1361, and which arise in the state self-insured worker's compensation cases. Effective, July 1, 1994, the Office of Risk Management began utilizing the Medical Fee Schedule promulgated by the Office of Workers' Compensation in accordance with R.S. 23:1034.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1, R.S. 39:1527 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Risk Management, LR 14:148 (March 1988), amended LR 16:401 (May 1990), LR 30:

Interested persons may submit written comments by 4 p.m. on October 8, 2004, to Tommy Arbour at Office of Risk Management, Division of Administration, P.O. Box 91106, 1201 N. Third Street, Baton Rouge, LA 70821-9106, phone (225) 342-8472.

J.S. "Bud" Thompson, Jr.
State Risk Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Reporting of Claims

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule outlines the process of submitting claims in a timely fashion. Claims submitted as they occur allows the Office of Risk Management to process the claim with current data and subrogate back against negligent parties to recover state funds. The changes to Title 4 involve removing the exemption of LSU from under the jurisdiction of Risk Management. This change was made by Statute and is being updated to reflect current law. Changes to Title 37 are

technical. These were done to update current telephone numbers., addresses, and claim reporting language.

Therefore, there will be no implementation cost or savings to any government unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of state or local governmental units as the process of processing claims will stay the same.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no directly affected persons or on-governmental groups. The changes are either technical in nature or the process is already in use by Risk Management.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment.

Patricia H. Reed
Assistant Director
0409#075

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Financial Institutions**

Bank and Thrift Powers
(LAC 10:V.301, 701,703, 901, 903, 905, 1101-1135,
1301-1313, 1321-1333, 1341-1353, and 1521-1539)

In accordance with R.S. 49:950 et seq., of the Administrative Procedure Act, the Commissioner of the Office of Financial Institutions approved for advertisement the repeal of Chapters 3, 7, 9, 11, 13, and 15, respectively titled, General Provisions; Mergers; Insurance; Powers of Homesteads and Building and Loan Associations; Forward Commitments, Future Transactions, Financial Option Transactions; and Related Organizations and Services, from the Louisiana Administrative Code. This action is being effectuated because the Office of Financial Institution's parity provisions allow Louisiana state-chartered banks and thrifts to exercise those powers allowed by national banks and federal thrifts; many of the Rules proposed for repeal simply restate the powers that are now provided to state banks and thrifts as a result of the parity provision; and many of the Rules are deemed duplicative as a result of statutory changes in federal and state law, regulations and policy statements.

There is no family impact associated with this proposed Rule.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC**

Part V. Thrifts

Chapter 3. General Provisions

§301. Credit Card Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:237.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 4:268 (August 1978), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Chapter 7. Mergers

§701. Plan of Merger

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.6:861, R.S. 6:902(B) and R.S. 6:903.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:59 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§703. Vote by Members

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:861, R.S. 6:902(B) and R.S. 6:903.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:59 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Chapter 9. Insurance

§901. Reservation of Right Concerning Advertising

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:706 and R.S. 6:948.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:415 (August 1980), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§903. Other Insurance or Guaranty

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:948.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:415 (August 1980), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§905. Inconsistent Conditions of Insurance or Agreements for Operating Policies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:948.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:415 (August 1980), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Chapter 11. Powers of Homesteads and Building and Loan Associations

Subchapter A. Mortgages

§1101. Renegotiable Rate Mortgage Instruments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:720 (December 1980), amended LR 7:165 (April 1981), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1103. Wrap-Around Mortgages

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 7:165 (April 1981), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1105. Commercial Real Estate Loans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and R.S. 6:902.1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:60 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1107. Residential Real Property Loans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.6:902(B). (B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:144 (April 1980), amended LR 8:138 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1109. Balloon-Payment Loans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:092(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:138 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1111. Variable Rate Loans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B), R.S. 6:25.1 and R.S. 9:3554(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:232 (May 1982), amended LR 9:59 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1113. Commercial Loans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B), R.S. 6:902.1 and R.S. 6:822(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:61 (February 1982), amended LR 9:60 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1115. Consumer Loans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B), R.S. 6:902.1 and R.S. 9:3510 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:412 (August 1980), amended LR 9:60 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1117. Loans Originating from Other than Savings and Loan Associations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:61 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1119. Loans to One Borrower

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and R.S. 6:822(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:61 (February 1982), amended LR 9:60 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1121. Restrictions Involving Loan Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:948.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:416 (August

1980), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1123. Cashier's Checks

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:61 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1125. Demand Deposits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and R.S. 6:902.1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:60 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1127. NOW Accounts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and R.S. 6:701 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:715 (December 1980), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1129. Governmental NOW Accounts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and R.S. 6:902.1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:60 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1131. Governmental Depositories

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:50 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1133. Credit Cards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and R.S. 6:701.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:412 (August 1980), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1135. Trusts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institution, LR 6:412 (August 1980), amended LR: 6:715 (December 1980), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Chapter 13. Forward Commitments, Future Transactions, and Financial Option Transactions

§1301. Generally

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:50 (February

1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Subchapter A. Forward Commitments

§1303. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1305. Authorized Personnel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1307. Limitations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1309. Disposal before Settlement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1311. Recordkeeping Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1313. Commitment Fees Received

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Subchapter B. Futures Transactions

§1321. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1323. Permitted Transactions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February

1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1325. Authorized Contracts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1327. Board of Director's Authorization

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1329. Notification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:52 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1331. Recordkeeping Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:52 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1333. Accounting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:52 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Subchapter C. Financial Option Transactions

§1341. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:52 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1343. Permitted Transactions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:52 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1345. Authorized Contracts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:52 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1347. Board of Director's Authorization

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:52 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1349. Notification and Reporting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:53 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1351. Recordkeeping Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:53 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1353. Accounting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:53 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Chapter 15. Related Organizations and Services

Subchapter B. Remote Service Units

§1521. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1523. Application of Regulation E

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1525. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1527. General

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1529. RSU Access Techniques

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1531. Service Charges

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1533. Privacy of Account Data

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1535. Bonding

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1537. Security

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1539. Commissioner

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Interested persons may submit comments until 4:30 p.m., October 20, 2004, to Gary L. Newport, General Counsel, P.O. Box 94095, Baton Rouge, LA 70804-9095.

John Ducrest, CPA
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bank and Thrift Powers**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no added or reduced costs associated with the repeal of these rules. The rules presently provide various powers, limitations and parameters under which Louisiana state-chartered banks and thrifts may conduct business.

OFI parity provisions allow Louisiana state-chartered banks and thrifts to exercise those powers allowed by national banks and federal thrifts. Many of the rules proposed for repeal simply restate the powers that are already available to state banks and thrifts as a result of the parity provision. Therefore, many of these rules are deemed duplicative and are proposed for repeal.

Many other rules have become obsolete as a result of changes in comparable federal regulations. As a result, these rules are proposed for repeal. Federal regulations sufficiently address a number of areas which are duplicated in these rules proposed for repeal.

In addition, several rules cover areas that are sufficiently addressed in existing state statutes, rules, and OFI policy statements. Therefore, these rules are deemed duplicative and are proposed for repeal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenues associated with the repeal of these rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs or economic benefits associated with the repeal of these rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment in the public and private sectors as a result of the repeal of these rules.

John Ducrest, CPA
Commissioner
0409#084

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Financial Institutions**

Limited Function Financial Institutions
(LAC 10:III.901-911)

In accordance with R.S. 49:950 et seq., of the Louisiana Administrative Procedure Act, the Commissioner of the Office of Financial Institutions approved for advertisement the repeal of Chapter 9, Limited Function Financial Institutions, from the Louisiana Administrative Code. This action is necessary because the statutory authority for this Rule was repealed by Acts 1991, No. 197, §1, eff. July 2, 1991, and the commissioner no longer issues certificates of authority for such entities.

There is no family impact associated with this proposed Rule.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC**

Part III. Banks

Chapter 9. Limited Function Financial Institutions

§901. Applications; Filing, Processing, and Approval

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:859 (December 1988), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§903. Certificate of Authority; Issuance, Refusal, and Renewal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:860 (December 1988), amended LR 16:200 (March 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§905. Certificate of Authority; Powers and Authority; Prohibitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:860 (December 1988), amended LR 16:201 (March 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§907. Records and Funds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:860 (December 1988), amended LR 16:201 (March 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§909. Penalties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16:201 (March 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§911. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16:202 (March 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Interested persons may submit comments until 4:30 p.m., October 20, 2004, to Gary L. Newport, General Counsel, P.O. Box 94095, Baton Rouge, LA 70804-9095.

John Ducrest, CPA
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Limited Function Financial Institutions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no impact on costs/savings associated with this rule repeal. This rule presently provides the parameters under which Louisiana state-chartered limited function financial institutions are organized, approved, certified, renewed, and empowered. The rule also lists recordkeeping requirements, prohibited activities, and penalties for violations.

OFI discontinued issuing certificates for limited function financial institutions, thereby rendering this rule obsolete and no longer necessary.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenues associated with this rule repeal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no effect on costs or economic benefits associated with this rule repeal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment in the public and private sectors as a result of this rule repeal.

John Ducrest, CPA
Commissioner
0409#083

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Financial Institutions**

Repossession Agents
(LAC 10:XV.1301-1321)

In accordance with R.S. 49:950 et seq., of the Louisiana Administrative Procedure Act, the Office of Financial Institutions proposes to enact rules regarding licensure and regulation of repossession agents. Repossession Agents are individuals who physically obtain possession of collateral for a secured party and engage in the business or accept employment to locate and recover collateral pursuant to the Louisiana Default Remedies Act, R.S. 6:965, et seq.

For the full text of this proposed Rule see the Emergency Rule portion of this *Louisiana Register*.

There is no family impact associated with this proposed Rule.

Interested persons may submit comments until 4:30 p.m., October 20, 2004, to Gary L. Newport, General Counsel, and P.O. Box 94095, Baton Rouge, LA 70804-9095.

John Ducrest, CPA
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Repossession Agents**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Act 191 of the 2004 Legislative Session charges the Office of Financial Institutions (OFI) with licensing and regulation of repossession agents. There are an estimated 100 repossession agencies employing some 500 repossession agents and apprentices in Louisiana. The OFI will need 5 additional employees at varying levels to accomplish this. Total estimated costs of implementing the program for the first fiscal year is \$183,630 that will be incurred in the latter half of the fiscal year and represents 6 months of expenses. Estimated expenses for fiscal year 2005-06 total \$330, 182 for the 12 month period.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Each repossession agency will pay an initial application fee of \$1,500 and annual license renewals thereafter at \$1,000 each. Each repossession agent and apprentice will pay an initial application fee of \$400 and annual license renewals thereafter at \$300 each. Total estimated revenue for 2004-05 is \$350,000 and \$250,000 annually thereafter. Examination fees will be assessed at the rate of \$50 per hour per examiner with a maximum examination fee of \$1,000. Actual travel expenses for out-of-state examinations, if needed, will be reimbursed by the licensee examined.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that each agency will employ 5 agents (average) that will pay initial application fees of \$2,500 initially and \$2,500 annually thereafter to renew the licenses of the agency and their agents.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment as a result of this proposed rule.

John Ducrest, CPA
Commissioner
0409#081

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Financial Institutions**

Savings and Loan Holding Companies
(LAC 10:V.1141, 1143, and 1145)

In accordance with R.S. 49:950 et seq., of the Louisiana Administrative Procedure Act, the Commissioner of the Office of Financial Institutions approved for advertisement the repeal of Subchapter B., Savings and Loan Holding Companies, from the Louisiana Administrative Code. This action is necessary because the primary regulator and chartering authority for savings and loan holding companies is the Federal Office of Thrift Supervision, thus this Rule is rendered obsolete and no longer necessary. Repeal of this Rule will ensure consistent treatment for all holding companies of banks, savings banks, and savings and loan associations.

There is no family impact associated with this proposed Rule.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC**

Part V. Thrifts

**Chapter 11. Powers of Homesteads and Building and
Loan Associations**

Subchapter B. Savings and Loan Holdings Companies

§1141. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and 6:903.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:225 (April 1988), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1143. Formation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and 6:903.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:225 (April 1988), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1145. Administration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and 6:903.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:226 (April 1988), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Interested parties may submit comments until 4:30 p.m., October 20, 2004, to Gary L. Newport, General Counsel, P.O. Box 94095, Baton Rouge, LA 70804-9095.

John Ducrest, CPA
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Savings and Loan Holding Companies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no impact on costs/savings associated with this rule repeal. This rule presently provides the parameters under which a holding company for Louisiana state-charged savings and loan associations may be established, operated, and regulated.

Because the Office of Thrift Supervision (OTS) is the primary regulator of and the chartering authority for S&L holding companies, this rule is rendered obsolete and no longer necessary. Furthermore, holding company examination fees are already addressed in LAC 10:V.I.303. OFI has no comparable rules for bank holding companies or savings bank holding companies. Repeal of this rule will help ensure consistent treatment for all holding companies of banks, savings banks, and savings and loan associations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenues associated with this rule repeal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs associated with this rule repeal. However, this will enhance the franchise value of a state-chartered savings and loan association by eliminating the \$1,000 regulatory fee that is assessed a savings and loan association that forms a de novo parent holding company in a stock conversion or mutual holding reorganization.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment in the public and private sectors as a result of this rule repeal.

John Ducrest, CPA
Commissioner
0409#082

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

Embalmers and Funeral Directors
(LAC 46:XXXVII.Chapters 1-23)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 37:840 notice is hereby given that the Department of Health and Hospitals, Board of Embalmers and Funeral Directors intends to amend LAC 46:XXXVII, Chapters 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, and 23. Additionally, Chapters 12 and 20 have been added. The board finds it necessary to revise, amend and/or add provisions of the rules, regulations and procedures relative to providing useful guidance and information for the purpose of improving regulatory compliance and to enhance understanding of these changes, as well as to advise of fee changes which have been passed by the legislature.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXVII. Embalmers and Funeral Directors

Chapter 1. General Provisions

§101. Definitions

A. The terms *Board*, *Embalmer*, *Funeral Directing*, *Funeral Director*, *Crematory*, *Crematory Retort Operator*, *Intern*, and *Certificate*, are as defined in Section 831 of the embalming statute, as amended by Act 19 of 1966 and Act 1243 of 2003.

B. *Establishment* a licensed funeral home which shall consist of the following: adequate parlors or chapel, adequate separate toilet facilities for both men and women, an adequate climate control system, display room, office or arrangement room, embalming room and other furnishings, equipment and facilities of suitable and dignified quality with signage sufficient to be visible from the street to adequately serve the public.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:831 and R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR. 30:

§103. Duties of Officers

A. The president shall be the presiding officer at all meetings and is required to call a meeting at least once a year or more often, if necessary, for the proper and efficient performance of the board's functions. In the absence of the president, the vice president shall assume these duties.

B. The secretary shall keep a record of the proceedings of all meetings of the board and of all other matters of which a record shall be ordered by the board. He shall issue all notices of meetings of the board; prepare an agenda for and keep minutes of such meetings, and a record of individual attendance at the meetings of the board; and shall perform all such other duties as are usually incident to his office or as may be required by the president or the board.

C. The duties of the treasurer shall be to comply with R.S. 37:838 of Act 19, 1966.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:831 and R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§105. Special Meetings

A. Special meetings of the board may be called by the president at any time. Special meetings may also be called upon the written request of three members, which request must specify the purpose of the meeting, and the president then shall call such a meeting. Notice of such special meeting specifying the purpose thereof shall be mailed by the secretary to each member at least five days in advance of the date set for such special meeting.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:831 and R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§107. Advertising

A. The use of misleading or false advertising will constitute unprofessional conduct. The following classes of advertising shall be deemed to be misleading:

1. advertising the price of caskets exclusively, without stating that the price does not include other merchandise and services, since the natural inference of the public is that the advertised price of caskets includes the price of the service;

2. offering service at "cost" plus a percentage, when the determination of the "cost" lies within the control of the funeral director or embalmer and is not advertised and included within the General Price List of the funeral home;

3. advertising or sale of certificates or stock participation or any form of agreement which creates the impression with the purchaser, when such is not a fact, that he becomes a part owner in the advertiser's establishment and therefore entitled to special price privileges for funeral services;

4. advertising which impugns the honesty, trustworthiness, of the business or professional standards of competitors, or which states that the prices charged by competitors are considerably higher than those charged by the advertiser, when such is not the fact;

5. advertising which represents the advertiser to be the special defender of the public interest or which makes it appear that the advertiser is subjected to the combined attack of competitors. Such expressions as "independent," "not in the trust," "not controlled by the combine," and other expressions having the same import shall be deemed to be misleading unless it be shown by the advertiser that there is a "trust," or a "combine" and that other funeral directors constitute a monopoly for the purpose of maintaining prices or for any other purpose; and the burden of proving such "trust," "combine," or "monopoly" shall be upon the advertiser asserting the existence of the same.

B. It is prohibited for a licensed funeral establishment to authorize advertising by others not licensed by this board, when such advertising offers services and/or merchandise primarily performed and offered by a licensed funeral director/embalmer and establishment, as defined in R.S.

37:831-861. Such advertising shall be considered as an inducement when used along with or in conjunction with plans, merchandise, pre-need plans, or the like which are normally sold by others. The above rule does not, however, prohibit a licensed funeral establishment from advertising an affiliation with an insurance company.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended LR 4:227 (June 1978), LR 5:279 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§109. Attire for Embalmers and Crematory Retort Operators

A. Each Louisiana licensed embalmer or intern, while engaged in embalming a dead human body, shall be attired in a clean and sanitary smock or gown; and the body being embalmed shall at all times be covered so as to insure the privacy of said body.

B. Each Louisiana licensed embalmer or intern, while engaged in embalming a dead human body, shall be properly attired to provide for his/her own safety as well as the safety of others and in that regard, it is suggested that the proper attire of the embalmer or intern shall include the following:

1. a sanitary waterproof disposable gown, apron or smock;

2. clean and sanitary rubber or latex gloves;

3. a mask or some other type of protective shield for eye and face protection; or

4. any other applicable safety devices required by OSHA.

C. Protective clothing should be removed before leaving the preparation room and deposited within a container that can be properly disposed of in accordance with governmental codes covering such disposals.

D. Every crematory authority shall make available for use by the crematory retort operator, while engaged in the process of cremating a dead human body, heat resistant gloves and apron; protective face shield (heat reflective); and, any other applicable safety devices required by OSHA.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), amended LR 30:

§111. Mandatory Disclosure

A. Every funeral establishment in this state and/or the funeral service licensee thereof shall give or cause to be given to the person or persons making funeral arrangements, either at need or pre-need, or arranging for the disposition of a dead human body, at the time such arrangements are completed and prior to the time of rendering the service and/or providing the merchandise, a written statement showing to the extent then known:

1. the price of the service that the person or persons have selected and what is included therein;

2. the price of each of the supplemental items of service and/or merchandise required;

3. the amount involved for each of the items for which the firm will advance monies as an accommodation of the family;

4. the method of payment.

B. If the funeral establishment charges for purchasing a cash advance item, or if it receives and retains a rebate, commission, or trade or volume discount for a cash advance item, it must make the following disclosure:

"We charge you for our services in obtaining: (specify cash advance items)."

C. All funeral merchandise and/or services offered by a licensed establishment in this state shall be available for viewing by the general public and the price shall be prominently displayed on or immediately next to the merchandise or service.

D. Should a funeral home be designated in a pre-need funeral arrangement contract and designated further as a beneficiary of funds from any source which are to be used to fund the proposed funeral service, and should a funeral service not be provided, then the said funeral home shall refund the entire amount of the proceeds received to the estate of the deceased, unless directed otherwise within the pre-need funeral arrangement contract.

E. If for any reason the casket and/or merchandise selected at the time of the prepaid, pre-need arrangement contract is not available at the time of death, then the funeral home must offer a similar casket and/or merchandise that is equal to or greater than the at-need value of the casket and/or merchandise selected at pre-need.

F. Disclosures as required by the FTC's Funeral Industry Practices Rule must be provided to the person or persons inquiring about and/or making funeral arrangements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:280 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 17:1101 (November 1991) amended LR 30:

§113. Right of Care of Remains

A. A funeral establishment, its employees, and licensees shall not respond to a death call unless properly contacted and requested.

B. When determining the right of care of remains the funeral establishment shall look to the provisions of R.S. 8:655 as a guideline to determine the order of preference in dealing with representatives of the deceased for interment and/or the provisions of R.S. 37:876 as a guideline as it relates to cremation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 19:1423 (November 1993), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 3. Application

§301. Application Forms

A. Applications for a funeral director license or a combination embalmer and funeral director license shall be made on forms as provided by the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended LR 5:277 (September 1979), repromulgated

by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§303. Notarization; Fee

A. Application for license shall be sworn to by applicant before a notary public and be accompanied by a fee as established by the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§305. Filing of Application

A. Applications shall be filed with the secretary of the board after the completion and successful passing of the examination, or certification procedure as mandated by the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 5. Examination

§501. Place and Time

A. Examinations shall be held at those times as the board may deem necessary and expedient either:

1. at the domicile of the board; or
2. at such other location(s) as approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 19:744 (June 1993), LR 30:

§503. Examination for Funeral Directors

A. Applicants for a funeral director's license shall be given a written and/or oral examination on subjects approved by the board. These subjects include but are not limited to the following:

1. sociology/funeral history;
2. psychology;
3. funeral directing;
4. business law;
5. funeral service law;
6. funeral service merchandising;
7. accounting/computers;
8. may include a Louisiana laws and regulations test;

and

9. any other such subjects as the board may deem necessary.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 30:

§505. Examination for Combination Embalmer and Funeral Director

A. Applicants for a combination embalmer and funeral director license (hereinafter referred to as "combination license") shall be given a written and/or oral examination on subjects defined in courses required by the American Board of Funeral Service Education and laws, rules, and regulations of the state of Louisiana, together with any such other subjects as the board may deem necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:277 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 19:744 (June 1993) amended LR 30:

§506. Certification of Crematory Retort Operator

A. Applicants for a crematory retort operator shall be certified in the operation of a crematory retort by a certified instructor and a process approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§507. Failure to Appear

A. Whenever an applicant shall fail to be present for examination at the time and place set by the board, said applicant shall comply with the requirements of the testing or certifying agency as approved by the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§509. Failing Examination

A. Any applicant for a funeral director or combination license whose application has been accepted by the board, and who shall fail in an examination shall not be entitled to the return of the examination fee. In order to qualify for subsequent examinations, applicant must reapply as provided in R.S. 37:842. In addition, the board, at its discretion, may stipulate certain requirements that deal with preparation and study for the re-examination.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985) repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§511. Cheating

A. Any applicant found to have in his possession material of any nature which, in the opinion of the board, may be used to assist in the examination, shall forfeit the fee paid and be ejected from the examination and may not be entitled to any further consideration.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors,

August 1966, promulgated LR 5:277 (September 1979) amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§513. Passing Examination

A. When the applicant for a combination license has complied with all requirements, and receives a passing grade of not less than 75 percent on the examination, he shall be entitled to receive a license to practice embalming and funeral directing.

B. When the applicant for a funeral director license has complied with all requirements, and receives a passing grade of not less than 75 percent on the examination for funeral directing, he may be entitled to receive a funeral director license.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), LR 17:271 (March 1991), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 7. License

§701. Renewal and Reinstatement

A. All individual funeral director or combination licenses issued by the board shall expire on the thirty-first day of December of each year and must be renewed on or before that date. All establishment licenses and the *Annual Report of Prepaid Funeral Services or Merchandise* shall also expire on the thirty-first day of December and must be renewed on or before that date. Applications for renewal of licenses must be made to the secretary of the board upon forms furnished by said board and must be accompanied by a renewal fee as established by the board.

B. Application for renewal of a funeral director or combination license and establishment license may be submitted to the board any time after October 1 of each year. When a licensed funeral establishment or individual licensee renews the license, should the check be deficient in any manner, the license shall be considered as non issued and a new application and fee must be submitted.

C. When the holder of a combination or funeral director license has failed to renew his license on or before December 31 of each year, said license shall lapse and a new application and fee must be submitted. In any event, no license will be reinstated without a payment of all fees delinquent from date of lapse to date of reinstatement.

D. When a licensed funeral establishment fails to renew its license on or before December 31 of each year, said license shall lapse. However, same may be reinstated provided that the applicant shall submit to an inspection; and, if the board is satisfied that the applying funeral establishment meets all requirements, it shall issue a license for the remaining portion of the current year upon payment of the application fee as established by the board.

E. As all license applications for combination, funeral director, or funeral establishments are received, the board will process same in a timely fashion and will begin mailing the licenses to the individuals and establishments so applying no later than December 15 of each year.

F. All individual crematory retort operator licenses issued by the board shall expire on the fifteenth day of May of each year and must be renewed on or before that date. All

crematory licenses issued by the board shall also expire on the fifteenth day of May and must be renewed on or before that date. Applications for renewal of licenses must be made to the secretary of the board upon forms furnished by said board and must be accompanied by a renewal fee as established by the board.

G. Application for renewal of a crematory retort operator or crematory license may be submitted to the board anytime after February 15 of each year. When a licensed crematory or individual crematory retort operator renews the license, should the check be deficient in any manner, the license shall be considered as non issued and a new application and fee must be submitted.

H. When a crematory retort operator has failed to renew his license on or before May 15 of each year, said license shall lapse. If the crematory retort operator has failed to renew within the specified time, the license shall be considered as non issued and a new application and fee must be submitted. In any event, no license will be reinstated without a payment of all fees delinquent from date of lapse to date of reinstatement.

I. When a crematory has failed to renew its license on or before May 15 of each year, said license shall lapse. However, same may be reinstated provided that the applicant shall submit to an inspection; and, if the board is satisfied that the applying crematory meets all requirements, it shall issue a license for the remaining portion of the current year upon payment of the application fee as established by the board.

J. As all crematory retort operator and crematory authority applications are received, the board will process same in a timely fashion and will begin mailing the licenses to the individuals and the crematories so applying no later than May 1 of each year.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended December 1970, LR 4:227 (June 1978), LR 5:279 (September 1979), LR 11:687 (July 1985), LR 13:436 (August 1987), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 21:1237 (November 1995), LR 30:

§703. Duplicate Certificate

A. Any person holding a certificate issued by this board and desiring a duplicate thereof, may obtain same from the secretary of the board upon application accompanied by a fee as established by the board and an affidavit to the effect that same has been misplaced, lost, destroyed or stolen.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended December 1970, amended LR 11:688 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§705. License Not Assignable

A. No license shall be assignable or valid for any other person other than the original licensee. A corporation or firm may engage in funeral directing or embalming and hold out to the public that it is engaged in the business of funeral directing or embalming, when and only when, all embalming and funeral directing is performed by or under the direct and

personal supervision of an embalmer or funeral director, duly licensed hereunder.

B. No individual licensed by this board shall be employed to perform the services of funeral directing or embalming as defined in R.S. 37:831 in any capacity for an establishment not licensed in this state.

C. No individual licensed by this board shall be employed to perform the services of cremation as defined in R.S. 37:831 in any capacity for a crematory not licensed in this state.

D. A corporation or firm may engage in the business of cremation and represent that it is engaged in the business of cremation, when and only when, all cremations are performed by or under the direct and personal supervision of a retort operator, duly licensed hereunder.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§707. Reciprocal License Requirements

A. Any person desiring a reciprocal Louisiana combination license or funeral director license shall, before practicing, make application on forms furnished by the board, for a "Special Work Permit" to practice embalming and/or funeral directing for a period of six months. Said application shall be accompanied by a permit fee as established by the board, which is not refundable. If applicant meets all requirements, the secretary shall issue a special work permit. The board may, at its discretion, extend the special work permit period.

B.1. All of the requirements of R.S. 37:842(A)(1), (2), (5) and (C)(1) and (4) shall be met by applicant for a combination license and successfully pass an examination on Louisiana laws, rules, and regulations.

2. All of the requirements of R.S. 37:842(A)(1), (2), and (5) shall be met by applicant for a funeral director license and successfully pass an examination on Louisiana laws, rules, and regulations.

C. No special work permit or reciprocal license shall be issued on a special work permit or reciprocal license.

D.1. The special work permit or reciprocal license entitles the licensee to practice embalming and/or funeral directing in this state. However, it shall become null and void if the original license is revoked, suspended, or lapsed.

2. The holder of a special work permit or reciprocal license must be a resident of this state in order to hold a valid special work permit or reciprocal license. The board recognizes that if a reciprocal is fully employed in this state and a resident of this state for a period of five consecutive years his license then becomes a bona fide Louisiana license.

3. The reciprocal licensee may at any time leave the state, continue to hold his license but not be allowed to practice in Louisiana while a resident of another state. If he elects to continue to hold his reciprocal license while a nonresident he may do so. If he should become a Louisiana resident at a later time he will become reinstated as a valid reciprocal state licensee with no additional application fee.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840 and R.S. 37:842.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors,

August 1966, amended LR 11:688 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§709. Continuing Education

A. In order to ensure that all licensees maintain and improve upon their professional skills, each person holding a combination license or funeral director license issued by the board is required to participate in continuing education as a condition for renewal of license(s) subject to the conditions described herein.

B. Definitions

Accredited Sponsor—A person or organization conducting or sponsoring a specific program of instruction which has been approved by the board.

Active Licensee—An individual licensed by the board and either practicing funeral directing or embalming in any capacity in this state.

Approved Program—Continuing education program activity which has received prior approval by the board.

Hour of Continuing Education—A 50-minute clock hour completed by a licensee in attendance at an approved continuing education program.

Inactive Licensee—An individual licensed by the board but not practicing funeral directing or embalming in any capacity in this state.

Program Instructor—A person who conducts or presents the Continuing Education to the licensees.

C. Standards for Course Approval. A continuing education activity will be considered for approval if the board, or the executive director on behalf of the board, determines that:

1. it constitutes an organized program of learning that contributes directly to the professional competence of the licensee;
2. it pertains to subject matter which relates to the practice of funeral directing, embalming, or, related subjects; and
3. it is conducted by an individual(s) who has specialized expertise in the subject matter; and
4. it is open and available to all licensees.

D. Approval of Sponsors, Program and Activities

1. Any person or organization who wishes to present an educational program must submit in a form approved by the board an application that outlines the course content, total hours of instructions, the date and location of training and the name(s) and professional qualifications of the instructor(s). Such application shall be submitted at least 30 days in advance of the proposed training and shall be accompanied by a non refundable fee in an amount set by the board. The executive director, on behalf of the board, shall either approve or reject the application within 20 days of application and shall so notify the applicant in writing.

2. Any licensee who seeks credit for participation in an educational activity that did not receive prior approval by the executive director may submit a request for post approval of the activity. Such application shall be in a form approved by the board and shall be submitted within 30 days of the completion of the activity along with a non refundable fee in an amount set by the board. The executive director, on behalf of the board, shall either approve or reject the application within 30 days of application and shall so notify the applicant in writing. No requests for approval shall be

accepted by the executive director less than 30 days prior to the license renewal date.

3. An appeal of denial of an application may be made, in writing, to the board who will rule on the appeal at the next scheduled board meeting. Such appeal must be filed in the board office within 15 days of notification of denial.

4. The board or its authorized representative may monitor, inspect or review any approved continuing education activity and upon evidence of significant variation in the program presented from the program approved, may disapprove all or any part of the approved hours granted the activity.

5. Any person or organization sponsoring or conducting an approved program shall submit, on a form approved by the board, a sworn affidavit attesting to the attendance and satisfactory completion of training of all persons in attendance. Such information shall be provided to the board within 15 days following the presentation of material. The board may initiate disciplinary action against any licensee who knowingly falsely certifies training or who attempts through subterfuge to bypass the requirements listed herein.

6. The accredited sponsor of an approved continuing education activity may charge a reasonable fee to that individual registered for the activity. An individual may not be required to pay an additional fee in the form of registration for ancillary activities or events that are concurrent to the approved continuing education activity if the individual wishes only to attend the continuing education portion of the program.

E. Continuing Education Requirements

1. All embalmers and/or funeral directors licensed by the board shall complete a minimum of four hours of approved continuing education in each period to coincide with the renewal date of the license as a requirement of license renewal.

2. Carryover of credit of continuing education hours shall be permitted but shall not exceed four hours.

3. The maximum credit hours for participation in any course shall not exceed that number approved by the board.

4. A licensee may not receive credit for the same course more than once during the same one-year period.

5. No credit shall be granted for partial completion of any continuing education activity unless the partially completed portion represents a full clock hour of said program.

6. A licensed individual who conducts an approved course may receive credit for attendance at continuing education.

F. Exemptions/Waivers

1. Continuing education requirements for individuals licensed by examination shall be waived for the first-time renewal of license.

2. Those individuals licensed in Louisiana but residing outside of the state and not practicing embalming or funeral directing in any capacity in this state shall be exempt from the continuing education requirements set forth in this rule. Any individual that returns to work in this state to practice embalming or funeral directing in any capacity shall meet the continuing education requirements as soon as possible. Credit may be given for approved Continuing Education Courses completed in another state.

3. Those persons in an "inactive" status will be exempted from the continuing education requirement. Any person changing from the "inactive" status to an "active" status shall meet the continuing education requirement as soon as possible.

4. Those persons in an active military status will be exempted from the continuing education requirement.

5. Upon request, the board, or the executive director on behalf of the board, may authorize partial or full exemption to the continuing education requirements based upon an extreme personal or family hardship. Such request must be made at least 30 days prior to the expiration of license and the board shall require documentation of hardship.

G. Record-Keeping Procedures

1. It shall be the responsibility of the board and the individual licensee to maintain records of continuing education.

2. All records pertaining to Continuing Education training will be retained by the accredited sponsor for a period of not less than two years and shall be subject to examination by the board.

H. Failure to Comply.

1. Failure by any licensee to fully comply with the continuing education requirement as presented by this Rule will not be allowed to renew their license. An individual will be allowed to reinstate the license only after application to the board, satisfactory completion of the required continuing education, and payment of an application fee as approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 20:1378 (December 1994), repromulgated LR 21:175 (January 1995), amended LR 30:

Chapter 9. Internship

§901. Requirements for Combination License

A. Any person desiring to engage in the practice of embalming and funeral directing in this state, except those holding a Special Work Permit or a reciprocal license, shall serve as an intern within the state of Louisiana for one year and must meet the following requirements.

1. The intern shall serve his internship within the state of Louisiana for one year under the direct supervision of a Louisiana licensed embalmer/funeral director.

2. The intern shall have actively assisted in the preparation of at least 25 dead human bodies during his period of internship; shall have actively assisted in conducting at least 25 funerals during his period of internship; and, proper reports must be completed and submitted to the board on forms provided.

3. The intern must have a high school diploma or the equivalent GED certificate at the time of making application for internship.

4. While serving the term of internship, the intern must work on a full-time basis, that is a minimum of 40 hours per week. Half of the hours worked, on a weekly basis, must be worked between the hours 7 a.m. and 5 p.m. while the other half of the hours worked on a weekly basis may be served at any time.

5. The employment at the funeral home must be the intern's principal occupation.

6. The employment of the intern at the funeral home must be verified by the board during any of the required inspections of the intern. Verification of employment will be made by presenting the quarterly returns submitted either to the Internal Revenue Service or the Louisiana Department of Revenue and Taxation, or, alternatively, some other official form used to verify employment which is acceptable to the board.

7. A work schedule must be submitted with the intern's application showing hours to be worked and duties to be performed. Any changes or modifications within the original work schedule must be forwarded to the board's office within 14 days of the change.

8. The internship may be registered and the intern receive up to six months credit prior to matriculation in an accredited college of mortuary science (funeral service). The internship must be completed within 12 months after graduation from embalming school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:277 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), LR 16:769 (September 1990), amended LR 30:

§903. Requirements for Funeral Director License

A. Any person desiring to engage in the practice of funeral directing within this state, except those holding a Special Work Permit or a reciprocal license, shall serve as an intern within the state of Louisiana for a period of one year and must meet the following requirements.

1. The intern shall serve as an intern within the state of Louisiana under the direct supervision of a Louisiana licensed funeral director for a period of one year.

2. The intern shall have actively assisted in conducting at least 25 funerals during the period of internship; and, proper reports must be completed and submitted to the board on forms provided.

3. The intern applicant must have a minimum of 30 semester hours in an accredited college or university as evidenced by a certified copy of the transcript of said college or university. The minimum subject hours shall include 21 semester hours of the basic freshman courses, which include but are not limited to the following: English, math, bookkeeping, accounting, business math, psychology, history, science, business administration, biology, economics, chemistry, and marketing or such other minimum hours as the law may provide. Remedial classes and courses such as music, the arts, physical education, and sports shall not be considered as accepted courses under the provisions of this rule.

4. The intern must work on a full-time basis, that is, a minimum of 40 hours per week, worked between the hours of 7 a.m. and 10 p.m.

5. Employment at the funeral home must be the intern's principal occupation.

6. The employment of the intern at the funeral home must be verified by the board during any of the required inspections of the intern. Verification of employment will be made by presenting the quarterly returns submitted either to the Internal Revenue Service or the Louisiana Department of Revenue and Taxation, or, alternatively, some other official

form used to verify employment which is acceptable to the board.

7. A work schedule must be submitted with the intern's application showing hours to be worked and duties to be performed. Any changes or modifications within the original work schedule must be forwarded to the board's office within 14 days of the change.

8. The internship must be completed prior to taking the examination for licensure.

9. Upon completion of the internship of a funeral director applicant, the intern applicant must appear at the next examination scheduled except when a delayed appearance for good cause, acceptable to the board, is allowed.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), LR 19:744 (June 1993), LR 30:

§905. Application; Fee

A. Each intern shall make application to the board on prescribed forms, accompanied by a fee as established by the board and if found acceptable shall be registered as such and given an identification slip. Registration is for one year only. At the end of this internship period, applicant must appear at the next regular board examination provided the educational requirements have been met. The intern may appeal to the board for an extension of his internship provided, however, that he makes application before the board for such extension and show cause for his extension. Re-application shall be at an additional fee as established by the board. The board may, at its own discretion, extend an internship to any period not to exceed one year.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:278 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§907. Affidavits Required

A. When tenure of internship is completed, an affidavit by both the intern and the person under whose direct supervision he served, shall be filed not later than 15 days with the board. Said affidavit shall list the number of bodies embalmed and/or funerals assisted in.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:278 (September 1979), repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§909. Notification to Licensed Person

A. The secretary of the board, upon notification by the applicant, will inform the licensed person responsible for the supervision and the training of the intern of the rules and regulations concerning the internship and that he will be responsible to the board for the application and enforcement of these rules and regulations. An individual licensee must

be present and in charge of the intern during the normal working hours as required and shall be responsible for the instruction and the performance of the intern during the course of internship.

B. Credit for funeral director and/or embalmer internship shall not be allowed to any person while he is in military service or while enrolled as a full-time student in a mortuary college or university (part-time students are acceptable).

C. Each intern is required to file a complete case report for each individual case handled during the internship which must be signed by the individual licensee who was supervisor of that case and must also file a monthly report providing the board with a summary of the cases worked during that period which shall be signed by the licensee designated as the supervisor of the intern. The report is due on the tenth day of the month and delinquent on the fifteenth day. Delinquent reports may result in the loss of credit for that month. In order for the intern file to be completed the inspector of the board must submit two personally signed inspection reports during internship period.

1. It shall be a requirement and responsibility of the intern to make these reports monthly and to have them in the office of the secretary on the date specified. Failure to perform as specified in this rule will mean automatic loss of that monthly credit. Failure of the licensed supervisor to perform as agreed or to in any way falsify the records of the internship will cause a fine to be levied in accordance with the provisions of R.S. 37:850 for said violation.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:278 (September 1979), amended LR 11:946 (October 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:11 (January 1989), LR 30:

Chapter 11. Funeral Establishments

§1101. Application

A. Application for a funeral establishment license at a new facility shall be made upon the form provided by the board, sworn to by applicant and accompanied by a fee as established by the board at least two weeks prior to the projected opening of the funeral establishment. Said establishment shall meet the requirements as defined in R.S. 37:842. When an existing licensed establishment is sold or transferred, or in excess of 50 percent of the stock in a corporation holding an establishment license is sold or transferred, the purchaser must pay a fee as established by the board for a new license. The seller and the purchaser are required to notify the board with full information as to the sale within 10 days. Failure by either party to provide the board with notice, as herein set out, will bring about the suspension and/or revocation of the license of either or both parties.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended October 1969, February 1973, amended and promulgated LR 4:227 (June 1978), amended LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 21:1237 (November 1995), LR 30:

§1103. Fixed Place; Extension of Funeral Establishment

A. The funeral establishment license is effective for a fixed place or location located upon a contiguous parcel of land, and for a specific name. Whenever the location or name of the licensed establishment is changed, a new license shall be obtained and a fee in an amount as established by the board must be paid. All changes of name and/or location must be reported to the board's secretary and the application process must be completed prior to making any changes.

B. The board will recognize a fixed business office to maintain records at a location other than the fixed location of the funeral establishment which shall be considered as an extension of the funeral establishment, and the records maintained within this extension shall be subject to the inspection of the board. Application for said extension to the funeral establishment shall be made upon the form provided by the board and shall be accompanied by a fee as established by the board. Any changes in the location of this extension must be reported to the board immediately.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended 1970, amended and promulgated LR 4:227 (June 1978), amended LR 5:278 (September 1979), LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 21:1237 (November 1995), LR 30:

§1105. Charge of Funeral Establishment

A. All funeral establishments must have a licensed funeral director designated as the manager of the facility and in charge of the day to day operations of the funeral home. The manager must be available to perform all of the routine functions of the licensed establishment as provided within the provisions of R.S. Title 37, Chapter 10, Section 831 et seq., within normal business hours; and, the manager must personally carry out his responsibilities as defined within Paragraph 23 of Section 831 and/or as provided within the statute.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 4:227 (June 1978), amended LR 4:295 (August 1978), LR 5:278 (September 1979), LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§1107. Inspection

A. Each funeral establishment shall be subject to inspection and shall comply with the following requirements.

1. Each establishment must have suitable and dignified quarters devoted to such activities incident or related to the care, the preparation, and arrangement for the burial, cremation, or other disposition of dead human bodies from which a funeral may be conducted.

2. It shall be the duty of the board or anyone designated by the board to inspect the establishment wherein licensed embalmers or funeral directors are practicing or propose to practice, to determine if proper and adequate facilities are provided.

B. Each establishment must meet all federal, state, and local requirements and must consist of and be inspected for an adequate facility containing:

1. display area for displaying funeral merchandise which shall consist of but not be limited to a minimum of six adult caskets of a variety of styles and quality;

2. an embalming room properly equipped and meeting all federal, state, and local regulations and shall meet the following requirements:

a. floors of tile, cement, linoleum, or like composition, finished with a glazed surface;

b. walls shall be finished with tile, or other material finished with enamel or other waterproof material;

c. a sanitary embalming table of metal, glass, or porcelain top, with running water draining from the table into a drain connected with a sewer or other proper receptacle;

d. hot and cold running water and a separate sink for disinfecting hands and instruments;

e. a permanently installed backflow preventor for the hydro-aspirator;

f. suitable sanitary plumbing which shall comply with the requirements of the Department of Health and Hospitals and Environmental Quality;

g. only equipment and supplies necessary for the preparation or care of dead human bodies for disposal or transportation are to be kept in the preparation room. At no time shall it be used as a store room;

h. the room shall be properly ventilated and climate controlled and comply with federal, state and local laws or ordinances, and/or regulations. It shall be so designed that no deleterious odors be permitted to enter into any other part of the establishment or adjoining premises;

i. the embalming or preparation room shall be strictly private and no one shall be allowed therein while the body is being embalmed except the licensed embalmers and other authorized persons and officials in the discharge of their duties;

j. there shall not be any direct connection between the preparation or embalming room with the living quarters of a funeral establishment or rooms where food is customarily prepared and served. Its doors shall be closed and locked, unless in an area secure from public access, at all times and all of its operable windows must be screened as a safeguard to the public health;

k. each funeral establishment and each preparation or embalming room shall be maintained in a clean and sanitary condition at all times. All instruments and other appliances used in embalming dead human bodies shall be thoroughly cleansed immediately at the conclusion of each individual case;

1. each funeral establishment must have available in the preparation room or embalming room a register book or log. The name of each body embalmed, place (if other than at establishment), the date and time that the embalming took place, the name and signature of the embalmer and his license number must be noted in said book. This must be available at all times in full view for our inspector;

3. an arrangement office which shall afford privacy to the family while making arrangements;

4. restrooms, separate for men and women;

5. parlors or chapel, to comfortably accommodate at least 30 seated persons;

6. a climate control system sufficient to provide comfort to the public;

7. a private area to shield removal of remains from service vehicle and a covered area when exiting the facility to protect the casketed remains until placed in the hearse;

8. furnishings, equipment, and other facilities that meet the standards of the board; and

9. sufficient signage to be visible from the street.

C.1. All establishments, except as herein below provided, shall have layout, embalming, display, personnel, and facilities as required by this Chapter for funeral establishments.

2. Exceptions

a. The following auxiliary or branch establishments shall be subject to inspection and exempt from the above requirement except for R.S. 1107(B)(4), (5), (6), (8) and (9):

i. any establishment if it is within 40 miles of the main establishment and can be practically served by the licensed personnel of the main establishment;

ii. if said auxiliary or branch establishment exceeds 40 miles and there exists a public need for said facilities. The nonexistence of any funeral establishment which serves the public need shall be presumptive evidence of "public need."

E. Each funeral establishment licensed by the board shall keep a set of books or records showing the name of each body prepared for burial, the name of the licensed embalmer who did the embalming, the dates connected with death and burial, and other necessary information required by law. If and when a "trade embalmer" or outside embalmer is called in or performs embalming, it is required that a record of his services be kept showing his name and time when he was at the funeral establishment.

F. Any licensed funeral establishment in the state of Louisiana is hereby prohibited from sharing or permitting the use of said establishment, or from furnishing equipment for use therein, or from rendering personal service therein, or from, in any manner entering into any arrangement or agreement with any person, for and in the conduct of such business upon such premises, who is not himself maintaining a licensed funeral establishment.

G. No one licensed by this board shall be employed as a funeral director and/or embalmer by an unlicensed funeral establishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended November 1972, February 1973, amended and promulgated LR 4:227 (June 1978), amended LR 4:295 (August 1978), LR 4:356 (September 1978), LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 20:191 (February 1994), LR 20:1380 (December 1994), LR 30:

Chapter 12. Crematories

§1201. Application

A. Application for a crematory license at a new facility shall be made upon the form provided by the board, sworn to by applicant and accompanied by a fee as established by the board and must be submitted to the board at least two weeks prior to the projected opening of the crematory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and 37:873.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§1203. Fixed Place

A. The license is effective for a fixed place, and for a specific name. Whenever the location or name of the license crematory is changed, a new license shall be obtained and a fee in an amount as established by the board must be paid. All changes of name and/or location must be reported to the board's secretary and the application process must be completed prior to making any changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and 37:873.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§1205. Charge of Crematory

A. All crematories must have a licensed crematory retort operator responsible for the day to day operations of the crematory. He must be available to perform all of the routine functions of the crematory as provided within the provisions of R.S. Title 37, Chapter 10, Section 831 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:873.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§1207. Inspection

A. Each crematory shall be subject to inspection and shall comply with the following requirements:

1. each crematory must have suitable and dignified facilities and equipment devoted to the cremation of dead human bodies;

2. it shall be the duty of the board or anyone designated by the board to inspect the crematory to determine if proper and adequate facilities and equipment are provided.

B. Each crematory must consist of and be inspected for an adequate building as defined within the statutes which shall be designated for the short term retention of the human remains; a properly operating retort; a processing and/or pulverization unit to complete the cremation process; and, adequate facilities to hold the human remains and maintain all records as required by R.S. 37:831 et seq.

C. The crematory shall work in concert with the funeral home so that the provisions of R.S. 37:848 and Chapter 26, §103 are met.

D. In addition to the various records required by the statutes, the crematory must maintain a log reflecting the name of each body received, the date and time that the body was received, the date and time the cremation began and was completed. The name and signature of the crematory retort operator must be noted within said log book. This must be available at all times in full view for the board's inspector.

E. The crematory shall also meet the following requirements:

1. all equipment and supplies necessary and incidental to the cremation process shall be kept in the crematory. At no time shall the retort and/or the holding facility or any part thereof be used as a store room;

2. the crematory shall be properly ventilated and comply in respect to ventilation with state and local laws or ordinances and regulations. It shall be so ventilated so that no deleterious odors be permitted to enter into any other part of the crematory or adjoining premises;

3. the crematory shall be maintained in a clean and sanitary condition at all times.

F. No one licensed by this board shall be employed as a crematory retort operator by an unlicensed crematory.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840 and 37:873.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 13. Prohibited Practices

§1301. Pressure Sales Tactics

A. The use of pressure sales tactics and/or plans, including but not limited to a bait and switch plan, and/or a sales commission plan by a funeral establishment or by anyone in their employ or by anyone acting on their behalf, in the sale of merchandise or services shall be an unethical and/or deceptive practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:388 (December 1979), repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§1303. Unlawful Practice

A. It shall be unlawful for a firm, partnership, corporation, an association of individuals, or anyone other than those individuals licensed under Title 37, Chapter 10, Articles 831 et seq., to engage in funeral directing, embalming or cremation as defined within Article 831 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:848.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 8:189 (April 1982), amended LR 11:688 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 15. Transportation

§1501. Container Required for Transporting

A. In order to comply with the proper handling of a dead human body, a funeral director, when required to transport that body for disposition, shall transport the remains in a container that eliminates direct contact by those not licensed to handle the dead and to offer protection to those who might accidentally come in contact with said body.

B.1. No section of this regulation shall be interpreted to prohibit transportation of dead human bodies without the use of a container as specified in Subsection A hereof, in closed vehicles designed exclusively for the transportation of dead human bodies.

2. When remains are transported by airline or any other common carrier, the remains must be in a closed container as provided in Subsection A herein above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:280 (September 1979), amended LR 11:688 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 17. Prepaid Funeral Services or Merchandise **§1701. Reports on Prepaid Funeral Services or Merchandise**

A. The report required by R.S. 37:861 from licensed funeral establishments engaged in the selling of prepaid funeral services or merchandise is necessary only in those instances where funds have actually been paid to or received by a licensed funeral establishment for such services or merchandise. The purpose of requiring such report is to protect purchasers of prepaid funeral services or merchandise by insuring that funds, paid by a purchaser to a licensed funeral establishment, are utilized solely for his exclusive use and benefit. Prearrangements of funerals by licensed funeral establishments, which are unfunded, are not within the scope of R.S. 37:861, and, accordingly, no report is required in these instances.

B. The report shall be in such form and contain such information as is prescribed by R.S. 37:861(A)(1) and shall be filed by each licensed funeral establishment engaged in the selling of prepaid funeral services or merchandise no later than December 31 of each year, and shall cover the period from October 1 of the previous year to and including September 30 of the year in which the report is due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:861.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 8:188 (April 1982), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 19. Survivor's Clause

§1901. Survivor's Clause

A. A survivor of the proprietor or the widow of the principal share holder of a funeral establishment can be issued a special work permit in a managerial position. Permit must be applied for within 60 days after death of spouse. Said permit is to be issued for a period not to exceed 12 months following approval of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:842.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 20. Fees

§2001. Fees

A. The board shall require payment of fees hereunder as follows:

1. a fee of \$250 from each person applying for a funeral director license;
2. a fee of \$250 from each person applying for a combination funeral director and embalmer license;
3. a fee of \$250 from each person applying for a crematory retort operator license;
4. a fee of \$80 for the annual renewal of each of the licenses listed in Paragraphs 1, 2, and 3 of this Section;
5. a fee of \$1,000 for each funeral establishment applying for a license to operate within this state;
6. a fee of \$1,000 for each crematory applying for a license to operate within this state;

7. a fee of \$700 for the annual renewal of each of the licenses listed in Paragraphs 5 and 6 of this Section;

8. a fee of \$500 for each inspection or re-inspection of a funeral establishment applying for an initial license to operate within this state or as a result of a location, or an ownership change;

9. a fee of \$500 for each inspection or re-inspection of a crematory applying for a license to operate within this state or as a result of a location, or an ownership change;

10. a fee of \$100 from each person applying for an internship;

11. a fee of \$100 from each person applying for a duplicate certificate;

12. a fee of \$100 from each person applying for a work permit within this state;

13. a fee of \$100 from each sponsor/presenter applying for approval of a continuing education program; and

14. a fee for a business office of \$400.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840 and 37:845.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 21. Rulemaking Process

§2101. Procedure to Follow

A. The board must follow the procedure outlined in the Administrative Procedure Act to adopt, amend or repeal any of the existing rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 11:688 (July 1985), repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§2103. Amending Sections

A. These rules and regulations may be added to, changed, altered or amended by a favorable vote of five members of the board, when said additions, changes, alterations or amendments have been presented by a member of the board, at a regular or called meeting of same. They shall be received and all members notified 30 days in advance of the proposed additions, changes, alterations or amendments before final action can be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§2105. Repeal of Rules

A. All rules and regulations previously adopted by this board are hereby repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended LR 11:688 (July 1985) repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 23. Injunction Proceedings; Penalty

§2301. Injunction Proceedings

A. The board may bring legal proceedings to enjoin a person or establishment violating the rules and regulations of this board from practicing the science of embalming or

conducting the business of funeral directing or operating a funeral establishment, as may be the case, until such person complies with the requirements of these rules and regulations. The injunction, if granted, shall not be suspended by bond or appeal and the person or establishment enjoined shall be cast for attorney fees and court costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:850.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:280 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§2303. Penalty

A. Whoever violates the provisions of these rules and regulations shall be fined not less than \$500 nor more than \$2,500 for each offense, plus costs of the hearing and the attorney for the board.

B. If a firm or association violates the provisions of these rules and regulations, all members of the firm or association who knowingly violate said provisions shall be subject to the penalty. If a corporation violates said provisions, the members of the corporation who knowingly violate said provisions shall be subject to the penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:850.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:280 (September 1979), amended LR 11:688 (July 1985), LR 12:677 (October 1986), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Interested persons may submit written comments on these proposed Rule changes to Dawn Scardino, Executive Director, Louisiana State Board of Embalmers and Funeral Directors, 3500 N. Causeway Blvd., Suite 1232, Metairie, LA 70011. Written comments must be submitted to and received by the board within 30 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Dawn Scardino
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Embalmers and Funeral Directors

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The board will spend approximately \$11,000 in FY 05 in printing costs to implement these rule change/additions. This will cover the cost of publications in the *Louisiana Register*, and the printing and mailing of revised books to all funeral establishments, crematories, and licensees.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The fee increases approved by the legislature are expected to increase the board's self-generated revenue by approximately \$184,000 in FY 05 and subsequent fiscal years. Initial licensee fee would increase for \$150 to \$250; embalmer/funeral director and funeral director annual renewal fee would increase from

\$50 to \$80; initial license fee for a funeral home or crematory to operate would increase from \$750 to \$1,000; annual renewal fee for a crematory or funeral establishment would increase from \$400 to \$700; internship registration fee or work permit fee would increase from \$60 to \$100; and, a duplicate certificate fee would increase from \$40 to \$100. There would also be an inspection fee of \$500 for any funeral establishment or crematory which has to be inspected for the issuance of a new license.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will increase fees paid by interns, licensees, funeral establishments and crematories (approximately 1,677 licensees in FY 05 and subsequent fiscal years).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment.

Dawn Scardino
Executive Director
0409#032

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Physician Assistants; Licensing and Practice
(LAC 46:XLV.1501-1519 and 4501-4513)

Notice is hereby given in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., that pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270(B) and the Physician Assistants Practice Act, R.S. 37:1360.23(B) and (F), R.S. 37:1360.31(B)(8), and in accordance with the applicable provisions of the Administrative Procedure Act, the board intends to amend LAC Title 46:XLV, Subpart 2, Chapter 15, §§1501-1529 and Subpart 3, Chapter 45, §§4501-4513, to conform such rules to the statutory law providing for the licensing and regulation of physician assistants who are authorized to prescribe medication and medical devices to the extent delegated by a supervising physician, as amended by Acts 2004, Number 10, R.S. 37:1360.31(B)(8).

The proposed Rule has no known impact on family formation, stability or autonomy as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Profession

Subpart 2. Licensing and Certification

Chapter 15. Physician Assistants

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

* * *

Applicant A person on whose behalf the board has received an application for:

- a. licensure as a physician assistant;
- b. physician assistant registration for prescriptive authority; or

c. registration by a physician to supervise a physician assistant and/or to delegate prescriptive authority to a physician assistant.

Approved Application Call of the information, representations, terms, restrictions, and documents contained in or submitted with an application upon which the board has issued: a physician assistant license; a physician assistant registration for prescriptive authority; or a supervising physician registration of delegation of prescriptive authority to a physician assistant.

* * *

Bona Fide Medication Sample A medication, other than a controlled substance, packaged by the original manufacturer thereof in such quantity as does not exceed a usual and reasonable therapeutic dosage and provided at no cost to a physician or physician assistant for administration or dispensation at no cost to the patient.

Controlled Substance Any substance designated or that may hereafter be designated as a Scheduled III, IV, or V controlled substance in R.S. 40:964.

Drug A controlled substance or a legend drug.

* * *

Legend Drug Any drug or drug product bearing on the label of the manufacturer or distributor as required by the Food and Drug Administration, the statement "Caution: Federal law prohibits dispensing without a prescription." Legend drugs do not include controlled substances.

* * *

Medication Except in these rules where its use may indicate otherwise, is synonymous with *drug*, as defined herein.

Medical Device Any instrument, apparatus, implement, contrivance, implant, or similar or related article, which is required under federal law to bear the label "Caution: Federal or State law requires dispensing by or on the order of a physician" and/or "Rx Only," or any other designation required under federal law. For purposes of this Chapter a *medical device* shall not include medical lasers, microwave, pulse light, radio frequency or any other such instrument, apparatus, implement or similar equipment used for therapeutic or cosmetic purposes.

* * *

Prescribe or Prescription A request or order transmitted in writing, orally, electronically or by other means of telecommunication, for a drug or medical device issued in good faith, in the usual course of professional practice for a legitimate medical purpose, by a licensed physician, or a physician assistant registered to prescribe medication and/or medical devices under this Chapter, for the purpose of correcting a physical, mental, or bodily ailment.

Prescriptive Authority The authority of a physician assistant duly registered and approved by the board to prescribe legend drugs and/or controlled substances and/or medical devices, to the extent delegated by a supervising physician, in accordance with the registration on file with the board and in compliance with the board's rules, §§1501-1529 and §§4501-4513.

Primary Practice Site The practice location at which a supervising physician or physician assistant spends the majority of time.

Protocol or Clinical Practice Guidelines or clinical practice guidelines or protocols a written set of directives or instructions regarding routine medical conditions, to be followed by a physician assistant in patient care activities. If prescriptive authority has been delegated to the physician assistant by the supervising physician the clinical practice guidelines or protocols shall contain each of the components specified by §1521.A.5. The Advisory Committee shall periodically publish and disseminate to supervising physicians and all physician assistants, model forms and examples of clinical practice guidelines and protocols. When a physician assistant has been delegated prescriptive authority, the supervising physician and physician assistant shall maintain a written copy of such clinical practice guidelines and protocols in each office location that the supervising physician and physician assistant practices. Such written clinical practice guidelines and protocols shall be available for inspection by authorized representatives of the board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:27 (January 1999), LR 30:

§1505. Necessity for License; Registration of Prescriptive Authority

A.1. No person may act as or undertake to perform the functions of a physician assistant unless he has in his personal possession a current physician assistant license issued to him under this Chapter.

2. A physician assistant currently licensed by the board shall not prescribe medication or medical devices unless his registration for prescriptive authority has been approved by the board in accordance with this Chapter.

B. Any person who acts or undertakes to perform the functions of a physician assistant without a current physician assistant license issued under this Chapter, or prescribes medication or medical devices without or beyond registration of such authority approved by the board, shall be deemed to be engaging in the practice of medicine; provided, however, that none of the provisions of this Chapter shall apply to:

1. - 2. ...

3. any physician assistant student enrolled in a physician assistant educational program accredited by the Advisory Committee on Allied Health Education and Accreditation or its successor; provided, however, that a physician assistant student shall not be eligible for registration of prescriptive authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:28 (January 1999), LR 30:

§1513. Issuance of License; Registration of Prescriptive Authority; Working Permit; Updating Information

A. 1. If the qualifications, requirements and procedures of §§1507 and 1509 are met to the satisfaction of the board, the board shall license the applicant as a physician assistant.

2. If the qualifications, requirements and procedures of §§1521 and 1525 are met to the satisfaction of the board, the board shall register the physician assistant's prescriptive authority to the extent delegated by the supervising physician.

B. - D. ...

E. A working permit shall not qualify a physician assistant for registration of prescriptive authority.

F. A physician assistant is responsible for updating the board within 15 days should any of the information required and submitted pursuant to §§1507, 1509, 1521, or 1525 change after the physician assistant has been licensed as a physician assistant or his registration of prescriptive authority approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:203 (March 1996), LR 25:30 (January 1999), LR 30:

§1514. Issuance of Approval as Supervising Physician; Registration of Delegation of Prescriptive Authority; Updating/Verification of Information

A. 1. If all the qualifications, requirements and procedures of §§1508 and 1510 are met to the satisfaction of the board, the board shall approve and register a physician as a supervising physician.

2. If all the qualifications, requirements and procedures of §§1523 and 1527 are met to the satisfaction of the board, the board shall approve and register a supervising physician's delegation of prescriptive authority to a physician assistant.

B. Although a physician must notify the board each time the physician intends to undertake the supervision of a physician assistant, registration as a supervising physician with the board is only required once. Notification of supervision of a new physician assistant by a registered supervising physician shall be deemed given to the board upon the physician assistant's filing with the board a notice of intent to practice in accordance with §1517 of this Chapter. The board shall maintain a list of physicians who are registered to supervise physician assistants and those who have registered delegation of prescriptive authority to a physician assistant.

C. Each registered physician is responsible for updating the board within 15 days should any of the information required and submitted in accordance with §§1508, 1510, 1523, and 1527 change after the physician has become registered as a supervising physician or registered his delegation of prescriptive authority to a physician assistant.

D. Registration of a supervising physician's delegation of prescriptive authority shall be filed with and approved by the board for each physician assistant that is to receive such

authority. A supervising physician shall annually verify, on a form supplied by the board, the accuracy of such registration information on file with the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:203 (March 1996), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:30 (January 1999), LR 30:

§1519. Transfer of Certification

A. ...

B. Application for transfer of certification to a new supervising physician shall:

1. ...

2. include:

a. the information and documentation prescribed by §1509 hereof with respect to the proposed new supervising physician, along with an application for registration of prescriptive authority if such is to be delegated, in accordance with §§1525 and 1527; and

b. ...

C. - F. ...

G. A provisional transfer of certification shall not be deemed to qualify a physician assistant eligible for registration of prescriptive authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended LR 17:1104 (November 1991), LR 30:

§1521. Qualifications for Physician Assistant

Registration of Prescriptive Authority

A. Legend Drugs/Medical Devices. To be eligible for registration of prescriptive authority for legend drugs and medical devices a physician assistant shall:

1. satisfy the licensure requirements of §1507 of this Chapter;

2. possess a current, unrestricted license to practice as a physician assistant duly issued by the board and not be the subject of a current investigation or pending disciplinary proceeding by the board;

3. have received authority to prescribe legend drugs and/or medical devices to the extent delegated by a supervising physician;

4. have completed:

a. a minimum of one year of clinical rotations during training and one year of practice under a supervising physician; or

b. a minimum of two years of practice under a supervising physician;

5. practice under supervision as specified in clinical practice guidelines or protocols that shall, at a minimum, include:

a. the methods to be employed by the supervising physician to insure supervision of the physician assistant's prescriptive authority;

b. the nature, types and classifications of medication and/or medical devices a physician assistant is authorized to utilize by the supervising physician;

c. a plan to accommodate immediate consultation by telephone or direct telecommunication with the supervising physician, or in his absence an approved locum

tenens physician, to address medical emergencies, complications and other such matters;

d. a predetermined plan for emergency services, after-hours, weekend, and vacation coverage;

e. a predetermined plan for patient referrals to other physicians, emergency rooms and admission to hospitals at which the supervising physician holds privileges. Such plan shall include a statement that the physician assistant shall not seek privileges at any institution unless the supervising physician holds privileges at such institution;

f. an acknowledgment of the mutual obligations and responsibilities of the supervising physician and physician assistant to comply with all requirements of §4511 of these rules including, but not limited to, the review and countersigning of the physician assistant's written entry in the patient record of prescriptions for medication or medical devices; and

g. confirmation that the physician assistant shall not prescribe medication or medical devices if the supervising physician, or in his absence an approved locum tenens physician, is neither physically present nor available by telephone or other telecommunication device.

B. Controlled Substances. To be eligible for registration of prescriptive authority for controlled substances a physician assistant shall:

1. satisfy the requirements of §1521.A;

2. possess a current, unrestricted permit or license to prescribe controlled substances in Louisiana duly issued by the Office of Narcotics and Dangerous Drugs, Department of Health and Hospitals, State of Louisiana or its successor, and be currently registered to prescribe controlled substances without restriction as to the schedules delegated by the supervising physician with the Drug Enforcement Administration, United States Department of Justice (DEA). A physician assistant authorized to prescribe controlled substances shall provide the board photocopies of his Louisiana permit and federal registration prior to prescribing controlled substances; and

3. not be deemed ineligible for registration for any of the causes set forth in §1521.C.

C. A physician assistant shall be deemed ineligible for registration of authority to prescribe controlled substances who:

1. has, within the five years preceding application for registration, been convicted, whether upon verdict, judgment or plea of guilty or nolo contendere of any crime constituting a felony under the laws of the United States or of any state or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime;

2. has, within the five years preceding application for registration, been convicted, whether upon verdict, judgment or plea of guilty or nolo contendere of any crime, an element of which is the manufacture, production, possession, use, distribution, sale or exchange of any controlled substance or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime;

3. has, within the five years preceding application for registration, abused or excessively used any medication, alcohol or other substance which can produce physiological

or psychological dependence or tolerance or which acts as a central nervous system stimulant or depressant;

4. has had suspended, revoked or restricted, his narcotics controlled substance permit, license, certificate or registration (state or federal), or who has voluntarily surrendered to such state or federal authority while under investigation in lieu of the institution of disciplinary charges or action against such authority;

5. has had his professional license suspended, revoked or placed on probation or restriction in any manner by the board or by any licensing authority, or who has in the presence of an investigation agreed not to seek re-licensure, voluntarily surrendered or entered into an agreement with the board or with any licensing authority in lieu of the institution of disciplinary charges or action against such license;

6. has, within the five years preceding the application for registration, been denied, had suspended, revoked, restricted or relinquished staff or clinical privileges at a hospital or other health care institution following a hearing or an opportunity for hearing, as a result of professional competency or conduct or who is currently the subject of an unresolved investigation by a hospital medical staff for professional competency or conduct; or

7. has failed his most recent attempt at passage of the certification or recertification examination administered by the National Commission on Certificate of Physician Assistants (NCCPA) or its successors and has yet to sit for or successfully pass such examination on a subsequent attempt.

D. The board may deny registration of prescriptive authority to an otherwise eligible physician assistant for any of the causes enumerated by R.S. 37:1360.33, or any other violation of the provisions of the Louisiana Physician Assistant Practice Act, R.S. 37:1361.21, et. seq. or its rules applicable to physician assistants.

E. The burden of satisfying the board as to the eligibility of the applicant for approval of registration of prescriptive authority shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1523. Qualifications of Supervising Physician for Registration of Delegation of Prescriptive Authority

A. Legend Drugs and Medical Devices. To be eligible for approval of registration to delegate authority to prescribe legend drugs and/or medical devices to a physician assistant a supervising physician shall:

1. satisfy the requirements of §1508;
2. not currently be enrolled in a medical residency or other postgraduate medical training program;
3. be actively engaged in clinical practice and the provision of patient care and provide supervision as defined in §1503.A; and
4. have prepared and signed clinical practice guidelines or protocols that comply with §1521.A.5 of these rules.

B. Controlled Substances. To be eligible for approval of registration to delegate authority to prescribe controlled

substances to a physician assistant a supervising physician shall:

1. satisfy the requirements of §1523.A;
2. possess a current, unrestricted permit or license to prescribe controlled substances duly issued by the Office of Narcotics and Dangerous Drugs, Department of Health and Hospitals, State of Louisiana, and be currently registered to prescribe controlled substances, without restriction, with the Drug Enforcement Administration, United States Department of Justice (DEA);
3. not be employed by or serve as an independent contractor to a physician assistant or be a party to any other or similar employment, contractual or financial relationship. The board may, in its discretion, grant an exception to this requirement on a case-by-case basis where it has been shown to its satisfaction that such relationship is structured so as to prohibit interference or intrusion into the physician's relationship with patients, his exercise of independent medical judgment and satisfaction of the obligations and responsibilities imposed by law and the board's rules on a supervising physician; and
4. not be deemed ineligible for registration to delegate authority to prescribe controlled substances for any of the causes set forth in §1523.C of this Chapter.

C. A physician shall be deemed ineligible for registration to delegate authority to prescribe controlled substances to a physician assistant:

1. for any of the causes set forth in §1521.C.1-6; and
2. any of the causes enumerated by R.S. 37:1285A, or violation of any other provision of the Louisiana Medical Practice Act, R.S. 37:1261, et. seq. or the board's rules.

D. The burden of satisfying the board as to the eligibility of a physician for registration to delegate prescriptive authority to a physician assistant shall be upon the proposed supervising physician. A physician shall not be deemed to possess such qualifications unless the physician demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1525. Physician Assistant Application for Registration of Prescriptive Authority; Procedure

A. Physician assistant application for registration of prescriptive authority shall be made upon forms supplied by the board and shall include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications for registration of prescriptive authority set forth in §1521 of this Chapter;
2. confirmation that clinical practice guidelines or protocols conforming to §1521.A.5 have been signed by the supervising physician and physician assistant;
3. such other information and documentation as the board may require; and
4. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the application.

B. A personal interview of a physician assistant applicant for registration of prescriptive authority by a member of the board or its designee may be required as a condition of

registration for any of the reasons specified in §1509.B or for other good cause as determined by the board.

C. The board may reject or refuse to consider any application for registration of prescriptive authority that is not complete in every detail required by the board. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1527. Supervising Physician Application for Registration of Delegation of Prescriptive Authority; Procedure

A. Physician application for approval and registration of delegation of prescriptive authority to a physician assistant shall be made upon forms supplied by the board and shall include:

1. proof documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in §1523 and this Chapter;

2. confirmation that the physician has delegated prescriptive authority to the physician assistant and the nature, extent, and limits thereof;

3. a description of the manner and circumstances in which the physician assistant has been authorized to utilize prescriptive authority and the geographical location(s) where such activities will be carried out;

4. confirmation that clinical practice guidelines or protocols conforming to §1521.A.5 have been signed by the supervising physician and physician assistant;

5. such other information and documentation as the board may require; and

6. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the application.

B. A personal interview of a physician applicant for registration of delegation of prescriptive authority by a member of the board or its designee may be required as a condition of registration for any of the reasons specified in §1510.B or for other good cause as determined by the board.

C. The board may reject or refuse to consider any application for registration of delegation of prescriptive authority that is not complete in every detail required by the board. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1529. Expiration of Registration of Prescriptive Authority; Renewal; Continuing Education

A. Registration of prescriptive authority shall not be effective until the physician assistant receives notification of approval from the board. Such registration and the physician assistant's prescriptive authority shall terminate and become void, null and to no effect upon the earlier of:

1. termination of the relationship between the physician assistant and supervising physician;

2. notification to the board that the supervising physician has withdrawn, cancelled or otherwise modified the physician assistant's prescriptive authority;

3. a finding by the board of any of the causes that would render a physician assistant ineligible for registration of prescriptive authority set forth in §1521.C or a supervising physician ineligible to delegate such authority pursuant to §1523.C;

4. a finding by the board that the physician assistant has violated the Louisiana Physician Assistant Practice Act, R.S. 37:1360.21, et. seq. or the board's rules;

5. a finding by the board that the supervising physician has violated the Louisiana Medical Practice Act, R.S. 37:1261, et. seq. or the board's rules; or

6. expiration of a physician assistant's or supervising physician's license or registration of prescriptive authority for failure to timely renew/verify such license or registration.

B. A physician assistant's prescriptive authority is personal to the individual physician assistant and supervising physician who delegated such authority and shall not be transferred by notice of intent or otherwise, utilized by anyone other than the physician assistant to whom delegated, or placed on inactive status.

C. Registration of prescriptive authority shall be renewed annually by a physician assistant by submitting to the board an application for renewal upon forms supplied by the board, together with the supervising physician's verification of the accuracy of registration information on file with the board, and confirmation of compliance with the continuing education requirements prescribed by §1529.D.

D. Continuing Education. Every physician assistant seeking renewal of registration of prescriptive authority shall:

1. obtain 100 hours of continuing medical education biannually, or such greater number of hours as may be required by the NCCPA, in courses qualifying for NCCPA certification or recertification; and

2. pass the pharmacology/pharmacotherapeutic and all other segments of the NCCPA recertification examination every six years, or at such other intervals as the NCCPA may require, to maintain current NCCPA certification.

E. A physician assistant shall maintain a record of certificate of attendance for at least four years from the date of completion of the continuing education activity. Such record shall be made available to the board within 30 days of its request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

Subpart 3. Practice

Chapter 45. Physician Assistants

§4501. Supervision by Supervising Group of Physicians

A. A physician assistant may be supervised by a supervising group of physicians provided that, a member, partner or employee of the supervising group is designated as the supervising physician, and such supervising physician meets and satisfies all of the qualifications, procedures and other requirements of this Chapter to the same extent as if the physician assistant were supervised individually by the supervising physician. A physician assistant's authority to prescribe medication and/or medical devices under supervision of a supervising group of physicians shall be

limited to the extent of authority delegated to the physician assistant by the supervising physician.

B. ...

C. When a physician assistant is supervised by a supervising group of physicians, the supervising physician may designate any other member, partner or employee of the supervising group as locum tenens physician, provided that such designee meets the qualifications of LAC 46:XLV.1508 and 1510 and the designation otherwise complies with said Sections. When a physician assistant is registered with the board to prescribe medication or medical devices a locum tenens physician shall also meet the qualifications prescribed by §1523 and shall be registered with the board pursuant to §1527. Any physician serving as a locum tenens physician must be identified in the physician assistant's notice of intent to practice as provided in §1517.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 25:31 (January 1999), LR 30:

§4505. Services Performed by Physician Assistants

A. ...

B. In accordance with a written clinical practice guideline or protocol medical services rendered by a physician assistant may include: screening patients to determine need for medical attention; eliciting patient histories; reviewing patient records to determine health status; performing physical examinations; recording pertinent patient data; performing developmental screening examinations on children; making preliminary decisions regarding data gathering and appropriate management and treatment of patients being seen for initial evaluation of a problem or follow-up evaluation of a previously diagnosed and stabilized condition; making appropriate referrals; preparing patient summaries; requesting initial laboratory studies; collecting specimens for blood, urine and stool analyses; performing urine analyses, blood counts and other laboratory procedures; identifying normal and abnormal findings on history, physical examinations and laboratory studies; initiating appropriate evaluation and emergency management for emergency situations such as cardiac arrest, respiratory distress, burns and hemorrhage; performing clinical procedures such as venipuncture, intradermal testing, electrocardiography, care and suturing of wounds and lacerations, casting and splinting, control of external hemorrhage, application of dressings and bandages, administration of medications, intravenous fluids, and transfusion of blood or blood components, removal of superficial foreign bodies, cardio-pulmonary resuscitation, audiometry screening, visual screening, aseptic and isolation techniques; providing counseling and instruction regarding common patient problems; monitoring the effectiveness of therapeutic intervention; assisting in surgery; signing for receipt of medical supplies or devices that are delivered to the supervising physician or supervising physician group; and, to the extent delegated by the supervising physician, prescribing legend drugs and controlled substances listed in R.S. 40:964 as Schedule III, IV and V substances and prescribing medical devices. This list is illustrative only, and

does not constitute the limits or parameters of the physician assistant's practice.

C. - D. ...

E. A physician assistant shall not:

1. practice without supervision, as defined by §1503, except in life-threatening emergencies;

2. complete and issue prescription blanks previously signed by a physician;

3. except to the extent delegated by a supervising physician, as evidenced by approval of registration on file with the board in accordance with §1507-1527 of the board's rules:

a. issue prescriptions for any medication; or

b. order for administration or administer any medication to any patient except pursuant to the specific order or direction of his or her supervising physician;

4. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 25:32 (January 1999), LR 30:

§4506. Services Performed by Physician Assistants

Registered to Prescribe Medication or Medical Devices; Prescription Forms; Prohibitions

A.1. A physician assistant who is registered with the board pursuant to §§1521 and 1525 of these rules to prescribe medication and/or medical devices may, to the extent of such registration and the authority delegated by such supervising physician:

a. issue prescriptions for medication or medical devices to a patient of the supervising physician;

b. transmit orally, electronically, or in writing on a patient's record a prescription or order to an individual who may lawfully furnish such medication or medical device; and

c. request, receive, sign for and deliver to a patient a bona fide medication sample.

2. The medical record of any patient for whom the physician assistant has prescribed medication or a medical device, or delivered a bona fide medication sample, shall be properly documented, reviewed and countersigned in accordance with §4511.A.4.

B. All prescriptions issued by a physician assistant shall include:

1. the preprinted name, address and telephone number of the physician assistant;

2. the patient's name and the date the prescription is written;

3. whether generic substitution is authorized;

4. the number of refills, if any; and

5. for a controlled substance, a space in which the physician assistant shall legibly print his DEA number.

C. A physician assistant who has been delegated prescriptive authority shall not:

1. utilize prescriptive authority without supervision, as defined by §1503, or at any location other than specified in the supervising physician's registration of delegation of prescriptive authority filed with the board, except in life-threatening emergencies;

2. prescribe medication or medical devices:

a. except to the extent delegated by a supervising physician, as evidenced by approval of registration on file with the board in accordance with §§1507-1527 of these rules;

b. beyond the physician assistant's education, training and experience;

c. outside of his specialty or that of the supervising physician;

d. in the absence of clinical practice guidelines or protocols specified by §1521.A.5;

e. except in compliance with all applicable state and federal laws and regulations;

f. when the supervising physician, or in his absence an approved locum tenens physician, and physician assistant do not have the capability to be in contact with each other by telephone or other telecommunication.

3. treat and/or utilize controlled substances in connection with the treatment of:

a. non-cancer related chronic or intractable pain, as set forth in §§6915-6923 of the board's rules;

b. obesity, as set forth in §§6901-6913 of the board's rules;

c. one's self, spouse, child or any immediate family member except in a life-threatening emergency;

4. sell or dispense medication, as set forth in §§6501-6561 of the board's rules;

5. issue a prescription or order for any Schedule I or II controlled substance contained or hereinafter included in R.S. 40:964; or

6. dispense or deliver any controlled substance sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§4511. Mutual Obligations and Responsibilities

A. The physician assistant and supervising physician shall:

1.a. - b. ...

c. any other change in the employment, functions, activities, services or the nature or extent of delegation of prescriptive authority of the physician assistant or the manner or location of their performance;

2. - 3. ...

4. insure that, with respect to each direct patient encounter, all activities, functions, services, treatment measures, medical devices or medication prescribed or delivered to the patient by the physician assistant are properly documented in written form in the patient's record by the physician assistant and that each such entry is countersigned by the supervising physician within 24 hours with respect to inpatients in an acute care setting and patients in a hospital emergency department; within 48 hours with respect to patients of nursing homes and other sub-acute settings and within 72 hours in an office, clinic and all other practice settings;

5. insure that in those instances where a physician assistant with prescriptive authority has a primary practice site that is different from that of the supervising physician, that the supervising physician:

a. visits the physician assistant's primary practice site at least weekly during regular office hours and provides consultation to the physician assistant on any issues,

complications or other matters relating to the physician assistant's prescriptions for medication or medical devices;

b. personally sees any patient requiring physician follow-up; and

c. verifies that the prescriptive authority delegated to the physician assistant is being utilized in accordance with the clinical practice guidelines or protocols that are in place.

B.1. - 2. ...

3. Clinical practice guidelines or protocols and any written practice agreement shall be annually reviewed, updated as appropriate, and signed by the physician assistant and supervising physician.

C. The physician assistant and supervising physician shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities and provisions set forth in the rules of this Chapter, and to immediately report any violation or noncompliance thereof to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1106 (November 1991), LR 22:206 (March 1996), LR 25:33 (January 1999), LR 30:

§4513. Causes for Nonissuance, Suspension, Revocation or Restrictions; Fines, Reinstatement

A. The board may refuse to issue, or may suspend, revoke or impose probationary or other restrictions on, any license issued under this Chapter, or issue a private or public reprimand, for the following causes:

1. - 15. ...

16. violation of any provision of this Chapter, or of rules or regulations of the board or statute pertaining to physician assistants;

17. conviction or entry of a plea of guilty or nolo contendere to any crime an element of which is the manufacture, production, distribution, sale or exchange of any controlled substance;

18. prescribing legally controlled substances or any dependency-inducing medication without legitimate medical justification therefor or in other than a legal or legitimate manner; or

19. utilizing prescriptive authority in violation of any of the provisions of §§1501-1529 or 4501-4513 of the board's rules.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1107 (November 1991), LR 22:206 (March 1996), LR 25:33 (January 1999), LR 30:

Interested persons may submit written data, views, arguments, information or comments on the proposed rule amendments until 4 p.m., October 11, 2004, to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, at Post Office Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130).

John B. Bobear, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Physician Assistants;
Licensing and Practice**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Other than notice and rule publication costs estimated at a combined total of \$2,448, which will be absorbed within the Board's budget during FY 05, it is not anticipated that the proposed rule amendments will result in any additional costs or savings to the Board or any other state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the proposed rule amendments will have any effect on the Board's revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Aside from an additional form supplied by the Board for completion and execution by the physician assistant and supervising physician for initial registration and annual renewal/verification, it is not anticipated that the proposed rule amendments will have any material effect on costs, paperwork or workload of the 334 physician assistants currently licensed to practice in this state or their supervising physicians. In implementing the statutory amendments permitting physician assistants to prescribe medication and medical devices to the extent delegated by a supervising physician the rule amendments may, to the extent that is not quantifiable, serve to increase receipts and/or income of physician assistants.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is not anticipated that the proposed rule amendments will have any material impact on competition or employment in either the public or private sector. In implementing the statutory amendments permitting physician assistants to prescribe medication and medical devices to the extent delegated by the supervising physician the rule amendments may, to an extent that is not quantifiable, serve to increase competition in the market for employment of physician assistants.

John B. Bobear, M.D.
Executive Director
0409#067

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Criminal History Record Information; Registration and
Licensure (LAC 46:XLVII.3330 and 3341)

Notice is hereby given, in accordance with the provisions of the Administrative Procedures Act, R.S.49:950 et seq., that the Board of Nursing (Board) pursuant to the authority vested in the Board by R.S.37:918, R.S.37:919 intends to adopt rules amending the Professional and Occupational Standards pertaining to criminal history record information and fees for registration and licensure. The proposed amendments of the rules are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLVII. Nurses**

Subpart 2. Registered Nurses

Chapter 33. General

**Subchapter C. Registration and Registered Nurse
Licensure**

§3330. Criminal History Record Information

A. - C.2. ...

D. The board shall require from students seeking admission to clinical nursing courses, a completed Application for Approval to Enroll in A Clinical Nursing Course and a \$20 enrollment application fee prior to the student's enrollment in a clinical nursing course.

E. The applicant or licensee must review and sign the Authorization to Disclose Criminal History Record Information.

F. The applicant or licensee must contact the state or local police/sheriff department and submit two fingerprint cards to be completed. The law enforcement agency may specify a designated location and fee for the completion of the fingerprint cards.

G. The two completed fingerprint cards must be returned to the board office by the applicant or licensee with the required fee. The cards and fee will be forwarded to the Louisiana Department of Public Safety. The second card will be forwarded to the Federal Bureau of Investigations by the Louisiana Department of Public Safety.

H. The submission of the fingerprint cards and the signed Authorization to Disclose Criminal History Record Information must be received prior to the license being processed or during the semester that the first clinical nursing course has begun.

I. The processing of the license or the entry into clinical nursing courses may not be delayed awaiting these reports; however, future action may result if the criminal history record information so indicates. If the criminal history record reveals criminal activity which constitutes grounds for denial under R.S. 37.921. or LAC 46:XLVII.3331, then the license issued shall be recalled or the progression in clinical nursing courses may be denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:920.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 26:1614 (August 2000), amended LR 30:

§3341. Fees for Registration and Licensure

A. Notwithstanding any provisions of this Chapter, the board shall collect in advance fees for licensure and administrative services as follows:

1. Licensure

a.	Examination Application	\$100
b.	Endorsement Application	\$100
c.	Enrollment Application	\$ 20
d.	RN Renewal Fee	\$ 45
e.	RN Late Renewal Fee	\$ 90
f.	Retired License Fee (one time fee)	\$ 45
g.	RN Reinstatement from Inactive or Retired Status	\$ 45
g.	RN Reinstatement from Delinquent Status	\$ 90

i.	Initial APRN Licensure Application	\$100
j.	APRN Endorsement Application	\$100
k.	APRN Renewal Fee	\$ 50
l.	APRN Late Renewal Fee	\$100
m.	APRN Reinstatement from Inactive Status	\$ 50
n.	APRN Reinstatement from Delinquent Status	\$100
o.	APRN Prescriptive Authority Application	\$100
p.	APRN Prescriptive Authority Site Change	\$ 25
q.	Reinstatement of Prescriptive Authority Privileges	\$ 50
r.	Verification of Licensure	\$ 25
s.	Duplicate Application	\$ 10
t.	Duplicate License	\$ 10

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and R.S. 37:927.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 8:417 (August 1982), amended by the Department of Health and Hospitals, Board of Nursing, LR 14:533 (August 1988), LR 22:981 (October 1996), repromulgated LR 24:1293 (July 1998), amended LR 26:84 (January 2000), LR 30:

Family Impact Statement

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: The proposed rule related to the Board's appointing authority will have no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Interested persons may submit written comments on the proposed rules to Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 N. Causeway Blvd, Suite 601, Metairie, LA 70002. The deadline for receipt of all written comments is 4:30 p.m. on October 10, 2004.

Barbara L. Morvant
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Criminal History Record Information; Registration and Licensure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the proposed rule, which requires the Board to perform background checks for registered nursing students entering clinical nursing courses, will increase the workload of the Board in order to process an estimated 2,000 applications per year. Therefore, the increase workload will require two additional employees along with a first year equipment cost \$9,500. The estimated increase in total operating cost to the Board as a result of the proposed rule is approximately \$74,166 in FY 05, \$69,414 in FY 06, and \$74,525 in FY 07. Implementation costs include \$136 for publication in the *Louisiana Register* in FY 04.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenues will increase due to an additional fee being assessed for each student applicant entering clinical nursing courses. The additional revenues will be generated from assessing a fee of \$20.00 for each student applying for clinical nursing courses along with an increase in the examination fee from \$80.00 to \$100.00 per applicant. The number of students being admitted is steadily increasing with a five-year average of 2,083 students. Likewise, the number of candidates

graduating and applying for licensure by examination is steadily increasing with a five-year average of 1,532. The funds to be generated are estimated to be \$72,324 in FY 05, \$75,524 in FY 06, and \$75,824 in FY 07. These additional fees will cover the additional expenditures due to the implementation of background checks for students entering clinical nursing courses.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of the proposed rule will require new nursing students to pay \$20 for an application to enroll into clinical nursing courses and applicants for licensure by examination to pay an additional \$20 for examination applications (increase from \$80 to \$100).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Barbara L. Morvant
Executive Director
0409#033

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**

Durable Medical Equipment Program
Prosthetics and Orthotics
(LAC 50:XVII.1301-1305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XVII.1301-1303 and amend 1305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule that established the reimbursement methodology for artificial eyes (*Louisiana Register, Volume 27, Number 1*). The bureau subsequently promulgated an Emergency Rule that adopted criteria for the authorization of artificial eyes, scleral shell, and related services and amended the reimbursement methodology (*Louisiana Register, Volume 30, Number 8*). This proposed Rule is being promulgated to continue the provisions contained in the August 20, 2004 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 by facilitating access to artificial eyes and related services.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing the authorization of artificial eyes, scleral shell and related services.

Title 50
PUBLIC HEALTH MEDICAL ASSISTANCE
Part XVII. Durable Medical Equipment
Subpart 1. Prosthetics
Chapter 13. Prosthetics and Orthotics
Subchapter A. Artificial Eyes, Scleral Shell, and Related Services

§1301. Introduction

A. Definitions

Artificial Eye or Ocular Prosthesis A replacement for a missing or damaged, unsightly eye.

Full Ocular Prosthesis Used for individuals who have the globe removed allowing for the fitting of a regular artificial eye.

Related Services Include polishing or resurfacing of ocular prosthetics, enlargements or reductions of ocular prosthetics, and fabrication or fitting of ocular conformer.

Scleral Shell (or Shield)

a. a custom-made, thin ocular prosthesis fitted directly over a blind and shrunken globe. It includes the iris (the colored part of the eye) and the sclera (the white part of the eye);

b. a term utilized to describe different types of hard scleral contact lenses. A shell fits over the entire exposed surface of the eye as opposed to a corneal contact lens which covers only the central nonwhite area encompassing the pupil and iris.

B. These procedures require prior authorization.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§1303. Medical Necessity

A. An artificial eye and related services shall be approved if an eyeball is removed and replacement and repair and/or upkeep of an artificial eye are necessary to maintain the contour of the face.

B. A scleral shell may be authorized when the medical criteria as stated in this Subchapter A are met. A scleral shell may, among other things, obviate the need for surgical enucleation and prosthetic implant and act to support the surrounding orbital tissue of an eye that has been rendered sightless and shrunken by inflammatory disease. In such a case, the device serves essentially as an artificial eye. In this situation, authorization of payment may be made for a scleral shell. Scleral shells are occasionally used in combination with artificial tears in the treatment of "dry eye" of diverse etiology. Tears ordinarily dry at a rapid rate, and are continually replaced by the lacrimal gland. When the lacrimal gland fails, the half-life of artificial tears may be greatly prolonged by the use of the scleral contact lens as a protective barrier against the drying action of the atmosphere. Thus, the difficult and sometimes hazardous process of frequent installation of artificial tears may be avoided. The lens acts in this instance to substitute, in part, for the functioning of the diseased lacrimal gland and may be covered as a prosthetic device in the rare case when it is used in the treatment of "dry eye."

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§1305. Reimbursement

A. Reimbursement for artificial eyes, scleral shells, and the related services shall be at 90 percent of the 2004 Medicare fee schedule or billed charges; whichever is the lesser amount. If not available at the established flat fee, the flat fee that shall be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1030 (May 2004), amended LR 30:

Interested persons may submit written comments to Ben A. Bearden at the following address: Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, October 26, 2004 at 9:30 a.m. in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Durable Medical Equipment
Program Prosthetics and Orthotics**

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 \$17,430 for FY 04-05, \$20,671 for FY 05-06 and \$21,292 for FY 06-07. It is anticipated that \$408 (\$204 SGF and \$204 FED) will be expended in FY 04-05 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 \$42,770 for FY 04-05, \$51,079 for FY 05-06 and \$52,611 for FY 06-07. \$204 is included in FY 04-05 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the August 20, 2004 emergency rule, adopts criteria for the authorization of artificial eyes, scleral shell, and related services (approximately 125) and amends the reimbursement methodology. It is anticipated that implementation of this

proposed rule will increase expenditures for artificial eyes and related services by \$59,792 for FY 04-05, \$71,750 for FY 05-06 and \$73,903 for FY 06-07.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Ben A. Bearden
Director
0409#036

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**

Pregnant Women Extended Services **C** Dental Services
(LAC 50:XV.16101)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.16101 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 currently provides coverage for dental services under the Early and Periodic Screening, Diagnosis and Treatment Program for Medicaid recipients up to age 21. Under the authority of Section 440.210(a)(2) and 442.220(a)(5) of the *Code of Federal Regulations*, the bureau expanded coverage of certain designated dental services to include Medicaid eligible pregnant women 21 years of age or older who evidenced the need for periodontal treatment (*Louisiana Register, Volume 30, Number 3*). The bureau now proposes to amend the March 20, 2004 Rule to clarify eligibility criteria for recipients who are certified for Medicaid as Qualified Medicare Beneficiary Only.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972 as it will promote the health and welfare of Medicaid eligible pregnant women and their unborn children by addressing those periodontal needs that may affect the pregnancy.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the March 20, 2004 Rule to clarify eligibility criteria for recipients who are certified for Medicaid as Qualified Medicare Beneficiary Only.

Title 50

PUBLIC HEALTH **C MEDICAL ASSISTANCE**

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 161. Dental Services

§16101. Recipient Qualifications

A. ...

B. Pregnant women who are certified for Medicaid as a Qualified Medicare Beneficiary Only are not eligible for coverage of dental services unless these services are covered by Medicare.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended LR 30:

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, October 26, 2004, at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Pregnant Women Extended
Services **C** Dental Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 04-05. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in FY 04-05 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 04-05. It is anticipated that \$136 will be expended in FY 04-05 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to clarify eligibility requirements for Pregnant Women Extended Dental Services for Medicaid Recipients who are Qualified Medicare Beneficiaries. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Ben A. Bearden
Director
0409#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Commercial Lines Insurance Rate Deregulation (LAC 37:XIII.Chapter 93)

In accordance with the provisions of R.S. 49:950 et seq. of the Administrative Procedure Act, the Commissioner of Insurance hereby gives notice of his intent to adopt Regulation 80 implementing a regime of commercial policy rate deregulation. Adoption of the proposed regulation is authorized by Acts 2004, No. 878.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 93. Regulation 80 Commercial Lines Insurance Rate Deregulation

§9301. Authority

A. This regulation is adopted pursuant to R.S. 22:3 and R.S. 22:1401.1D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

§9303. Purpose

A. The purpose of this regulation is to implement the provision of Acts 2004, No. 878 of the Louisiana Legislature, Regular Session, which exempts commercial property and casualty insurers from the rate approval process unless the commissioner determines that the market for a line of insurance is noncompetitive. The regulation specifies the criteria the commissioner will use to determine if there exists a competitive or noncompetitive market.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

§9305. Scope and Applicability

A. This regulation applies to all authorized insurers engaged in the business of writing commercial property and casualty insurance in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner LR 30:

§9307. Severability

A. If any section or provision of this regulation is held invalid, such invalidity shall not affect other sections of provisions which can be given effect without the invalid section or provision, and for this purpose the sections and provisions of this regulation are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

§9309. Definitions

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

Affiliated Group Two or more persons who are owned or controlled directly or indirectly through one or more intermediaries by, or are under common control with, the

person specified (i.e., the named insured) and includes a subsidiary.

Anticompetitive Behavior Can an insurer monopolizing or attempting to monopolize, or combine with or conspire with any person to monopolize, in any territory, the business of insurance of any kind, subdivision or class.

Authorized Insurer Shall have the meaning found in R.S. 22:5(3).

COI The Commissioner of Insurance for the State of Louisiana.

Commercial Risk Any kind of risk that is not a personal risk.

Exempt Commercial Policyholder A person who has and maintains an annual commercial insurance policy premium, excluding workers compensation and, if applicable, medical malpractice liability insurance premiums, of at least \$10,000 in the preceding fiscal year.

Noncompetitive Market A market in which a reasonable degree of competition for a line of insurance does not exist as specified in §9315; or a market which has been found to exhibit anticompetitive behavior or otherwise be in violation of R.S. 22:1211 et seq.

Insurer Shall have the meaning found in R.S. 22:5(10).

LDOI The Louisiana Department of Insurance.

Line of Insurance Means the lines of business included on the Exhibit of Premiums and Losses (Statutory Page 14) of the Annual Statement Blank.

Office of Property and Casualty Means the Office created by R.S. 36:688.

Person Can an individual, a corporation, a partnership, an association, a trust, a joint stock company, an unincorporated organization, any similar entity, or any combination of the foregoing acting in concert.

Personal Risk Means homeowners, tenants, private passenger nonfleet automobile, mobile home and other property and casualty insurance for personal, family or household needs.

State The state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

§9311. Types of Insurance Exempt From Rate Filing and Approval Process

A. All lines of commercial property and casualty insurance, including but not limited to Commercial Property, Boiler and Machinery, Fire and Allied Lines, Commercial Auto, General Liability, Non-Medical Professional Liability, Business Owners and Inland Marine insurance, written on commercial risks are exempt from the filing and approval provisions of R.S. 22:1401 et seq. if the policy is issued to an exempt commercial policyholder as defined in §9309, except for the following kinds:

1. workers compensation; and,
2. medical malpractice liability insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

§9313. Exempt Rates

A. If, after holding a public hearing, the commissioner has declared the market for a line of insurance competitive, then the rates employed for that line are exempt from the

filing and approval process. Any such public hearing shall comply with the Open Meetings law.

B. Exempt rates shall be used only when writing coverage on an exempt commercial policyholder. If exempt rates are used, an informational filing must be submitted to the Office of Property and Casualty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

§9315. Noncompetitive Market; Public Notice and Hearing

A. If the commissioner has reason to believe that a noncompetitive market for a line of insurance exists he shall give public notice in the manner specified in R.S. 22:1354C and conduct a public hearing.

B.1 In determining whether a reasonable degree of competition does not exist within a line of insurance, the COI shall consider the following factors:

- a. the number of insurers available to write the coverage;
- b. market shares of the leading writers and the changes in market shares over a reasonable period of time;
- c. existence of financial or economic barriers that could prevent new firms from entering the market;
- d. measures of market concentration and changes of market concentration over time;
- e. whether long-term profitability for insurers in the market is reasonable in relation to industries of comparable business risk;
- f. the relationship of insurers' cost to revenue over a reasonable period of time;
- g. the availability of insurance coverage to consumers in the markets by specific geographical area, by line of insurance and by class of risk;
- h. the extent to which any insurer or group of affiliated insurers controls all or a portion of the market; and;
- i. the opportunities available to consumers in the market to acquire pricing and other consumer information.

2. These factors must indicate that there is a competitive market in order for a determination to be made that the market is competitive for the line of business under review. If it is determined that a line of business is noncompetitive, the rates for that line of business shall be governed by the file and use provisions of R.S. 1401.1B until such time as a finding is made that the market is no longer noncompetitive.

C. The Commissioner shall hold an investigatory hearing to determine if the market is noncompetitive if he receives a written request from an aggrieved policyholder or any other affected person or organization. The request must specify the grounds relied upon by the complainant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

§9317. Disciplinary Hearings; Fines

A. If the commissioner has reason to believe that an insurer is engaging in anticompetitive behavior he may hold a hearing pursuant to an Order to Show Cause, ordering the

insurer to appear and show cause why it should not be sanctioned. In making a determination as to whether an insurer is engaging in anticompetitive behavior, the Commissioner may consider the factors listed in §9315.

B. The commissioner may hold a disciplinary hearing if he has reason to believe that an insurer is using exempt rates with a policyholder who does not qualify as exempt commercial policyholders.

C. If the commissioner finds that an insurer has violated or otherwise failed to comply with the provisions of this regulation he may impose such fines as are authorized by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

§9319. Effective Date

A. This regulation shall take effect on January 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

Family Impact Statement

Proposed Regulation 80, LAC 37: XIII. Chapter 93 §9301 et seq., regarding deregulation of insurance rates for exempt commercial policyholders should not have any known or foreseeable impact on the family as defined by R.S. 49:972D or on family formation, stability or autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. 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.

A copy of the proposed regulation may be obtained by writing to the LDOI at the address shown below or by telephone at 225-342-4673. Copies may also be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802 or by calling at 225-342-5015.

Interested parties may submit oral or written comments on the proposed regulation to Colleen Noël Wertz, Chief Attorney, Box 94214, Baton Rouge, LA 70804-9214; telephone: 225-342-4632. The deadline to submit comments is 5 p.m., October 22, 2004.

A public hearing on the proposed regulation is scheduled for 10 a.m. on October 21, 2004. The hearing will be held in the Plaza Hearing Room, Poydras Building, 1702 North Third Street, Baton Rouge, LA. Persons requiring special accommodations should contact the LDOI at 225-342-5203. No preamble regarding this proposed regulation is available.

J. Robert Wooley
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Commercial Lines Insurance
Rate Deregulation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

No implementation costs to state or local governmental units are expected as a result of Regulation 80. Some decrease in workload may result for the Louisiana Insurance Rating Commission and the Office of Property and Casualty, which will no longer be required to review all rate changes for commercial property and casualty lines of insurance subject to Regulation 80.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that implementation of Regulation 80 will have any impact upon revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The deregulation of commercial lines P&C rates should, in the long run, result in a more competitive insurance market in the state, which will gradually result in lower rates for many commercial insureds. There is the potential that some rates may rise initially, but increased competition should, over time, decrease the costs of insurance in the state. Policyholders may pay higher rates initially, but as competition increases the rates should, gradually, go down. It is impossible to estimate the potential for initial increases or eventual decreases in premiums as a result of this regulation.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Regulation 80 should have a positive impact on competition and employment, over time. As to insurers, there is the possibility that eventually some insurers, may reduce their rate filing staff, but it is impossible to determine at this time whether such reductions may occur. Over time, competition among insurers should increase, resulting in improved market efficiencies and greater product availability for insurance consumers.

Chad M. Brown
Deputy Commissioner
0409#043

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**LSU Health Sciences Center
Health Care Services Division
Tumor Registry**

Tumor Registry (LAC 48:V.Chapter 85)

Under the authority of R.S. 40:1299.80 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., as amended, the President of the Louisiana State University System gives notice of his intent to adopt a rule to clarify the name of the responsible institution, require the ascertainment of follow-up data and the inclusion of benign and borderline brain tumors, clarify the confidentiality provisions when cancer data are provided to researchers or are exchanged with other state registries, adjust the cost of reimbursement when the Registry must abstract cases at noncompliant hospitals, and provide for related matters by supplanting Chapter 85 of Title 48 of the

Louisiana Administrative Code in its entirety with the following.

Title 48

PUBLIC HEALTH

Part V. Preventive Health Services

Subpart 31. Louisiana Tumor Registry

Chapter 85. Statewide Tumor Registry Program

§8501. Purpose

A. Louisiana R.S. 40:1299.80 et seq. established a "statewide registry program for reporting cancer cases for the purpose of gathering statistical data to aid in the assessment of the presence, extent, possible causes of specific cancers, and other related aspects of cancer ... in Louisiana." In carrying out this mandate, the Louisiana Tumor Registry collaborates with the National Cancer Institute, the Centers for Disease Control and Prevention, medical research institutions, and national and international cancer surveillance programs designated by the Louisiana Tumor Registry, and public health agencies. The importance of cancer registration was reinforced by the passage of federal legislation in 1992 (Public Law 102-515) establishing the National Program of Cancer Registries, in which Louisiana participates.

1. Acts No. 1197 of the 1995 Louisiana Legislative Session clarified the cancer-reporting responsibilities of medical care professionals and institutions, provided for intervention in cases of noncompliance, reinforced the confidentiality requirements to protect participants from civil liability, authorized the exchange of cancer incidence data with other states, and provided for related matters.

2. Acts No. 1138 §2 of the 1995 Session transferred the Louisiana Tumor Registry program and the Louisiana Cancer and Lung Trust Fund Board to the Board of Supervisors of the Louisiana State University Agricultural and Mechanical College, to be administered by the Louisiana State University Medical School at New Orleans.

3. Act No. 197 of the 2001 regular legislative session replaced "Secretary of the Department of Health and Hospitals" and "Secretary" with "President of the Louisiana State University System, or his designee" or "President" and replaced "Office of Public Health in the Department of Health and Hospitals" with "Office of the President." It also mandated the reporting of follow-up information and revised the liability requirement for data releases to qualified researchers and state cancer registries.

4. Acts No. 225 of the 2003 regular legislative session authorized the LTR to cooperate with other designated national and international cancer surveillance programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1295 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Louisiana Tumor Registry, LR 30:

§8503. Definitions

Confidential Data shall include any information that pertains to an individual case, as ordinarily distinguished from group, aggregate, or tabular data. Statistical totals of "0" or "1" may be deemed confidential, case-specific data. Confidential, case-specific data include, but are not limited

to, primary or potential human identifiers. In addition, in research involving data contained in the Centers for Disease Control's National Center for Health Statistics database, statistical totals of 5 or less are also deemed confidential data and are suppressed unless prior written consent of all of the affected respondents has been obtained in accordance with 42 U.S.C. §242k(1); 5 U.S.C. §552(b); and OMB order, Vol. 62, No. 124, 6/27/97, OMB Regulations pp. 35044ff; <http://www.cdc.gov/nchs/r&d/rdc.htm> (March 3, 2003).

Director The director of the Louisiana Tumor Registry, who is appointed by the President of the Louisiana State University System.

Health Care Provider Every licensed health care facility and licensed health care provider, as defined in R.S. 40:1299.41(A)(1), in the state of Louisiana.

Follow-Up Information Information that is used to determine survival rates for various types of cancer. The information consists of the patient name, case number, vital status, date of last contact regarding the patient, date of death, and cause of death if the patient is deceased.

Louisiana Tumor Registry/LTR The program in the Louisiana State University System that administers a population-based statewide cancer registry.

Regional Tumor Registry An organization that has contracted with the Louisiana Tumor Registry (LTR) to provide in its region such services as: screening medical records or pathology reports and abstracting data on all cancer cases, obtaining current follow-up information, compiling and editing data, performing quality assurance programs, training personnel from hospitals and other reporting facilities, and furnishing abstracts and/or electronic records of acceptable quality to the LTR from all medical facilities and health care providers in the parishes assigned to that region.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1295 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Louisiana Tumor Registry, LR 30:

§8505. Participation in the Program

A. Responsibility for Reporting. All hospitals, pathology laboratories, radiation centers, physicians, dermatology offices, nursing homes, and other licensed health care facilities and providers, as defined in R.S. 40:1299.41(A)(1), shall participate in the cancer registry program defined by R.S. 40:1299:80 et seq. Each patient, whether a resident of Louisiana or another state, who receives screening, diagnostic or therapeutic services for cancer in Louisiana shall be registered, and the LTR shall have physical access to all records that would identify cases of cancer or would describe a patient's disease, treatment, or medical status. Patients admitted to a Louisiana hospital shall be registered through the hospital. In addition, health care providers shall furnish follow-up data on each cancer patient when requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public

Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1295 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Louisiana Tumor Registry, LR 30:

§8507. Cancer Case Reporting

A. Reportable Cancer Cases. Any newly diagnosed in situ or invasive neoplasm is considered a reportable diagnosis (these bear a behavior code of '2' or '3' in the *International Classification of Diseases for Oncology*, 2nd edition (1992) or 3rd edition (2000), published by the World Health Organization. The two exceptions are: (1) carcinoma in situ of the cervix or prostate intraepithelial neoplasia and (2) basal cell and squamous cell carcinomas of the skin, unless they occur on the vermilion border of the lips or on the genital organs. In addition, the following tumors shall be considered reportable: juvenile astrocytoma (ICD-O-3 code M-9421/1); tumors with a behavior code of '0' (benign) or '1' (borderline) if diagnosed at ICD-O-3 anatomical sites C70.0–C72.9 or C75.1–C75.3; and other histologies mandated by funding agencies. If a patient subsequently develops a new primary cancer, it shall be reported separately.

B. Format for Reporting. The format for reporting, the required codes, and the standards for completeness and quality are described in the *Standards for Cancer Registries*, compiled by the North American Association of Central Cancer Registries. Text is required for specified variables and shall be adequate to permit quality assurance evaluation of coding decisions. Records shall be sent to the designated regional office, the address for which can be obtained from the Louisiana Tumor Registry.

C. Variables to be Reported

1. The standardized report of cancer shall include the following information as a minimum. Some of the items may be computer generated. Those followed by an asterisk must include enough text to permit quality assurance evaluation of coding decisions.

Report Source	
1.	reporting facility/physician *
2.	date of admission/first contact
3.	hospital medical record number
4.	hospital accession number
5.	class of case: analytic/non-analytic
6.	type of reporting source
7.	institutions referred to and from
8.	physicians: managing, surgeon, oncologist, follow-up, referring, other, including Louisiana medical license number
Patient Information	
9.	patient's name: first, last, middle, maiden, alias, prefix, suffix
10.	date and place of birth
11.	age at diagnosis
12.	sex
13.	race
14.	address at diagnosis: facility name, number and street, city, parish, state, zip code
15.	telephone number
16.	Social Security number
17.	marital status
18.	religion
19.	Spanish/Hispanic origin
20.	usual occupation *
21.	usual industry *
22.	tobacco history
23.	family and patient history of cancer
24.	type of health insurance
25.	comorbid conditions

Description of Disease	
26.	date of first diagnosis
27.	primary site *
28.	diagnostic procedures:* physical exam, X-rays, scans, scopes, lab tests, operative, pathology
29.	type of diagnostic confirmation *
30.	laterality
31.	histology *
32.	neoplasm behavior
33.	grade/differentiation
34.	tumor size
35.	nodes examined and nodes positive
36.	tumor extension and lymph node involvement
37.	sites of distant metastasis
38.	extent of disease
39.	summary stage, * directly coded or derived
40.	Collaborative Staging
41.	coding systems for site, morphology and treatment
42.	sequence number at the facility
43.	tumor markers and other site-specific factors
Treatment	
44.	dates of definitive and first course of treatment
45.	descriptions and summaries of treatments:* surgery (including primary site, regional and distant lymph nodes, and other sites), chemotherapy, hormone, biological response modification, hematologic transplant, endocrine procedures, radiation (including to central nervous system), other
46.	reason for no treatment, if applicable
47.	surgery/radiation sequence
48.	reconstructive surgery, immediate (breast only)
49.	complications from surgery
Survival	
50.	name and address of parent/spouse/follow-up contact
51.	date of last contact
52.	patient's current address
53.	vital status
54.	recurrence date and type
55.	place (state), date and cause of death
56.	death certificate file number
57.	International Classification of Diseases revision
Administration	
58.	abstractor's initials
59.	date case put in file to transmit to LTR
60.	remarks *
* must include enough text to permit quality assurance evaluation of coding decisions	

2. The report of cancer shall include the listed demographic, diagnostic, and treatment information as a minimum as required by U.S. Public Law 102-515. Standard variables and codes established by the North American Association of Central Cancer Registries (NAACCR) shall be used. Additional variables may be added to the list as they are needed to study Louisiana-specific cancer questions or as they are required by LTR funding agencies. The Louisiana Tumor Registry or its regional offices may require that other data be abstracted and reported.

D. **Deadline for Reporting.** Each cancer case shall be reported to the designated regional registry within six months of diagnosis.

E. **Failure to Report.** If a facility fails to provide the required information in the format specified by the Louisiana Tumor Registry or if the data are of unacceptable quality, personnel from the Louisiana Tumor Registry may enter the facility to screen and abstract the information. In these cases, the facility shall reimburse the Louisiana Tumor Registry or its contractor \$40 per case or the actual cost of screening, abstracting, coding and editing, whichever is greater.

F. **Quality Assurance.**

1. Staff members from the central registry, the regional registries, and national cancer surveillance programs designated by the LTR shall perform periodic quality assurance studies at all reporting facilities. These studies shall include:

a. rescreening medical records, including those in hospital pathology and radiology departments and in freestanding facilities, to ensure that all cancer cases have been accessioned; and

b. reabstracting the records of cancer patients to ensure that all data have been transcribed and coded correctly.

2. Reporting facilities shall assist LTR staff by compiling a list of cancer patients and obtaining the necessary medical records for its departments and patients. The LTR and the regional registries shall also offer tumor registrar training for hospital personnel.

G. **Follow-Up.** Current follow-up is required for all cases. This information will be obtained from health care facilities and providers and from sources routinely used by national organizations, if possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1295 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Louisiana Tumor Registry, LR 30:

§8509. Confidentiality

A. R.S. 40:1299.85 and 1299.87 of Acts 1995, No. 1197, strengthen and enforce previous legislative provisions to ensure the confidentiality of cancer patients, health care providers, and health care facilities. These laws protect licensed health care providers and facilities that participate in the cancer registration program from liability, and they also specify confidentiality requirements for the expanded activities of the Louisiana Tumor Registry.

B. **LTR Responsibilities.** The president shall take strict measures to ensure that all case-specific information is treated as confidential and privileged. All employees or consultants, including auditors, of the Louisiana Tumor Registry and of its regional offices shall sign an "Agreement to Maintain Confidentiality of Data," and these agreements shall be kept on file. An employee who discloses confidential information through gross negligence or willful misconduct is subject to penalty under the law.

C. **Protection of Report Sources.** Health care providers who disclose cancer morbidity or mortality information to the Louisiana Tumor Registry or its employees in conformity with the law shall not be subject to actions for damages. Their licenses shall be not be denied, suspended, or revoked for good-faith release of confidential information to the Louisiana Tumor Registry.

D. **Protection of Case-Specific Data Obtained by Special Morbidity and Mortality Studies and Other Research Studies**

1. Louisiana R.S. 40:3.1(A) through (H) and R.S. 40:1299.87(F) state that all confidential data such as records of interviews, questionnaires, reports, statements, notes, and memoranda that are procured or prepared by employees or agents of the Office of Public Health shall be used solely for

statistical, scientific and medical research purposes. This applies also to data procured by any other person, agency or organization, including public or private colleges and universities acting jointly with the Office of Public Health in connection with special cancer studies, and health research investigations. No case-specific data shall be available for subpoena, nor shall they be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

2. No part of the confidential data such as records of interviews, questionnaires, reports, statements, notes, and memoranda that are procured by employees or agents of the Louisiana Tumor Registry or persons, agencies or organizations, including public or private colleges and universities acting in collaboration with the Louisiana Tumor Registry in special cancer studies, shall be available for subpoena. These data shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1297 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Louisiana Tumor Registry, LR 30:

§8511. Release of Information

A. Reports published by the Louisiana Tumor Registry shall include aggregate, not case-specific, data. Information that would potentially identify a patient or a health care provider or facility shall not be published.

B. Diagnostic, Treatment and Follow-Up Information. Diagnostic, treatment and follow-up information about a patient shall be provided, if requested, to the physician or medical facility diagnosing or treating the case in order to coordinate and manage health care for the patient (45CFR 164.506).

C. Collaboration with Federal and State Public Health Agencies and National and International Cancer Registration Programs. The LTR is authorized to collaborate with the National Cancer Institute, the Centers for Disease Control and Prevention, and national and international cancer surveillance programs designated by the LTR, including but not limited to the North American Association of Central Cancer Registries and the International Agency for Research on Cancer, in providing cancer data and participating in cancer studies. In addition, it shall work closely with the Louisiana Office of Public Health (LOPH) in investigating cancer concerns and other cancer-related issues and in evaluating programs. Because the LTR data are an integral part of national and state cancer prevention and control programs, the use of Registry data by public health officials and LTR-designated national cancer registration and surveillance programs shall be considered an in-house activity and shall be processed expeditiously. Each LOPH request for case-specific data will require approval by the LOPH Institutional Review Board and by the Institutional

Review Board of the Louisiana State University Health Sciences Center—New Orleans (LSUHSC-New Orleans). In addition, the LOPH must comply with LTR confidentiality standards. Reports written for public release using Registry data will be reviewed in advance by the Louisiana Tumor Registry.

D. Requests for Case-Specific LTR Incidence Data. These data may be released to qualified persons or organizations for the purposes of cancer prevention, control, and research. Such data do not include confidential information collected for special morbidity and mortality studies or other research projects. Studies utilizing registry cancer data may investigate the causes of cancer, evaluate patient care and preventive services, or carry out any other clinical, epidemiological, or other cancer research, including the role of biomarkers in morbidity and survival.

1. Requests from researchers for case-specific LTR incidence data, including data linkages, must be submitted in writing and shall be reviewed and approved by a research committee following the established policies of the Louisiana Tumor Registry. These established policies include, but are not limited to, the following requirements:

a. approval from the LSUHSC—New Orleans Institutional Review Board and compliance with the LSUHSC-New Orleans HIPAA research policy or approval from the researcher's Institutional Review Board and compliance with that institution's HIPAA research policy;

b. signature of the LTR confidentiality form by all persons who will have access to the data, agreeing to adhere to the LTR confidentiality provisions prohibiting the disclosure of data to persons whose confidentiality forms have not been accepted by the LTR and prohibiting the disclosure of LTR data in any civil, criminal, administrative, or other proceeding;

c. description of reasonable administrative, technical and physical safeguards to prevent unauthorized use or disclosure of the records;

d. a copy of the complete protocol for the project;

e. the written agreement to use data solely for the specified project;

f. a statement that publications or presentations resulting from the use of LTR data will include aggregate data only and will not reveal the identify of patients, healthcare providers, or healthcare facilities;

g. an agreement in writing from the researchers that neither the office of the president nor any reporting facility shall bear liability for loss, expense, attorney fees, or claims for injury or damages arising out of acts or omissions in the performance of this agreement on the part of the researcher;

h. the participation of the LTR director or designated staff in manuscript review to ensure compliance with confidentiality measures;

i. the destruction or return of data once the research is completed.

2. Data linkage with LTR files shall be performed only by the LTR staff, and the Registry may require the removal of identifiers to protect the identity of cases. The actual cost of the data linkage shall be borne by the researcher.

3. Researchers shall provide permission from the patient or his next-of-kin when requesting case-specific health information that includes primary identifiers; without

such, consent shall be obtained from the reporting facility or health care provider. This may include, if applicable, authorizations and waivers of informed consent. In addition, physician consent may be a prerequisite for contacting patients or their next-of-kin in some facilities.

4. A detailed description of the procedures for requesting Registry data can be obtained from the Louisiana Tumor Registry, at the address below. The Registry may charge a fee for providing data, and this fee shall be limited to actual costs incurred.

E. Research Committee. The research committee shall be coordinated by the director of the LTR and shall include, but not be limited to, the director of the LTR and a representative of each of the following: the LSUHSC-New Orleans, the Louisiana Office of Public Health, and the Louisiana Cancer and Lung Trust Fund Board. The committee will verify that the researchers are able to execute the proposal, in terms of both financial support and professional qualifications; that the study has scientific merit; and that consent will be obtained from all required sources.

F. Requests for Aggregate Data. Data required by the LOPH for responding to concerns expressed about threats to the public health shall receive priority in determining the order of processing requests. Subject to the provisions of the Louisiana Public Records Act, R.S. 44:4.1 et seq., other requests shall be processed in the order of their receipt. The Registry shall respond to public requests as quickly as possible, subject to staffing and resource constraints, provided that these requests meet certain requirements in conformity with R.S.40:3.1(A) and (F) and R.S.40:1299.87(F) et seq. Requesters may be asked to reimburse the LTR for actual costs for compiling and providing data.

1. Requests for aggregate information shall be made in writing to the address listed below. The letter shall include a return address; a clear description of the requested data, including geographical area, year of diagnosis, and anatomical sites; and a legible version of the requester's name. The LTR staff shall provide aggregate figures, provided that complete and accurate data are available for the specified time period. If complete edited data are not available for the period requested, the LTR staff shall substitute information from the most recent years that meet its completeness and accuracy standards. The privacy of individuals shall be protected by suppressing small numbers in given geographic areas, in accordance with statutory confidentiality protections for case-specific data. In no event, however, shall the LTR be obligated to perform original work to create new records not currently in existence.

G. Annual Report. A statistical report shall be prepared for the governor, the speaker of the House of Representatives, the President of the Senate, the House and Senate Committees on Health and Welfare, the Louisiana State University Health Sciences Center, the Louisiana Cancer and Lung Trust Fund Board, and each participating hospital.

1. Address and Phone of the Louisiana Tumor Registry

Louisiana Tumor Registry
1600 Canal St, Room 900A
New Orleans, LA 70112

Phone: 504/568-4716
Fax: 504/568-2493

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Louisiana Tumor Registry, LR 30:

§8513. Interstate Exchange of Data

A. Because cancer patients may be diagnosed or receive treatment in another state, the Louisiana Tumor Registry is authorized to sign agreements with other states to acquire cancer data concerning Louisiana residents and, in return, to provide those states with data relating to their residents. Each signatory state shall agree in writing to keep all case-specific data confidential and privileged and to abide by all Louisiana confidentiality regulations.

B. Data shall be exchanged only by the state central registries.

C. Cancer information on residents of other states, if the case was originally recorded in Louisiana and forwarded to the other state, shall not be included in special studies unless the researchers have obtained consent from the Louisiana Tumor Registry. These researchers shall comply with Louisiana confidentiality procedures.

D. Before the release of any confidential information to other cancer registries, the following Interstate Agreement form shall be executed by a representative of the other state central registry who is authorized to legally obligate the registry and by a representative of the Louisiana State University System. LTR staff may amend this agreement to comply with requirements by the LTR funding agencies. This Interstate Agreement obligates the other registry to keep non-aggregate, case-specific information confidential; it is not to be redisclosed without further written authorization.

**LOUISIANA TUMOR REGISTRY
CANCER PATIENT INFORMATION
EXCHANGE AGREEMENT
with**

_____ The office of the President of the Louisiana State University system, acting through the Louisiana Tumor Registry, and _____, hereinafter referred to as "Other," agree as follows:

(1) Services:

By signing this agreement, the parties state their intention to exchange cancer incidence data concerning cancer patients who are residents of the other's state in order to provide more complete case enumeration among their residents. This exchange is predicated on the mutual assurance that the identifying information on the patient that is exchanged is protected by law from release and shall be kept strictly confidential. This exchange does not pertain to any data

collected as part of special morbidity or mortality studies or other research projects.

In addition, the parties agree:

a) to provide the information following a mutually agreeable format and time table. It is expressly agreed that the identity of the patient and facility, along with any other pertinent identifying information routinely collected by both the Louisiana Tumor Registry and Other, will be provided.

b) to restrict carefully the use of information. The information may be used only for registry administration and for aggregated statistical tabulations and analyses.

c) to prohibit cancer incidence data or identifiable information on a case or a health care provider that was supplied under the terms of the agreement from being released to anyone not employed in the direct operation of the recipient registry or in direct operation of a national or international surveillance program designated by the recipient registry. Employees may include those involved in the processing, administration, quality control review, and statistical surveillance of cancer incidence data.

d) not to contact directly any subject cancer patients or their families covered by this agreement. Any request for additional or follow-up information shall be referred back to the other party to this agreement.

e) to terminate this agreement immediately upon the written notification of either party to terminate the agreement.

(2) Confidentiality:

The parties agree that:

a) any and all LTR incidence data that pertain to an individual case, as distinguished from group, aggregate, or tabular data, are confidential.

b) they shall require all officers, agents, and employees to keep all such data strictly confidential, shall communicate the requirements of this section to all officers, agents, and employees, shall discipline all persons who may violate the requirements of this section, and shall notify the collecting agency in writing within two working days of any violation of this section, including full details of the violation and corrective actions to be taken.

c) all data provided under the provisions of this agreement may be used only for the purposes named in this agreement. Any other or additional use of the data may result in immediate termination of this agreement by either party.

d) all data provided under the provisions of this agreement shall be sent by certified mail or courier service and are the sole property of the reporting state. They may not be copied or reproduced in any form or manner without prior written permission of the collecting agency.

e) in the event that either party receives a subpoena or other court order compelling disclosure of confidential data obtained through interstate data exchange, the parties agree to notify the registry that initially provided the data within two working days of receipt of the subpoena or court order. Additionally, the parties agree that, should they receive such a subpoena, they shall take all legal steps reasonably necessary to oppose the subpoena. Louisiana law states that "no case-specific data shall be available for subpoena nor shall it be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed to be admissible in any civil, criminal, administrative, or other tribunal or court for any reason."

f) confidential information obtained under the terms of this agreement will not be released to parties conducting research or other activities, even if the study has met the recipient state's approval requirements. Instead, the researcher or other requester must contact the registry providing the original report for permission to use the data. Researchers using data originally abstracted in Louisiana must abide by Louisiana confidentiality procedures, a detailed description of which may be obtained from the Louisiana Tumor Registry at the address below. De-identified data obtained through the data exchange may, however, be released

for statistical purposes to national or international surveillance programs designated by the recipient registry.

g) In no event shall either cancer registry bear liability for loss, expense, attorneys' fees, or claims for injury or damages arising out of acts or omissions in the performance of this agreement on the part of the other registry.

h) Unauthorized disclosure of confidential or privileged information when such disclosure is due to gross negligence or willful misconduct is not protected.

(3) Data from Special Studies

As stated in Subpart (1) above, this information exchange agreement does not encompass or apply to the confidential data of special morbidity or mortality studies and research investigations. These data are protected from disclosure by La. R.S. 40:3.1(A) through (H) and by R.S. 40:1299.87(F).

(4) Amendments:

This agreement shall not be amended without prior written approval of both parties to the agreement.

(5) Assignment:

The parties understand and agree that this agreement may not be sold, assigned, or transferred in any manner and that any actual or attempted sale, assignment, or transfer shall render this agreement null, void, and of no further effect.

(6) This agreement shall be in effect from date of execution until terminated by either of the parties. This agreement may also be terminated without cause by either party at any time upon at least 15 days' written notice of termination to the other party. Termination shall be sent in writing pursuant to Section (7).

(7) Notices:

All notices required or desired to be made by either party to this agreement shall be sent by certified mail or courier service to the following addresses:

to LTR: Director
Louisiana Tumor Registry
1600 Canal St, Room 900A
New Orleans, LA 70112

to Other:

(8) The parties hereto agree and warrant by signing this agreement that their agency has the right to keep the information covered by this agreement confidential.

(9) Total Agreement:

The parties understand and agree that this agreement constitutes the total agreement between them and that no promises, terms, or conditions not recited herein or incorporated herein or referenced herein shall be binding upon either of the parties.

Signed:

Agency: Louisiana Tumor Registry Agency: _____

By: _____ By: _____

Typed name: _____ Typed name: _____

Title: _____ Title: _____

Date: _____ Date: _____

Agency: Louisiana State University Health Sciences Center New Orleans

By: _____

Printed name: _____

Title: _____

Date: _____

Address and Phone Numbers for the Louisiana Tumor Registry
Louisiana Tumor Registry 1600 Canal St, Room 900A New Orleans, LA 70112 Phone: 504/568-4716 Fax: 504/568-2493

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Louisiana Tumor Registry, LR 30:

Interested persons may submit written comments no later than 4:30 p.m. on October 8, 2004 to Vivien W. Chen, 1600 Canal St., Room 900A, New Orleans, LA 70112.

Vivien W. Chen
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tumor Registry**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Louisiana Tumor Registry (LTR) has sufficient funds to pay the approximately \$700 publication fee to the *Louisiana Register*.

No abstracting fees will be charged to non-complying state public hospitals.

The proposed changes will have little immediate impact on the LTR's day-to-day costs for routine case ascertainment and abstracting. The reporting duties added in the revised rules (abstracting benign and borderline brain tumors and performing follow-up) are already being carried out with existing staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

If the number of cases to be abstracted at non-complying hospitals rises and/or outside funding declines, the regional state registries will have to pay staff for overtime work or will have to hire contract abstractors to abstract those cases. In this case, the non-complying facilities will reimburse the LTR for its actual expenses. Currently, the \$35 maximum allowed is less than the actual cost of these services, and the new rules will mandate reimbursement of the full cost.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Hospitals may or may not be affected. The new rules stipulate that the LTR may be reimbursed \$40 per case or actual cost, if higher, by healthcare facilities that do not comply with R.S. 40:1299.81 et seq. by reporting cases to the Registry in a complete and timely fashion. Current rules allow reimbursement of \$35 per case, but the fees charged by contract abstracting services range from \$6 to \$100 per case; this fee would be borne by the non-complying hospitals. The number of cases to be reported for non-complying hospitals is not known. Present plans do not call for reimbursement by labs, freestanding radiation centers, nursing homes, or physician offices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The LTR is a state agency and has no competition. The Registry anticipates no change in employment as a result of these revisions.

Vivien W. Chen
Director
0409#095

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Driver's License (LAC 55:III.145)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et. seq. and R.S. 32:402.1(A)(2) gives notice of its intent to amend its rules regulating commercial driving schools to recognize a statutory increase in student fees (from \$25 to \$50 per student) to be charged for a six-hour pre-licensing course.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter A. General Requirements

§145. Commercial Driving School Six Hours

A. - H. ...

1. The total fee for a prelicensing course shall not exceed \$50 per student. This shall cover all expenses including the cost of the original and one additional copy of the certificate of completion provided to each student. The original with the original signatures must be submitted to the Office of Motor Vehicles when the student makes application for his/her driver's license or learner's permit. The copy is for the student's personal file or insurance purposes (if needed).

H.2. - O.15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:409.1

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 22:286 (April 1996), amended by the, Department of Public Safety and Corrections, Office of State Police, LR 30:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These Rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These Rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no effect on family earning and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These Rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These Rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments to Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through October 15, 2004.

Stephen Hymel
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Driver's License**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This change in agency Rule, raising the fee for the six-hour prelicensing driver training course as authorized by a recent legislative amendment, will not result in any increased costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule will have no effect on revenue collections of state or local governmental units, as the increased fees are paid to private commercial driving schools.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Private commercial driving schools that offer the six-hour prelicensing driver training course will experience an economic benefit due to their ability to raise the fees for each student attending such courses. The amount of the benefit will depend on the number of students taught this course by each school, which number varies greatly by school.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as the proposed Rule change will have an equal impact on all commercial driving schools.

Stephen J. Hymel
Undersecretary
0409#070

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police
Safety Enforcement Section**

Motor Vehicle Inspection (LAC 55:III.807)

The Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, in accordance with R.S. 49:950 et seq. and R.S. 32:1301 et seq. gives notice of its intent to amend its Rules regulating vehicle inspections by creating a two-year inspection sticker for new, never before registered, passenger cars and trucks to be issued by new car dealers.

**Title 55
PUBLIC SAFETY
Part III. Motor Vehicles
Chapter 8. Motor Vehicle Inspection
Subchapter B. Safety Inspections
§807. Operation as an Official Motor Vehicle
Inspection Station**

A. - B.1 ...

C. Official Motor Vehicle Inspection Sign (Public Stations Only)

1. All public Motor Vehicle Inspection stations will be required to display an official Motor Vehicle Inspection sign. The sign shall contain the following language: "Official Motor Vehicle Inspection Station" and shall display the seal of the state of Louisiana. The days and hours of operation must also be displayed. The sign must be displayed in such a manner as to be easily seen and readily distinguishable as an Official Motor Vehicle Inspection Station by the motoring public.

2. ...

D. Periods of Inspection

1. All vehicles inspected under the provisions of R.S. 32:1301 through R.S. 32:1314 (Motor Vehicle Inspection Law) shall be inspected at least once annually, except as provided in Subparagraph a below.

a. Effective January 3, 2005, the department will implement a two-year inspection certificate program. During the initial phase of the program, automotive dealers of new cars and light trucks, which possess current inspection station licenses, shall be authorized to affix a two-year inspection certificate to every new passenger car or light truck sold. The department may authorize all inspection stations in the state to participate in the two-year inspection program, provided at least 12 months have elapsed from the effective date of the program. Where the registration of a vehicle indicates the domicile of the owner is in a parish that has been placed on the nonattainment list for ozone standards by the United States Environmental Protection Agency, that vehicle shall not be eligible for a two-year inspection certificate.

b. The fee for inspection of a passenger car or light truck and all other vehicles shall be \$10 for each year, except passenger cars or light trucks in nonattainment parishes and municipalities shall be \$18.

c. The department shall require an inspection station to make an advance payment of \$10.50 for each two-year inspection certificate issued and \$5.25 for each single-year inspection certificate issued. An inspection station may waive the fee due from the owner of the vehicle inspected. Inspection stations may redeem un-issued certificates for a refund in a manner prescribed by the Office of Motor Vehicles.

D.2. - F.4. ...

5. Motor vehicle inspection certificates and rejection certificates, requisitions forms, weekly/monthly log reports and all other documents may be obtained from the department.

G. - I.1. ...

2. Torn, voided or damaged inspection or rejection certificates must be recorded on the log report. Lost or stolen certificates must also be listed numerically on the report (see Lost or Stolen Inspection/Rejection Certificates)

3. ...

4. The public Motor Vehicle Inspection station's week will begin on Saturday and end at the close of business on the following Friday.

5. Dealer, fleet, public and government Motor Vehicle Inspection stations will no longer be required to submit log reports to the department.

6. Log reports shall be kept in the log book at the Motor Vehicle Inspection station for fourteen (14) months. These reports shall be available for inspection by department personnel or law enforcement officers.

7. If a station does not inspect any vehicles during a given week (public) or month (fleet, government or dealer), a log report shall be prepared with the word "none" written across the report.

8. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304 -1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2424 (December 1999), amended 27:2260 (December 2001), repromulgated LR 28:345 (February 2002), amended LR 30:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These Rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These Rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no effect on family earning and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These Rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These Rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments to: Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through October 15, 2004.

Stephen Hymel
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Motor Vehicle Inspection

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This change in agency Rule proposes the creation of a two-year Motor Vehicle Inspection (MVI) sticker for new, never before registered, passenger cars and trucks. The Office of Motor Vehicles sells MVI stickers to licensed MVI stations. The proposed change in Rule will allow the Office of Motor Vehicles to sell a two-year MVI sticker to licensed new car dealers who sell passenger cars and trucks during the pilot phase of the program. As a result, the agency may see a one-time cost of approximately \$1,000 for the first year of implementation due to vendor design and artwork to

differentiate between the one- and two-year MVI stickers. Material costs should decrease marginally over time due to the longer period for which the stickers are valid.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

With an implementation date of January 5, 2005, the Department of Public Safety and Corrections will realize an increase of approximately \$250,000 in revenues in fiscal year 2004-2005 resulting from this proposed Rule change. There will likewise be increased revenues in the same amount for fiscal year 2005-2006. In subsequent fiscal years, there will be no anticipated impact on revenue collections. These figures are based upon the number of vehicles anticipated in the pilot program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

New car dealers will experience an increase in revenue during the calendar year of 2005 of approximately \$500,000 annually. Official Motor Vehicle Inspection stations open to the public should experience a decrease in revenue in aggregate commensurate with increased revenues to new car dealers during the pilot program. Some stations will lose more, some stations will lose less, but, on average, the annual loss in gross MVI sticker sales will be approximately \$400 per year for each public MVI station. MVI stations in parishes placed on the non-attainment list for ozone standards by the EPA will not be affected by this Rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment for Official Motor Vehicle Inspection Stations is minimal. The proposed Rule change results in each public Motor Vehicle Inspection station performing on average 30 less inspections annually, or in terms of percentage, an approximate annual reduction in sticker sales of 3 percent per station.

Jill P. Boudreaux
Deputy Undersecretary
0409#071

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of Alcohol and Tobacco Control

Responsible Vendor Program
(LAC 55:VII.503-511)

Under the authority of R.S. 26:933 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, is proposing to amend LAC 55:VII.501-509 and adopt LAC 55:VII.511 pertaining to the Responsible Vendor Program.

Act 881 of the 2003 Regular Session of the Louisiana Legislature amended R.S. 26:932-935 and 939, relative to the Responsible Vendor Program; to include the serving or selling of tobacco products in the Responsible Vendor Program. These proposed amendments and regulation implement the provisions of the Act by providing that the requirements of the Responsible Vendor Program apply to servers of alcoholic beverages and tobacco products.

The Responsible Vendor Program minimum course standards were moved from LAC 55:VII.509.F to Section 511 and provisions were added for a tobacco products course, which does not include alcoholic beverages, and

minimum standards and certification for an abbreviated renewal course.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart 1. Beer and Liquor

Chapter 5. Responsible Vendor Program

§503. Definitions

A. For purposes of this Chapter, the following terms are defined.

* * *

Server. Any employee of a vendor who is authorized to sell or serve beverage alcohol, tobacco, and tobacco products in the normal course of his or her employment or deals with customers who purchase or consume beverage alcohol, tobacco or tobacco products.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1949 (October 1998), amended LR 30:

§505. Vendors

A. Certification and Enrollment as a Responsible Vendor

A.1. - 3. ...

4. The vendor shall pay an annual fee of \$50 per licensed establishment holding a Class A-General, Class A-Restaurant, or Class B-Retail permit for the purpose of funding development and administration of the Responsible Vendor Program.

a. The fee shall be assessed on all new and renewal applications for retail permits to engage in the business of dealing in alcoholic beverages and/or tobacco and tobacco products.

A.4.b. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1949 (October 1998), amended LR 30:

§507. Servers

A. ...

B. Server Permit

1. Server permits shall be valid for two years from the completion of an approved Responsible Vendor training course.

B.2. - C. ...

D. Permit Expiration, Renewal, and Lost Permits

1. Every server permit shall expire on the last day of the month, two years after the month that the server successfully completed the applicable responsible vendor server course.

2. To be eligible for renewal of a server permit, the server shall attend and successfully pass an approved abbreviated renewal responsible vendor course and examination given by an approved provider.

D.3. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1950 (October 1998), amended LR 30:

§509. Training: Providers and Trainers

A. Trainer Certification. Approved providers shall only contract with trainers that have any combination of a minimum of two years of:

1. verified full-time employment in the fields of training, education, law, law enforcement, substance abuse rehabilitation, the hospitality, retail industry that involved the sale or service of alcohol or tobacco products; or

2. post-secondary education in the fields of training, education, law, law enforcement, substance abuse rehabilitation, the hospitality or retail industry that involved the sale or service of alcohol or tobacco products.

B. Provider Certification

1. A person or business entity that applies to become an approved provider for alcohol and tobacco server training shall submit the following to the program administrator:

1.a. - 2. ...

C. The alcohol and tobacco server permits issued by the program providers to students who successfully complete the server training programs shall be obtained from the Office of Alcohol and Tobacco Control.

D. - E.3. ...

F. Approved Provider Minimum Course Standards. To be certified to issue a server permit, the provider's course of instruction must include the subject areas specified in R.S. 26:933(C) in accordance with LAC 55:VII.511.

G. Approved Server Training Course Fees. Approved providers may charge fees for the cost of conducting the approved server training courses. The fees shall be approved by the program administrator and the commissioner and may not exceed \$25.

H. Sanctions against Approved Providers and Trainers. Any approved provider or trainer who violates any of the provisions of Title 26 of the Louisiana Revised Statutes or any of the requirements of Chapter 5 shall:

1. for a first offense receive a notice of intended suspension or revocation of the program administrator's certification or authorization, with 30 days allowed to correct any violations. If the violation is rectified no further action will be taken;

2. if the violation is not rectified or a second violation by the provider or their trainer occurs, the program administrator or their designee shall suspend approval and certification of the provider or trainer for a period not to exceed six months. Before the suspension will be lifted, the provider or trainer shall correct all violations;

3. the program administrator or their designee may increase sanctions based on successive violations within a two-year period. Numerous violations within a two-year period may indicate disregard for the law or failure to provide an acceptable Responsible Vendor server program so as to warrant cancellation of the certification of either the provider or their trainer.

I. Approved Provider Responsible for Acts of Trainers. The program administrator may hold a provider responsible for any act or omission of the provider's program, personnel, trainers, or representatives that violate any law or administrative rule pertaining to approved providers' privileges.

J. Prohibited Conduct. No approved provider or authorized trainer shall:

1. make any false or misleading statement to induce or prevent the program administrator's actions;

2. falsify, alter, or otherwise tamper with Responsible Vendor server permits or records;

3. permit a student to refer to any written material or have a discussion with another person during the exam unless the instructor authorizes the student to use an interpreter;

4. permit any student to drink alcoholic beverages or to be under the influence of intoxicants during the course presentation or examination, including breaks;

5. drink alcoholic beverages or be under the influence of intoxicants during the course presentation or examination, including breaks;

6. prohibit, interfere, or fail to assist the program administrator or their designee with scheduling or attendance of on-site observations.

K. Approved Provider and Trainer Advertising and Promotion Standards

1. Approved provider and trainer advertising related to the Responsible Vendor server training courses shall include:

a. the approved provider's or trainer's telephone number and cancellation policy;

b. the total amount of course time that includes instruction, examination and breaks;

c. a statement that students shall attend the entire course before taking the examination.

2. Advertising shall not suggest that the state of Louisiana, the program administrator, or any state agency endorses or recommends the approved provider's program to the exclusion of any other program.

3. Upon request, the approved provider or trainer shall give the program administrator copies of the program publications, brochures, pamphlets, scripts, etc. or any other representation of advertising materials related to the program.

4. An approved training provider or trainer must have records available to support all advertising claims or representations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1950 (October 1998), amended LR 30:

§511. Responsible Vendor Program Minimum Course Standards

A. Classroom Instruction

1. Alcoholic Beverage and Tobacco Products Training must include at least two hours of classroom instruction, exclusive of breaks and examination time, presented in a continuous block of instruction. Classes shall be limited to no more than one 10-minute break per hour.

2. Tobacco Products must include at least one hour of classroom instruction, exclusive of breaks and examination time, presented in a continuous block of instruction.

B. The approved server training course shall be presented in its entirety to each student in a language approved by the program administrator.

C. Each server training course must include an examination approved by the program administrator, which is administered by the trainer immediately following the

course presentation. Students shall take the examination in writing, unless special circumstances require an oral examination. With the approval of the program administrator, the test may be offered in a language best understood by the student, or bilingual trainers may, in response to direct inquiries, clarify test questions using another language. Each student shall correctly answer at least 70 percent of the examination questions. Students who receive failing scores may be retested once at a time and place to be determined by the trainer. Otherwise, students must repeat the full course for an additional fee.

D. All training facilities shall meet the requirements of the Americans with Disabilities Act (ADA) and shall have adequate lighting, seating, easily accessible restrooms, and comfortable room temperature.

E. At the beginning of each server training course, the trainer shall give each student:

1. an enrollment agreement that clearly states the obligations of the trainer and student, refund policies, and procedures to terminate enrollment;

2. a notice that a student must complete the course in order to take the examination;

3. a server training workbook, approved by the program administrator, that is current, complete, and accurate. The workbook shall include an outline of the minimum course curriculum, table of contents, titles, subheadings, and page numbers. Physical specifications must meet the following minimum standards:

a. minimum dimensions of paper size must be 8 1/2 by 11 inches;

b. paper stock, excluding front and back cover, shall be white or near white, and of a quality and weight suitable for reproduction and note-taking with no ink bleed through;

c. type must be a minimum of 11-point in a type style commonly used for textbooks and periodicals;

d. binding must firmly hold the pages together in correct order and be sufficient for use during the course and as a reference;

e. professional printing and typesetting are not required, but reproductions must be clear, readable, and letter quality;

f. for ease of reading and adequate room for note-taking, white space must be a minimum of 30 percent per page with the print or copy to be no more than 70 percent of the page.

F. No server training class shall include more than 100 students and students that arrive more than 15 minutes after the class begins shall not be admitted.

G. The classroom presentation must be consistent with the approved program.

H. Discussions must be pertinent to responsible beverage alcohol or tobacco sales, service, and consumption.

I. The program administrator or their designee may attend any class to evaluate conformance with the program certified by the program administrator.

J. At least seven days in advance, the approved provider or their authorized trainers shall give written notice to the Office of Alcohol and Tobacco Control of the date, time, and location of all courses scheduled. The Office of Alcohol and Tobacco Control shall be notified by phone or fax of course cancellations prior to the course date except when cancellation cannot be anticipated, in which case notification

shall be within three business days of the scheduled course date.

K. Minimum Course Standards for Alcoholic Beverage and Tobacco Product Training. To be certified to issue a server permit, the provider's course of instruction shall include the subject areas specified in R.S. 26:933(C), as well as the following.

1. Introduction:

a. brief review of the law creating the Louisiana Responsible Vendor Program, which shall include when the program was enacted, who is required to participate and how, when it becomes mandatory, nature of permits issued to server, when server permits expire, obligation of server to attend a course every two years, and server renewal procedures;

b. objectives of the Responsible Vendor Program, which shall include education of vendors, servers, and their customers about responsible sales, service, and consumption of alcohol and tobacco; and prevention of the misuse, illegal use, and abuse of alcohol;

2. Alcoholic Beverage and Tobacco Products Course

a. classification of alcohol as a depressant and its effect on the human body, particularly on the ability to drive a motor vehicle:

i. alcohol is a depressant not a stimulant;

ii. how alcohol travels through the body, including how quickly it enters the bloodstream and reaches the brain;

iii. alcohol's effect on a person's ability to drive a motor vehicle, specifically reviewing alcohol's effect on a person's behavior, self-control, and judgment;

iv. outline of Louisiana's driving while intoxicated laws and penalties for violations;

b. effects of alcohol when taken with commonly used prescription and nonprescription drugs:

i. mixing alcohol with other drugs can produce dangerous side effects. It is especially dangerous to drive under the influence of alcohol and other drugs because of the increased impairment due to both;

ii. alcohol and other depressant drugs. Mixing alcohol with other depressants dangerously increases the depressant effect on the body;

iii. alcohol and stimulants. Stimulants do not cancel the intoxication and impairment due to alcohol;

iv. alone, many prescription and nonprescription drugs impair the ability to drive a motor vehicle;

v. the effects of commonly used prescription and nonprescription drugs;

vi. review of the effects of contemporary designer drugs such as GHB and Rohypnol;

c. absorption rate, as well as the rate at which the human body can dispose of alcohol and how food affects the absorption rate:

i. rate at which the human body absorbs alcohol;

ii. blood alcohol concentration (BAC) and how to estimate a person's BAC. Include drink equivalency guidelines;

iii. how the human body disposes of alcohol;

iv. the effect of food on the absorption rate;

v. time is the only real factor that reduces intoxication;

d. methods of identifying and dealing with underage and intoxicated persons, including strategies for delaying and denying sales and service to intoxicated and underage persons:

i. procedures and methods for detecting false identification;

ii. procedures and methods for denying service or entry to underage persons;

iii. procedures and methods for identifying intoxicated persons including behavioral warning signs and other signs of impairment;

iv. procedures and methods for preventing over intoxication;

v. procedures and methods for terminating service to intoxicated persons;

e. state laws and regulations regarding the sales and service of alcoholic beverages for consumption on or off premises:

i. legal forms of identification in Louisiana;

ii. legal age to purchase, possess, and consume alcohol and penalties for violation;

iii. legal age to enter licensed premises and penalties for violation;

iv. legal age to be employed by a vendor and penalties for violation;

v. acts prohibited on licensed premises and penalties for violation;

f. parish and municipal ordinances and regulations that affect the sale and service of alcoholic beverages for consumption on or off the licensed premises. These provisions will depend on the jurisdiction of the servers attending the class and may vary according to the parish and municipality:

i. legal hours of operation and Sunday sales;

ii. noise, litter, and zoning;

iii. leaving premises with alcohol;

iv. preemption of parish and municipal server training courses;

v. parish or municipal server licensing requirements;

vi. other relevant regulations;

g. state and federal laws and regulations related to the lawful age to purchase tobacco products and age verification requirements:

i. state and federal legal purchasing age;

ii. federal age verification requirements;

iii. state and federal laws and regulations related to vending machines;

iv. state laws related to sign posting requirements;

v. state laws related to minimum packaging requirements.

3. Tobacco Products Course

a. outline and review of all relevant changes to local, state, and federal laws, rules and regulations affecting the retail operation of tobacco businesses. With regard to local laws, rules and regulations, each approved provider shall determine the changes for each jurisdiction in which it offers Tobacco courses and submit their local tobacco curriculum to the program administrator for approval;

b. state and federal laws and regulations related to the lawful age to purchase tobacco products and age verification requirements:

- i. state and federal legal purchasing age;
- ii. federal age verification requirements;
- iii. state and federal laws and regulations related to vending machines;
- iv. state laws related to sign posting requirements; state laws related to minimum packaging requirements.
- c. State laws and regulation regarding the sales and service of tobacco products:
 - i. legal form of identification in Louisiana;
 - ii. procedures and methods for detecting false identification.
- d. Guidelines for prevention of tobacco use and addiction:
 - i. health risks;
 - ii. addiction problems with adolescents;
 - iii. health effects of smoking among young people.
- e. What you should know about tobacco:
 - i. tobacco and athletic performance;
 - ii. tobacco and personal appearance.
- f. State laws and regulations regarding the sales and service of the Louisiana Lottery Corporation Law:
 - i. a review of the Louisiana Lottery corporation Law, which shall include when it was established;
 - ii. legal age to purchase a lottery ticket and penalties for violation;
 - iii. legal age to claim a lottery ticket;
 - iii. legal age to sell lottery ticket;
 - iv. advertisement;
- g. parish and municipal ordinances and regulations that affect the sale and service of tobacco products. These provisions will depend on the jurisdiction of the servers attending the class and may vary according to the parish and municipality.

L. Minimum Standards and Certification for an Abbreviated Renewal Course

1. To be certified to conduct abbreviated renewal server training courses, the approved provider's course of instruction shall include the following.
 - a. An outline and review of all relevant changes to local, state, and federal laws, rules and regulations affecting the retail operation of alcohol beverage and or tobacco businesses. With regard to local laws, rules and regulations, each approved provider shall determine the changes for each jurisdiction in which it offers abbreviated renewal courses and submit their local renewal course curriculum to the program administrator for approval.
 - b. Statistics related to drunk driving arrests, accidents and fatalities in Louisiana. The approved provider shall incorporate the statistics into their abbreviated renewal course curriculum in the same form and content that it is provided by the program administrator and compiled from the most current annual report of the Louisiana Highway Safety Commission or National Highway Traffic Safety Administration.
 - c. Techniques to prevent persons suspected of being intoxicated from operating motor vehicles.
 - d. Any other information relevant to the prevention of drunk driving.
 - e. Information concerning societal and health concerns related to the use of tobacco products.
2. All abbreviated renewal course program content and method of presentation shall be approved by the

Program Administrator prior to conducting any abbreviated renewal server training courses.

3. All abbreviated renewal server training courses shall include at least one hour of classroom instruction exclusive of breaks and examination time, and shall be presented in a continuous block of time.

4. Each abbreviated renewal server training course shall include an examination approved by the program administrator.

5. Prior to teaching an abbreviated renewal server training course, the trainer must receive proof of prior training from the server. This proof may consist of a server permit not having expired for longer than one year, or any other proof deemed valid by the discretion of the trainer.

6. Unless otherwise provided for in this Subsection, all other regulations applicable to regular server training courses shall apply to renewal server training courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 30:

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 Budget. Implementation of this proposed Rule will have no effect on family earnings and budget.
5. The Effect on Behavior and Personal Responsibility of Children. Implementation of this proposed Rule will have no effect on behavior and responsibility of children.
6. The Ability of the Family or 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 local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Brian DeJean, Office of Alcohol and Tobacco Control, 8549 United Plaza, Baton Rouge, LA 70809 or by fax to (225) 925-3975. All comments must be submitted by 4:30 p.m. on October 20, 2004. A public hearing will be held at 10 a.m. on October 22, 2004, in the Hearing Room of the Office of Alcohol and Tobacco Control.

Murphy J. Painter
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Responsible Vendor Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of these proposed amendments and regulation to put into effect the provisions of Acts 2003, No.

881, which added tobacco only dealers to the requirements of the Responsible Vendor Program, would result in additional administrative costs resulting from regulating a new and separate group of permit holders. In addition, ATC, will incur additional costs for providing a separate tobacco only permit to servers who attend the tobacco only training course. The total amount of additional costs to the state is not known at this time because there is no data as to the number of tobacco only dealers or the number of tobacco servers. Implementation will have no effect of local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of these proposed amendments and regulation would result in additional self-generated revenues for the Office of Alcohol and Tobacco Control from the \$50 annual fee paid by the tobacco only dealers. An estimate of total additional revenue collections can not be made at this time, due to the uncertainty in the number of tobacco dealers that will participate. These proposed amendments and regulation will have no impact on local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments and regulation will result in additional costs to tobacco vendors who will be required to pay the \$50 annual Responsible Vendor Program fee and to tobacco servers, who will be required to attend the \$25 server training courses every two years. The income and receipts of Responsible Vendor training course providers will benefit by the additional tobacco product servers that will be required to attend the \$25 server-training course.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments and regulation will have no effect on competition or employment.

Murphy J. Painter
Commissioner
0409#027

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Collection of Uniform State and Local Sales Tax Definitions (LAC 61:I.4307)

Under the authority of R.S. 47:303, R.S. 47:337.2, R.S. 47:337.15 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.4307 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local

collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4307. Collection

A. Collection from Dealers

1. All of the taxes imposed under R.S. 47:302, R.S. 47:321, R.S. 47:331, and *local sales or use tax* ordinances are governed by these provisions. Every person engaged as a *dealer*, which R.S. 47:301 defines to be either party to a transaction creating a tax liability under *state* and *local sales and use tax* law, is made liable for collection of the tax. Dealer includes both the seller and the purchaser of tangible personal property, the person who uses, consumes, distributes, or stores tangible personal property in a *taxing jurisdiction* to be used or consumed there if an applicable *state* or *local sales or use tax* has not previously been paid thereon, the lessor or lessee, the rentor or rentee of tangible personal property rented or leased within the taxing jurisdiction, and the person who performs or furnishes any of the services covered by R.S. 47:301(14) or the person for whose benefit the services are furnished.

2. The importation of tangible personal property from outside of a *taxing jurisdiction*, to be used, consumed, distributed, or stored to be used or consumed in the *taxing jurisdiction* is treated the same as if the articles had been sold at retail for any of those purposes within the *taxing jurisdiction*, and such articles are thereby taxable to the person who causes them to be imported. The taxes levy immediately, and can be collected immediately. There shall be no tax on the importer, however, if all applicable taxes imposed under *state* and *local sales or use tax* law have been previously paid. Sections R.S. 47:303 and 47:337.15 clearly provide that there shall be no duplication of these taxes.

3. Solely for *state sales and use tax* purposes, if a tax similar to that imposed by R.S. 47:302, 321, and 331 is imposed by the state from which property is imported and if the state from which imported allows a credit to persons who import tangible personal property into that state for any sales or use tax which might have previously been paid to the state of Louisiana, a credit will be allowed against Louisiana's *state sales and use tax* for the tax paid to the other state. In order for the credit to be operative, both of the qualifying conditions must be met. The importer must have paid a similar tax upon either the sale or use of the same identical property in another state and the other state must allow a credit similar to this credit. The only exception to the double qualification standard is in the case of military personnel who are enlisted for two years or more who purchase automobiles outside the state of Louisiana while on their tour of active duty. In this instance, the credit will be allowed for the taxes paid the other state, whether or not that state allows a similar credit for Louisiana taxes paid.

4. Solely for *state sales and use tax* purposes, the use tax is based on either the cost of the tangible personal property being imported or its fair market value at the point

at which it comes to rest in the state of Louisiana, whichever is the lesser of the two. Most frequently, the value upon which the Louisiana use tax is based will be less than original cost on which the taxpayer paid tax in the state of purchase. In those instances, credit will be allowed against the Louisiana use tax only in an amount equal to the tax rate paid to the other state, as distinguished from local government in the other state, applied to the value being taxed under the Louisiana law. No credit will be allowed against the Louisiana use tax for taxes paid to political subdivisions in another state or to foreign countries. In no event will a credit greater than the tax imposed by Louisiana on any particular piece of tangible personal property be allowed.

5. Solely for *state sales and use tax* purposes, in any case in which a taxpayer claims credit for a tax paid to another state, he must be in a position to prove payment of the tax before the credit will be allowed. The precise proof required will vary with the nature of the property and the circumstances surrounding its importation into the state.

6. For *local sales or use tax* purposes, the credit for taxes paid is governed by R.S. 47:337.86.

B. Collection of Tax on Vehicles

1. In view of the regulatory function performed by the vehicle commissioner in issuing license plates for the registration of vehicles and in issuing certificates of title to vehicles, R.S. 47:303(B) provides that all sales taxes levied *state* and *local taxing authorities* on the sale or use of vehicles shall be paid to the vehicle commissioner as the agent of the *secretary* or local *collector*, if so contractually provided, before a certificate of title or vehicle registration can be issued. The vehicle commissioner serves as agent for the collector only with respect to those vehicles required to be registered and/or titled with the vehicle commissioner. Generally, this covers all vehicles which have been found to be safe for highway use and can pass safety inspection. While R.S. 47:303(B) makes the vehicle commissioner the agent of the *collector* for purposes of collecting the taxes, the *collector* is the only proper party to defend or institute any legal action involving the taxes imposed with respect to any motor vehicle, automobile, motorcycle, truck, truck-tractor, trailer, semi trailer, motor bus, house trailer, or any other vehicle subject to the vehicle registration or title requirements. Conversely, the *collector* has no authority or jurisdiction whatever in the issuance of vehicle registration licenses or vehicle titles. This is the absolute domain of the vehicle commissioner.

2. The sales taxes levied by R.S. 47:302(A)(1), 47:321(A)(1), 47:331(A)(1), and the ordinances of *political subdivisions* is due at the time of registration or transfer of registration as required by the vehicle registration license tax law. The use taxes levied by R.S. 47:302(A)(2), 47:321(A)(2), 47:331(A)(2), and the ordinances of *political subdivisions* on the use of a vehicle in this state is due at the time first registration in this state is required by the vehicle registration license tax law. That law basically requires that a vehicle purchased in Louisiana be registered immediately upon purchase. Consequently, the sales taxes are due at the time of the purchase transaction. The vehicle registration license tax law basically provides that the vehicle shall be registered in this state immediately upon its importation for

use in Louisiana. The use taxes, therefore, become due when the vehicle has entered the state for use.

3. For purposes of the sales taxes, every vendor is required to furnish to a purchaser at the time of a sale, a sworn statement fully describing the vehicle including the serial number, the motor number, the type, year, and model of the vehicle, the total sales price, the amount of any allowance, and a full description of any vehicle taken in trade, the net difference being paid by the purchaser between the vehicle purchased and the one traded in, and the amount of sales or use tax to be paid. Every component of the vehicle attached thereto at the time of the sale and which is included in the sales price, including any labor, parts, accessories, or other equipment, are considered to be a part of the vehicle and not a separate item of tangible personal property. The vehicle commissioner has the right to examine the statement furnished to the purchaser at the time of the sale and in any case in which he determines that the total sales price or the allowance for the vehicle traded in do not reflect reasonable values, he may adjust either to reflect the fair market value of the vehicle involved. Generally, this will be done by reference to current values published by the National Automobile Dealers Association. This revaluation is solely for the purpose of determining the proper amount of sales or use tax due and in no way influences the prices agreed upon between the buyer and the seller. The vehicle commissioner also has the authority to require affidavits from either the vendor or the purchaser, or both, to support a contention that some unusual condition adversely affected the cited sales price. In any event, the minimum tax due shall be computed on the consideration cited as the difference paid by the purchaser between the vehicle purchased and the vehicle traded in.

4. - 4.g. ...

h. The sales or use tax due to *state* and *local taxing authorities* shall be computed on gross sales price of the new vehicle in the case of a sale, or on the cost price of the new vehicle in the case of a transaction subject to the use tax, less the previously established actual trade-in value of the trade-in vehicle.

h.i. - 5. ...

6. The sales tax exemption for isolated or occasional sales of *tangible personal property* provided by R.S. 47:301(10)(c)(ii) does not apply to sales of motor vehicles. R.S. 47:303(B)(4) provides that isolated or occasional sales of vehicles are specifically defined to be *sales at retail* and subject to *state* and *local sales or use tax*.

7. The vehicle commissioner may require any dealer engaged in the business of selling motor vehicles, automobiles, motorcycles, trucks, truck-tractors, trailers, semi-trailers, motor buses, house trailers, or any other vehicle subject to the vehicle registration license tax law or the title registration law to furnish information relative to their sales on any periodic basis designated by the vehicle commissioner. The statements shall include the serial number, motor number, type, year, model of the vehicle sold, the total sales price, any allowance for trade-in, a description of the trade-in, the total cash difference to be paid by the purchaser, and any sales or use taxes to be paid. The vehicle commissioner is also authorized to secure whatever other additional information is necessary for proper administration of the tax.

8. R.S. 47:303(A)(3) allows a credit against the state use tax for taxes paid to another state provided the other state allows a similar credit for taxes paid to Louisiana. For credits allowed against taxes imposed by *local taxing authorities*, see R.S. 47:337.86.

9.a. Generally, a certificate of title or vehicle registration will not be issued to any purchaser for any vehicle on which *state or local sales or use tax* has not been paid. However, R.S. 47:303(B)(5) provides an exception for purchasers who paid the proper taxes due to the vehicle dealer at the time the vehicle was purchased, but the dealer did not remit the taxes to the vehicle commissioner. Under this provision, a motor vehicle purchaser who has not been issued a certificate of title or vehicle registration license within six months after the date of the sale, may submit a written request to the *secretary* showing that:

a.i. - b. ...

C. Collection of Tax from Auctioneers

1. Generally, the sales tax law contemplates a situation in which the owner of property, or a person having title to property, sells tangible personal property to another person, thereby creating a taxable transaction. In this instance, the sales tax law places a liability upon the seller to collect the *state and local sales or use tax* from the purchaser and remit the tax to the appropriate *collector*. Because of this basic concept, special provisions have been included in R.S. 47:303(C) and 47:337.15(C) to cover sales which do not fall within that general method of doing business. In the case of auctioneers, the actual owner of the property turns it over to the auctioneer who conducts the sale and consummates the final transfer of title, as a third party, from the owner to the purchaser. He may well represent a number of property owners at one auction sale.

2. In view of the unique position occupied by auctioneers with relationship to the owner of the property being sold, R.S. 47:303(C) and 47:337.15(C) require that all auctioneers shall register as dealers and must display their registration certificates to the public as a condition of doing business in a *taxing jurisdiction*. The auctioneer is then held responsible for collecting all *state and local sales or use tax* on articles sold by him and is responsible for properly reporting and remitting the amount collected.

D. Collection of Tax on Motorboats and Vessels

1. R.S. 47:303(D) and 47:337.15(D) provide that the secretary of the Department of Wildlife and Fisheries shall not issue a certificate of registration on any boat or vessel which is purchased in, or imported into, Louisiana until satisfactory proof is presented showing that all state and local sales taxes have been paid. This will be in the form of a "tax payment certification for boat registration", which is available through the boat dealer or at any office of the Department of Revenue.

2. ...

3. In the case of a boat or vessel brought in from another state, the certificate must be completed and signed by the purchaser and a revenue deputy of the Department of Revenue and also by a tax collecting agent of the local *collector* where the purchaser resides. The proper use taxes will be due to the appropriate *state and local taxing authorities*, subject to credit for sales taxes paid in another state, as provided by R.S. 47:303(A) and 47:337.86.

4. In the case of a boat or vessel purchased from an individual owner who is not engaged in the business of selling boats or vessels, the certificate must be completed and signed by the purchaser and a revenue deputy of the Department of Revenue and by a tax collecting agent of the local *collector* where the purchaser resides. Sales of boats and vessels by individual owners will be regarded as isolated or occasional sales, and not subject to *state and local sales or use tax*. The purchaser, however, must provide sufficient documentation to support such a basis for exemption, such as a canceled check and a notarized bill of sale, or the prior owner's certificate of registration showing his or her transfer of ownership to the purchaser.

5. ...

E. Collection of Tax on Off-road Vehicles

1. R.S. 47:303(E) and 47:337.15(E) point out clearly that off-road vehicles are subject to *state and local sales or use tax* and require that a certificate of title be obtained from the vehicle commissioner in the same manner as with other motor vehicles. The exclusion of motor vehicles from the isolated or occasional provision which appears in R.S. 47:303(B)(4) applies equally to off-road vehicles as it does to cars and trucks. Thus, a purchaser of an off-road vehicle from a person who is not registered with *state and local taxing authorities* to collect and remit sales taxes shall pay the proper sales taxes at the time the vehicle is titled.

2. ...

F. Collection of Tax on Memberships in Health and Physical Fitness Clubs. R.S. 47:303(F) and 47:337.15(F) concern the collection and remittance of sales taxes for memberships in health and physical fitness clubs due under R.S. 47:301(14)(b). Generally, the taxes imposed under *state and local sales and use tax* laws are to be reported and remitted for the period in which the sale of tangible personal property or the sale of taxable services occurred, regardless of whether or not the vendor has collected the proceeds or taxes from the customer. R.S. 47:303(F) and 47:337.15(F), however, provide that operators of health and physical fitness clubs may report and remit the taxes due on memberships for the period in which the proceeds are actually collected, for those sales of memberships which are payable over an extended period of time, on a monthly basis. Such extended payment plans typically include actual or imputed interest charges in each monthly payment. Only the membership dues are subject to the tax, so that the club operator may report as sales of services, and remit taxes on, only that portion of the proceeds which represents membership dues, according to the terms of the contract. Also, if the club operator uses a collection agency to collect the amounts due, the collection fees withheld from the proceeds are subtracted from the reported sales of services. When membership contractual payment plans are resold to a financial institution, only the net proceeds received by the club operator will be the amount reported as sales of services for that reporting period. The discount withheld by the financial institution will be regarded as interest, and will not be included in the taxable base.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:303, R.S. 47:337.2, R.S. 47:337.15, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR

20:316 (March 1994), amended by the Department of Revenue, Policy Services Division, LR 29:2116 (October 2003), LR 30:

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 these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Friday, October 22, 2004. A public hearing will be held on Tuesday, October 26, 2004, 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: **Collection of Uniform State and Local Sales Tax Definitions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4307 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding

transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0409#024

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Corporation Income Tax (LAC 61:I.1148)

Under the authority of R.S. 47:287.441, R.S. 47:287.444, R.S. 47:287.601, R.S. 47:287.612; R.S. 47:287.614, R.S. 47:287.623, R.S. 47:287.651, R.S. 47:287.732, R.S. 47:287.785 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.1148 relative to the filing of corporation income tax returns.

Changes in corporate ownership require the taxpayer to file short period Louisiana corporation income tax returns. By amending LAC 61:I.1148, the Department of Revenue will provide guidance to taxpayers regarding the requirements for filing short period Louisiana corporation income tax returns when there is a change in corporate ownership.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 11. Income: Corporation Income Tax §1148. Corporation Returns

A. General Rules. Every corporation deriving income from Louisiana sources shall file a return on forms secured from the secretary or by electronically filing a return, unless expressly exempt from the tax. The first return and the last return of a corporation are returns for a full year and not for a fractional part of a year. A corporation does not go out of

existence by virtue of being managed by a receiver or trustee who continues to operate it.

B. - C. ...

D. Change in Ownership

1. Except as otherwise provided herein, when a change in ownership results in no change to the accounting period but results in the income of the taxpayer being reported on two separate federal returns, the taxpayer may either file one return for the entire accounting period or file two short period returns. If two short period returns are filed the due date of both returns is the due date of the accounting period year-end return.

2. Except as otherwise provided herein, when a change in ownership results in a change to the accounting period, the filing of two short period returns is required. The due date of the first short period return is the fifteenth day of the fourth month following the last day of the calendar month in which the change in ownership occurred. If information concerning the federal income deduction is not available, an amended return will be required for this period once the information is known. The due date of the last short period return is the due date of the new accounting period year-end return.

3. When a one-day return is required under federal law, that one-day is a separate accounting period for Louisiana reporting purposes. A separate return is required for that one day. This will usually result in the filing of three short period returns. The due date of the first short period return is the fifteenth day of the fourth month following the last day of the calendar month in which the change in ownership occurred. The due date of the one-day return is the fifteenth day of the fourth month following the last day of the calendar month in which the one day falls. The due date of the last short period return is the due date of the new accounting period year-end return.

4. All short period tax is computed under the provisions of R.S. 47:287.444.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.441, R.S. 47:287.444, R.S.47:287.601, R.S. 47:287.612, R.S. 47:287.614, R.S. 47:287.623, R.S. 47:287.651, R.S. 47:287.732, R.S. 47:287.785 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:108 (February 1988), amended by the Department of Revenue, Policy Services Division, LR 30:

Family Impact Statement

The proposed adoption of the amendment to LAC 61:I.1148, which will provide guidance to taxpayers regarding the requirements for filing short period Louisiana returns when there is a change in corporate ownership for corporation income tax purposes, 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, 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 budget;
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 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be received no later than 4:30 p.m. Thursday, October 28, 2004. A public hearing will be held on Friday, October 29, 2004 at 9 a.m. in the River Room Conference Room on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Corporation Income Tax**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of this proposed amendment to the regulation will have no impact upon any governmental units.

The implementation of this proposed regulation, which will provide guidance to taxpayers regarding the requirements for filing short period Louisiana corporation income tax returns when there is a change in corporate ownership, would have no impact on the agency's costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on state or local revenue collections as a result of this proposed amendment to the regulation. The proposed Rule is the same as current practice.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no directly affected persons or nongovernmental groups. Current filing requirements will not change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation will have no effect on competition or employment.

Cynthia Bridges
Secretary
0409#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Imposition of Tax Uniform State and
Local Sales Tax Definitions
(LAC 61:I.4303)

Under the authority of R.S. 47:302, R.S. 47:337.2, 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.4303 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4303. Imposition of Tax

A. - B. 2. d. ...

3. Treatment of the Tax Levied by *Local Taxing Authorities* for Inter-jurisdictional *Lease* or *Rental* Transactions.

a. For the purpose of *local sales or use tax* levied upon the *lease* or *rental* of *tangible personal property*, the tax for the initial lease or rental period is due to the *local taxing jurisdiction* where the transfer of possession of the leased property occurs.

b. For subsequent lease or rental periods, when there is no additional transfer of possession, the tax is due to the *local taxing jurisdiction* where the property is primarily located. The primary location of the property is that location designated by the lessee and made known to the lessor from records maintained in the ordinary course of business.

c. Possession or use of the leased property in a *local taxing jurisdiction* where the property is not primarily located will subject the lessee to the taxes imposed by that *local taxing jurisdiction*. However, a credit will be allowed for the lease period for any tax previously paid to another *local taxing authority* under the provisions of Subparagraphs a or b of this Paragraph. It is the lessee's responsibility to report any additional tax due.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:302, R.S. 47:337.2, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 13:107 (February 1987), amended LR 19:1033 (August 1993), amended by the Department of Revenue, Sales Tax Division, LR 23:1703 (December 1997), amended by the Department of Revenue, Policy Services Division, LR 30:

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 these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Friday, October 22, 2004. A public hearing will be held on Tuesday, October 26, 2004, at 10:00 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: Imposition of Tax Uniform State and Local Sales Tax Definitions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:1.4303 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use

tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0409#023

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Returns and Payment of Uniform State
and Local Sales Tax Definitions
(LAC 61:1.4351)

Under the authority of R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, 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 61:1.4351 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 43. Sales and Use Tax

**§4351. Returns and Payment of Tax, Penalty for
Absorption of Tax**

A. General. All persons and dealers who are subject to *state or local sales or use tax* are expected and required to file a tax return monthly, unless otherwise provided, and to remit the amount of tax due to the *collector*. Forms will be provided by the *collector*, and although the forms are usually

mailed to each dealer, failure to receive same will not relieve the dealer of the necessity of filing and remitting the tax due currently. For the purpose of collecting and remitting *state and local sales or use tax*, the dealer is hereby declared to be the agent of the *taxing authority*.

1. After a dealer is properly registered for sales and use tax purposes, an identifying sales tax number is assigned to that dealer. The assignment of a regular sales tax number requires a dealer to file a monthly return and failure to do so will cause the *collector* to send an estimated proposed assessment. For months when the dealer has no taxable sales or amounts to report, the return should be marked "no sales or taxable amounts," signed by the dealer and filed with the *collector*. Monthly returns are required to be filed with the *collector* on or before the twentieth day of the month following the month in which the tax becomes effective.

2. The *collector*, for good cause, may extend, for a period not to exceed 30 days, the time for making any returns required under Chapter 2 of Title 47 of the Louisiana Revised Statutes of 1950, as amended, or the Uniform Local Sales Tax Code. Failure of the dealer to abide by the agreement and file returns and remittances as required will result in an immediate cancellation of the extension agreement by the *collector*.

3.a. Solely for *state sales or use tax* purposes, the tax computed to be due by the dealer is payable at the time the return is due, and failure to do so will cause the secretary to issue a 10-day demand assessment. Failure to file the returns on or before the due date, will subject the dealer to delinquency charges, loss of vendor's compensation and other charges as provided by law. See R.S. 47:1519 for information on electronic funds transfers (EFT)

b. Solely for *local sales or use tax* purposes, refer to R.S. 47:337.18(A) for guidance on the filing of sales tax returns and payment of the tax.

4. ...

5. The dealer is compensated for accounting for and remitting the *state sales or use tax* at the rate established by R.S. 47:306. Local ordinances govern the rate of compensation, if any, for accounting for and remitting *local sales or use tax*. The amount of compensation is computed by multiplying the rate by the amount of tax due and deducting that amount from the total tax accounted for and payable to the *collector*, before taking credit for taxes already paid to a wholesaler.

6. ...

B. Exceptions. Not all dealers are required to file returns on a monthly basis.

1.a. Solely for *state sales or use tax* purposes, upon registration, all dealers are required to file monthly returns. After the *dealer* has operated for a few months, and it is determined that the amount of tax liability averages less than \$500 per month, the *dealer* will be notified and required to file quarterly returns. Application to file quarterly is not necessary, as notification is automatic once a determination is made by the secretary that such a filing procedure is in order. Quarterly returns should be filed on or before the twentieth day of the first month of the next succeeding quarter. Irregular sales tax returns and use tax returns should be filed on or before the twentieth day of the month following the month in which the taxable transaction occurred. The returns should be prepared in a manner that

will enable the secretary to ascertain the correctness of the tax computed to be due. Accordingly, each line of the tax return should be completed, and all amounts not taxable should be identified.

b. Solely for *local sales or use tax* purposes, R.S. 47:337.18(A)(1)(b)(i) requires a *dealer* to file quarterly returns whenever the taxes due average less than thirty dollars per month.

2. A *dealer* may file returns using alternate filing periods. The method for filing shall be approved by the *collector* before the method is used to file a return. If an alternate period filing method is approved for use, the number of short periods during a year must be greater than or equal to the number of long periods during that same year. At the beginning of each year the dealer must, after obtaining approval for the alternate period filing method, file with the *collector* a calendar for the year showing the alternative filing periods for that year. Amendments to approved calendars must be submitted for approval prior to the affected periods. The taxpayer's account shall be reviewed to determine if the taxpayer has correctly filed returns, according to the calendar submitted at the beginning of the year. If the taxpayer does not follow the approved alternate filing method, the returns for the year under review shall be converted to a calendar month basis and the taxpayer's request to use an alternate period filing method for the subsequent year will be denied. Alternate period returns shall be filed on or before the twentieth day following the close of the alternate filing period. Failure to file on or before this date will subject the dealer to delinquency charges, loss of vendor's compensation, and other charges as prescribed by law.

C. Advance Sales Tax. R.S. 47:306(B) was amended in 1965, to require all manufacturers, wholesalers, jobbers, suppliers, and brokers of tangible personal property to collect an advance payment of *state sales or use tax* on sales of all tangible personal property, and such payment is required only as a means of facilitating collection of the sales tax. Previous to this amendment, such sales of tangible personal property were considered exempt for taxation since under the statute, wholesale sales were not taxable. Accordingly, these new dealers were required to register with the *secretary* in order to collect and remit advance *state sales or use tax* from the sale of all tangible personal property made to retail dealers who resell the property to final users and consumers. The advance payment of the *state sales or use tax* is required upon all sales of tangible personal property to other dealers unless, specifically exempted by statute, or Form LGST-9 is obtained and kept on file by the dealer making the sale. Exemption certificate LGST-9 will only be recognized if the dealer making the purchase of tangible personal property states that the purchases are for resale or further processing by wholesale dealers and manufacturers. Those businesses purchasing property for resale that qualify as "wholesale dealers" can be exempted from the payment of the advance *state sales or use tax*.

1. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, 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 22:852 (September 1996), amended by the Department of Revenue, Sales Tax Division, LR 23:1530 (November 1997), amended by the Department of Revenue, Policy Services Division, LR 30:

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 these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Friday, October 22, 2004. A public hearing will be held on Tuesday, October 26, 2004, 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: Returns and Payment Uniform State and Local Sales Tax Definitions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:1.4351 are in response to requests

received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0409#026

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Treatment of Tax by Dealer
Uniform State and Local Sales Tax Definitions
(LAC 61:I.4311)

Under the authority of R.S. 47:304, R.S. 47:337.2, R.S. 47:337.17, 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.4311 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several

regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 43. Sales and Use Tax

§4311. Treatment of Tax by Dealer

A. R.S. 47:304 governs the treatment of *state sales and use tax* and R.S. 47:337.17 governs the treatment of *local sales and use tax* that must be collected by *dealers*. Both statutes place the primary burden for operation of the sales tax system upon the seller of merchandise, the performer of taxable services, and the rentor or lessor of property, and require that he collect the tax from the purchaser, user or consumer. If a *dealer* fails or refuses to collect the tax, he not only becomes liable for payment of the tax, but also subjects himself to the possibility of being fined a maximum of \$100 or imprisoned for a period of time not to exceed three months, or both.

B. This primary burden of collecting and remitting sales tax does not apply to the taxes on motor vehicles subject to the vehicle registration license tax, the collection of which is described in R.S. 47:303(B) (LAC 61:I.4307.B). However, dealers of off-road motor vehicles are charged with the responsibility for collecting and remitting the tax on sales of all such off-road vehicles, notwithstanding that they are also dealers of motor vehicles subject to registration and licensing by the motor vehicle commissioner. Dealers of off-road vehicles shall, in addition to collecting and remitting the tax to the *collector*, provide the purchaser with a notarized bill of sale, or other documentation, sufficient to prove that the proper taxes have been paid by the purchaser, and to enable the purchaser to obtain a certificate of title from the office of the motor vehicle commissioner.

C. - D. ...

E. Certificates of exemption from *state or local sales or use tax* are obtainable from the appropriate *collector* by persons making purchases which may be exempt in whole or in part at the time of purchase or upon which the tax may be deferred until some later event which dictates taxability of the transaction. While primary responsibility for collection of the taxes rests upon the seller, the purchaser who furnishes the seller an exemption certificate will be held liable for any taxes subsequently found to be due.

F. In cases where the total amount of *state or local sales or use tax* collected for a sales tax filing period exceeds the percentage applicable to the particular type of merchandise or service, any such excess must be remitted to the appropriate *collector*.

G. For provisions relating to the amount of *state sales or use tax* collected by a dealer which may be withheld by him as compensation for collecting, accounting for, and remitting the tax to the secretary, see R.S. 47:306. The amount of compensation allowed for reporting *local sales or use tax* is governed by local ordinance.

H. R.S. 47:304 and R.S. 47:337.17 prohibit the use of tokens in the operation of the sales tax law and provides that the *secretary* shall prescribe schedules of the amounts to be collected from purchasers, lessees, or consumers with respect to each sale. Such schedules integrate the collection of the *state and local sales or use tax*, and their use is

mandatory with respect to both *dealers* and *political subdivisions* that impose a sales or use tax. The mandatory tables required by R.S. 47:304 and R.S. 47:337.17 will be prepared by the Department of Revenue at the request of any *local taxing authority*, to reflect the aggregate *state and local sales or use tax rate*. Any *dealer*, as well, may obtain these prepared tax rate schedules from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:304, R.S. 47:337.2, R.S. 47:337.17, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 30:

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.

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3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

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5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Friday, October 22, 2004. A public hearing will be held on Tuesday, October 26, 2004, 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: Treatment of Tax by Dealer Uniform State and Local Sales Tax Definitions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which

provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:1.4311 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0409#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of Highways/Engineering

Guidelines for Vegetation Visibility Permits (LAC 70:1.315)

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 §315 of Chapter 3 of Part I of Title 70 entitled "Guidelines for Vegetation Visibility Permits" in accordance with R.S. 47:820, et seq.

Title 70

TRANSPORTATION

Part I. Highway Construction

Chapter 3. Roadside Vegetation Management §315. Guidelines for Vegetation Visibility Permits

A. General. The Department of Transportation and Development recognizes that the presence of vegetation on highway rights-of-way has a positive value for Louisiana. Trees benefit the state by mitigating the impact of the highway system, increasing soil stabilization, providing wildlife habitat, and moderating microclimate extremes. The

Department of Transportation and Development endorses the preservation of existing vegetation along transportation corridors. It may become necessary to remove vegetation when maintenance and safety concerns warrant such action. The Department of Transportation and Development may consider trimming and removal of vegetation that visually impacts legally permitted outdoor advertising displays and adjacent businesses. However, not every permit request will be granted. Factors such as land use, visual screening of and from the roadway, tree species types and conditions, and public opinion will be considered before a final determination is made. All permits granted for vegetation removal will require mitigation in the form of replacement plantings. Maintenance of these planting areas will become the responsibility of the permittee. Permits will only be issued between October 15, and April 15 to promote optimum survival of replacement vegetation.

B. Procedure. Requests for trimming or removal of vegetation for visibility of off-premise or on-premise advertising displays or for trimming or removal of vegetation for visibility will be made using the Vegetation Enhancement Permit Form, copies of which will be maintained in each district office. The application for a permit shall include the following:

1. state or federal highway number;
2. location or distance from nearest state highway intersection to the proposed location;
3. number, name of species, approximate diameter and height of existing trees which are projected for removal;
4. where trees are in groups, the diameters and heights may be shown for each group as a whole; i.e., 10 oaks and pines 8" to 12" diameter, 30' to 50' high;
5. approximate number and names of shrubs and vines or, if the number cannot be estimated, the distance and location along the highway from point-to-point must be shown;
6. kind of work to be done (trimming, removal and replacement (replacement at a rate of two replacements to one removal, where space permits, will be required in all instances where removal of vegetation is requested). No topping of trees will be allowed;
7. 8" x 10" color photographs (printed digital photographs are acceptable) taken from required locations (see Diagrams 1 and 2) clearly marked to show limits of work:

a. as part of his review, the traffic operations engineer will verify the location of the display and will forward the request to the Headquarters Permits Unit with information about the display's legal status. Legal status will include available and pertinent information that should be considered, including but not limited to the following:

- i. Is this display under active citation?
- ii. Is this display subject to imminent removal?
- iii. Is this display illegally placed?
- iv. Is this display nonconforming to state beautification criteria?

b. where replacement of trees is required, a plan (designed by a licensed landscape architect, at no cost to the department) will be submitted to the department for review, comments and/or approval;

c. trimming and removal of trees must be performed by a bonafide bonded tree care service at no cost

to the department. A licensed landscape contractor shall perform replacement to trees at no cost to the department. The permit shall contain a warranty clause wherein the permittee agrees to maintain, remove and replace any trimmed or replacement tree or vegetation not living or seriously damaged for the life of the permit;

d. the value of the trees removed shall be determined by a forester and that value shall be remitted to the department as required by Act 308 of the 2004 Regular Session of the Louisiana Legislature (R.S. 48:282);

e. visibility improvement will not be undertaken in any of the following instances:

i. the clearing or trimming is requested to provide visibility for outdoor advertising prior to, or during display placement, or where the display has been in place less than five calendar years;

ii. the display is illegally placed;

iii. the display is currently under contract with the state to be removed or it will be removed within one year;

iv. the display is on state property;

v. a right-of-way taking is imminent within one year;

vi. vegetation work is planned by the department or other parties where construction on a proposed highway project is imminent within two years;

vii. the trees or other vegetation to be trimmed, selectively removed or removed and replaced are a distance greater than 500 feet, measured along the highway from the display;

viii. the clearing or trimming is requested to provide visual access to a site before the proposed development has begun;

ix. the clearing or trimming requested to provide visual access to a site would expose an objectionable view and would not be in the best interest of the traveling public (i.e. maintenance area, loading dock, etc.);

x. the clearing or trimming requested to provide visual access to a site would expose the traveling public to oncoming headlights from an existing or proposed road; or

xi. clearing and reforestation work is planned by the department;

f. access to the work area shall be from private property or frontage road side and not from the main roadway or ramps. Where this is not practical the permittee shall conduct his operation in accordance with DOTD Maintenance Standards, including appropriate traffic control devices. The area shall be restored to original condition upon completion of the work;

g. drainage shall not be impeded;

h. work will be performed only during regular daylight hours, during which the Department of Transportation and Development is open, Monday through Friday excluding legal holidays. When a lane closure on a state highway is necessary, the department shall ensure, whenever feasible, that such landscaping or maintenance work is not performed between the hours of 7 a.m. and 9 a.m. nor between the hours of 3 p.m. and 6 p.m.;

i. vegetation which has been cut will not be left overnight within 30 feet of the travel land or within the highway right-of-way, whichever is less. No more vegetation will be cut down than can be cleaned up and removed by the end of the work the following day. No debris will be left

over a weekend or holiday. No burning will be permitted on the highway right-of-way. Stumps shall be cut or ground flush with the ground and treated with an EPA and department-approved herbicide immediately after the stump is cut;

j. work shall not interfere with traffic on the roadway or shoulder at anytime. Parking of vehicles or roadway or shoulder shall not be permitted. All loading, hauling, or other work associated with the permit will be conducted across adjacent property. Appropriate warning signs shall be placed by the permittee in advance of the work area in accordance with the current edition of Part VI of the Manual on Uniform Traffic Control Devices (MUTCD) Standards and Guides for Traffic Controls for Streets and Highway Construction, Maintenance, Utility and Incidental Maintenance Operations;

k. the vegetation control area will not extend more than 500 feet along the highway from the viewable face(s) of the advertising device and cleared to and along the line of sight; and

l. where operations are conducted in an unsatisfactory manner or for any other cause, the department may revoke the permit and any future permitting will be withheld until the unsatisfactory condition has been corrected.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:204 (February 1991), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 26:1674 (August 2000), LR 30:

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.

J. Michael Bridges, P.E.
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Guidelines for Vegetation Visibility Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no cost to state or local governmental units in implementing this rule change. The permit process for management of roadside vegetation has been in place since 1991. This rule-making makes technical changes in the existing rules which are administered by the department. The rules govern the method of vegetation placement and removal both by the department and by the public by permit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Approximately thirty (30) permits are issued annually by the department for vegetation thinning or removal. Considering the variables in areas of right-of-way under the jurisdiction of the Department of Transportation and Development statewide, an average dollar amount for each reimbursement will be dependent upon the amount of merchantable product within each permitted area; however this amount is not estimated to be significant based on permits issued during Fiscal Year 2003-2004.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only persons directly affected by the proposed rule change are those persons or companies or governmental entities which procure permits from the department for vegetation thinning or removal within highway rights-of-way. While these permits are issued presently at no charge, the new rule tightens the requirements for replanting and provides for remittance of the value of the removed vegetation by the permittee. The permittee will also be required to make more substantial replacements and maintain same for the duration of the permit. This cost should be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule-making should have no effect on competition or employment.

J. Michael Bridges, P.E.
Undersecretary
0409#073

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of Highways/Engineering

Pipe Bursting/Crushing
(LAC 70:II.Chapter 19)

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 promulgate a Rule entitled "Pipe

Bursting/Crushing" in accordance with R.S. 48:381, et seq.

Title 70

TRANSPORTATION

Part II. Utilities

Chapter 19. Pipe Bursting/Crushing

§1901. Definition

A. The pipe bursting process is defined as the reconstruction of pipeline by installing an approved pipe material, by means of one of the pre-approved processes set forth in this specification.

B. The process involves one of the following methods:

1. the use of a hydraulic "moling" device or pneumatic hammer, suitable in size to break out the old pipe; or
2. the use of a modified boring "knife" with a flared plug that implodes and crushes the existing sewer pipe;
3. forward progress of the "mole" or the "knife" may be aided by the use of a hydraulic winch, as specified in the patented process;
4. the replacement pipe is either pulled or pushed by means of hydraulic force into place, size on size and/or upsizing two pipe sizes or upsizing according to manufacturer specifications;
5. the size hammer to be used shall be the minimum diameter necessary to facilitate the restoration process. Oversized hammers shall not be allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1903. Applicability and Liability

A. Pipe bursting will only apply to water or sewer pipes, with the recommendation of the District Permit Specialist and with the approval of the Headquarters Permit Engineer.

B. If allowed, the fragments of the old pipe remaining in the soil shall not be considered abandoned until such time as the replacement pipe is abandoned.

C. The fragments of the old pipe, as well as the replacement pipe, both remain the liabilities of the permittee, and can only be abandoned as provided for in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1905. Responsibility for Overflows and Spills

A. It shall be the responsibility of the permittee to schedule and perform the work in a manner that does not cause or contribute to incidents of overflows or spills of sewage from the sewer system.

B. In the event that the work activities of the permittee contribute to overflows or spills, the permittee shall immediately take appropriate action as follows:

1. contain and stop the overflow;
2. clean the spillage;
3. disinfect the area affected by the overflow or spill; and
4. notify the owner in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1907. Indemnification

A. The permittee will indemnify and hold harmless the DOTD for any fines or third-party claims for personal or property damage arising out of a spill or overflow that is fully or partially the responsibility of the permittee, including legal, engineering, and administrative expenses of the DOTD in defending such fines and claims.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1909. Materials

A. The replacement pipe used in pipe bursting operations shall be High Density Polyethylene (HDPE) Pipe manufactured from a high density, high molecular weight polyethylene resin which conforms to ASTM D-1248 and meets the requirements for Type III, Class A, Grade P34, Category 5, and has a PPI rating of PE 3408, when compounded.

B. The pipe produced from this resin shall have a minimum cell classification of 345434D or E (inner wall shall be light in color) under ASTM D3350.

C. All pipe shall be made from virgin material. No reworked material shall be used except that obtained from the manufacturer's own production of the same formulation.

D. Before commencement of work, the permittee shall submit to the DOTD for approval, the vendor's specific technical data with complete physical properties of pipe and pipe dimensions pertinent to the job.

E. The Standard Dimension Ratio (SDR) Classification for various depths shall be as follows.

1. The Standard Dimension Ratio (SDR), which is the ratio of the outside diameter (OD) of the pipe to its minimum wall thickness, shall be specified for the various depths listed in Table I.

2. The depth shall be measured from the upstream and downstream manhole rim to the invert of the existing sewer in the pipe segment to be replaced.

3. The SDR shall be selected for the deeper of the two manholes for a given pipe segment.

Table I	
Polyethylene Pipe SDR	
(Applicable SDR for Depth Range)	
HDPE Pipe SDR	Maximum Depth (Feet)
21	10
17	20

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1911. Backfill

A. All excavations within the limits of the right-of-way shall be backfilled and tamped in layers to the density of the adjacent undisturbed soil.

B. Where sod is removed or destroyed, it shall be replaced.

C. Where it is necessary to make excavations in the shoulder, the top 6 inches of backfill shall be with like shoulder material.

D. Existing soil materials declared unsuitable for backfill by the DOTD shall be disposed of by approved methods and replaced with select material as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1913. Pre-Installation Preparation

A. The permittee shall submit a work plan with the permit application to the DOTD for review and acceptance. The work plan shall address the following minimum preparation/steps, unless approved otherwise by the DOTD.

1. It is the responsibility of the permittee to examine the proposed line segment and notify the DOTD if conditions exist that could cause problems with the pipe bursting/crushing method. These could include nearby services that could be damaged by the operations, existing slabs that could be damaged, or less than acceptable depth of cover.

2. Prior to performing any excavations, the applicant is required to call Louisiana One-Call. If installing any underground facilities such as cable or conduits, the applicant must be a member of Louisiana One-Call.

3. When pipe bursting under a roadway, the pipe being replaced must be a minimum depth of 8 feet below the roadway. Therefore, all adjacent underground utilities must be located by the permittee. Pipe bursting will not be allowed within a distance of 3 feet or 3 times the diameter of the replacement pipe, whichever is greater, from existing underground utilities.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1915. Pre-Installation CCTV Inspection

A. It shall be the responsibility of the permittee to televise the sewer pipe immediately before the pipe bursting/crushing to assure that the existing pipe conditions are acceptable for pipe bursting/crushing.

B. If Pre-Installation CCTV inspection reveals a sag in the existing sewer that is greater than one-half the diameter of the existing pipe, it shall be the responsibility of permittee to install the replacement pipe so that the result is an acceptable grade without the sag. The permittee shall take the necessary measures to eliminate these sags by one of the following measures:

1. pipe replacement
2. digging a sag elimination pit and bringing the bottom of the pipe trench to a uniform grade in line with the existing pipe invert, or
3. by other measures approved by the DOTD.

C. Eliminating sags under the roadway will not be allowed if it necessitates open cutting the roadway.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1917. Bypassing Sewage

A. When required for acceptable completion of the pipe bursting/crushing process, the permittee shall provide for

continuous sewage flow around the section(s) of pipe designated for the installation of replacement pipe

B. The pump bypass lines shall be of adequate capacity and size to handle the flow.

C. Bypass pumping shall be considered incidental to the installation of the replacement pipe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1919. Access to Worksite and Traffic Control

A. Access to the work area shall be from the main roadway or ramps or from the adjacent property, as safety dictates.

B. The permittee shall conduct his operation in accordance with DOTD Maintenance Traffic Control Handbook and shall utilize appropriate traffic control devices.

C. The disturbed access areas shall be restored to original condition upon completion of the work.

D. Work will be performed only during regular daylight hours, Monday through Friday excluding legal holidays, when the department is open.

E. When a lane closure on a state highway is necessary, the department shall ensure, whenever feasible, that work is not performed between the hours of 7:00 a.m. and 9:00 a.m. or between the hours of 3:00 p.m. and 6:00 p.m.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1921. Installation Process

A. The permittee shall submit information, in detail, on the procedure and steps to be followed for the installation of the pipe bursting/crushing method selected, even if the process is named in the specification.

B. All such instructions and procedures submitted shall be carefully followed during installation.

C. Any proposed changes in installation procedures shall require submittal of revised procedures and acceptance by the DOTD.

D. If the roadway is damaged, permittee is responsible for repairs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1923. Insertion Pits

A. The location and number of insertion pits shall be planned by the permittee and submitted in writing for approval by the DOTD prior to excavation.

B. The pits shall be located in a manner that their total number shall be minimized and the length of replacement pipe installed in a single pull shall be maximized.

C. Repairs under the roadway will not be allowed if it necessitates open cutting the roadway. If difficulty with the crossing is experienced, the utility company must install and bear the total cost of a new crossing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

J. Michael Bridges, P.E.
Undersecretary

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 behavior and personal responsibility of children.
6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent to Sherryl J. Tucker, Senior Attorney, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245, Telephone (225)237-1359.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pipe Bursting/Crushing

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule will likely result in an indeterminable, but insignificant, reduction in costs for both the state and local governmental units. The purpose of the rule is to recognize the technological advances in utility installation and rehabilitation; to allow a new method of pipe rehabilitation while providing safeguards for the department, other utilities and the traveling public. This new method will be utilized principally by municipalities which have sewer and water systems located within state highway rights-of-way. These local governmental units will likely realize cost savings in utilization of the new method because open trenching for the removal and immediate disposal of unused pipe will no longer be necessary. This method also minimizes disruption to traffic during sewer or water line removal or rehabilitation, thereby reducing the likelihood that traffic control by the state will be necessary during these projects.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no impact on revenue collections of state or local governmental units as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only persons directly affected by the proposed rule change are those persons or companies which procure permits from the department for utility installations, sewer or water only, within highway rights-of-way under the jurisdiction of the Department of Transportation and Development. A cost benefit may be realized because this method is safer and less expensive than the open trenching method currently allowed. There is also less disruption to traffic.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule-making should have no effect on competition or employment.

J. Michael Bridges, P.E. Robert E. Hosse
Undersecretary General Government Section Director
0409#072 Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Removal of Abandoned Crab Traps (LAC 76:VII.367)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.367, which provides for an abandoned crab trap removal program. Authority to establish these regulations is vested in the commission by R.S. 56:332(N). Said Rule is attached and made a part of this Notice of Intent.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and final Rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §367. Removal of Abandoned Crab Traps

A. The use of crab traps shall be prohibited for a 10-day period from 6:00 a.m., February 18, 2005 through 6:00 a.m., February 27, 2005 within that portion of Cameron Parish as described below.

1. From a point originating from the intersection of the southern side of LA Highway 82 and the eastern shore of Sabine Lake, thence north along the eastern shoreline of Sabine Lake to its intersection with East Pass, thence due north to Sabine Island, thence west along the southern shoreline of Sabine Island to its westward most point, thence due west to the Texas state line, thence south along the Louisiana/Texas state line to its intersection with LA Highway 82, thence east along the southern side of LA Highway 82 and terminating at its intersection with the eastern shore of Sabine Lake.

B. The use of crab traps shall be prohibited for a 16-day period from 6:00 a.m., March 5, 2005 through 6:00 a.m., March 20, 2005 within that portion of Terrebonne Parish as described below:

1. From a point originating from the intersection of LA Highway 57 and Dulac Canal, thence east along LA Highway 57 to its intersection with LA 56, thence due east to the western shoreline of Bayou Little Caillou, thence north along the western shoreline of Bayou Little Caillou to its intersection with Lapeyrouse Canal, thence east along the northern shoreline of Lapeyrouse Canal to its intersection with Bayou Terrebonne, thence south along the eastern shoreline of Bayou Terrebonne to its intersection with Seabreeze Pass, thence southwest to channel marker number 17 of the Houma Navigation Canal (Lat. 29° 11' 11.3" N., Long. 90° 36' 44.5" W.), thence southwest to the northern most point on Pass la Poule Island (Lat. 29° 08' 33.5" N., Long. 90° 39' 01.3" W.), thence west to Bayou Sale channel marker (Lat. 29° 06' 31.8" N., Long. 90° 44' 34.2" W.), thence north to the western shoreline of Bayou Sale, thence north along the western shoreline of Bayou Sale to its intersection with Four Point Bayou, thence north along the western shoreline of Four Point Bayou to its intersection with the Houma Navigation Canal, thence north along the western shoreline of the Houma Navigation Canal to its intersection with Bayou Grand Caillou, thence north along the western shoreline of Bayou Grand Caillou to its intersection with Dulac Canal, thence east along the northern shoreline of Dulac Canal and terminating at its intersection with LA Highway 57.

C. The use of crab traps shall be prohibited for a 16-day period from 6:00 a.m., February 26, 2005 through 6:00 a.m., March 13, 2005 within that portion of St. Bernard and Plaquemines Parishes as described below:

1. From a point originating from the intersection of LA Highway 39 and LA Highway 46, thence east along LA Highway 46 to its intersection with LA Highway 300, thence east and then south along LA Highway 300 to its termination, thence due south to Bayou Terre aux Bouefs, thence east along the northern shoreline of Bayou Terre aux Bouefs to its intersection with the Avin pipeline, thence south along the eastern edge of the Avin pipeline to the eastern shoreline of the Mississippi River, thence north along the eastern shoreline of the Mississippi River to a point due west of the intersection of LA Highway 39 and LA Highway 46, thence due east and terminating at the intersection of LA Highway 39 and LA Highway 46.

D. The use of crab traps shall be prohibited for a 9-day period beginning at 6:00 a.m. on the opening of the 2005 Spring inshore shrimp season in Vermilion Bay/West Cote Blanche Bay and ending at 6:00 a.m. nine days following the opening of the 2005 Spring inshore shrimp season in Vermilion Bay/West Cote Blanche Bay within a portion of Iberia and St. Mary Parishes as described below:

1. From a point originating from the intersection of the Gulf Intracoastal Waterway and the Acadiana Navigational Channel, thence southwest along the Acadiana Navigational Channel red buoy line to the red navigational marker number 12 on the Marsh Island shoreline near Southwest Pass, thence east along the shoreline of Marsh Island to Longitude 91° 43' 00" W, thence north along Longitude 91° 43' 00" W to the shoreline of West Cote Blanche Bay, thence west along the northern shoreline of West Cote Blanche Bay to its intersection with the Ivanhoe Canal, thence north along the eastern shoreline of the Ivanhoe Canal to its intersection with the Gulf Intracoastal

Waterway, thence west along the northern shoreline of the Gulf Intracoastal Waterway and terminating at the Acadiana Navigational Channel.

E. All crab traps remaining in the closed areas during the specified periods shall be considered abandoned. These trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. For the winter closures only, crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Anyone is authorized to remove these abandoned crab traps within the closed areas. No person removing crab traps from the designated closed areas shall possess these traps outside of the closed areas. However, nonserviceable traps may be possessed by a shrimp fisherman outside of the closed area when in compliance with R.S. 56:332. The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, and Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 30:

Family Impact Statement

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments relative to the proposed Rule to Vincent Guillory, Marine Fisheries Biologist Supervisor, Marine Fisheries Division, Box 189, Bourg, LA 70343, prior to Friday, November 5, 2004.

Bill A. Busbice, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Removal of Abandoned Crab Traps

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Total cost to implement the proposed Rule, aside from staff time, is estimated to be \$19,600. Implementation and oversight of the abandoned crab trap removal effort will utilize existing staff. No local governmental implementation costs are anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule is expected to have little or no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule prohibits the use of crab traps in specified locations during designated periods in 2005. Crab trap fishermen who have traps within areas proposed for closure will experience lost fishing time and incur additional costs of having to temporarily remove their traps from these areas. They may choose to move their traps to adjacent open fishing areas or choose to remove their traps from the fishery for the duration of the closure (9-16 days). Local seafood dealers and

processors may experience a decrease in availability of fresh crabs during the closures. This impact, however, is expected to be small, since the closures occur in the lowest harvest time of the year and most fishermen are anticipated to move their traps to adjacent waters to fish.

The crab resource will not be lost or harmed in any way and will be available for harvest when the closed areas are reopened. Mortality or injury to crabs and bycatch will be reduced with the removal of abandoned crab traps. Recreational saltwater anglers, shrimp fishermen and individuals who operate vessels within the proposed area closures will benefit from the removal of abandoned crab traps, since encounters

with abandoned traps often result in lost fishing time or damage to the vessel's lower unit and/or fishing gear.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Effects on competition and employment are expected to be negligible since adjacent waters will remain open for crab harvest and crabbers are expected to continue to fish.

Janice A. Lansing
Undersecretary
0409#035

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given December 6-7, 2004, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows.

New Candidates:	September 3, 2004
Re-Take Candidates:	September 17, 2004
Reciprocity Candidates:	November 12, 2004

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to September 3, 2004. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0409#002

POTPOURRI

Board of Elementary and Secondary Education

Comment Periods for Bulletins 110 and 114
(LAC 28:LXXXI.Chapters 1-33 and XCIX.Chapters 1-61)

The advertisement of Notices of Intent for Bulletins 110 and 114 were delayed one month to allow for editing of those documents. Both of these documents were printed in the August 20, 2004 edition of the *Louisiana Register* in the Notice of Intent section. The deadline for submission of written comments by interested persons was not adjusted to reflect the one month delay. The adjusted deadline for submission of written comments by interested persons for both Bulletin 110 and 114 should be October 9, 2004, 50 days from the date of publication of the NOI. The BESE office will accept public comments regarding those documents until October 9, 2004.

Interested persons may submit written comments to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

0409#047

POTPOURRI

Department of Environmental Quality

Supplemental Notice Shreveport-Bossier City Metropolitan Statistical Area Early Action Compact Air Quality Improvement Plan State Implementation Plan Revision

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Assessment, Airshed Planning Division, SIP Development Section, will submit a revision to the SIP for the Shreveport-Bossier City Metropolitan Statistical Area Early Action Compact Air Quality Improvement Plan. The SIP revision is mandated under the requirement of the 1990 Clean Air Act Amendments.

Through this medium, the department is advising that additional information regarding the methodology associated with the quantification and verification of the emission reductions from the energy efficiency or renewable energy measures used as control measure commitments will be included in the SIP revision.

A public hearing will be held at 10:00 a.m. on October 7, 2004, in the State Exhibit Museum Auditorium, 3015 Greenwood Road, Shreveport, Louisiana. Should Individuals with a disability need an accommodation in order to participate, please contact Vivian H. Aucoin at (225) 219-3575 or at the address listed below. Interested persons are invited to attend and submit oral comments on the proposal.

All interested persons are invited to submit written comments concerning the additional methodology information no later than 4:30 p.m., October 29, 2004, to Vivian H. Aucoin, Office of Environmental Assessment, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to vivian.aucoin@la.gov

A copy of the SIP may be viewed from 8 a.m. to 4:30 p.m. in the DEQ Public Records Center, Room 127, 602 N. Fifth Street, Baton Rouge, LA 70802 (225) 219-3168, Shreve Memorial Library, 424 Texas Street, Shreveport, LA 71101 (318) 226-5897; Bossier Parish Central Library, 2206 Beckett Street, Bossier City, LA 71111 (318) 371-3080; DEQ Northwest Regional Office, 1525 Fairfield, Room 520, Shreveport, LA 71101-4388 (318) 676-7476. An electronic copy is also available at www.deq.state.la.us/evaluation/ozone/index.htm

Wilbert F. Jordan, Jr.
Assistant Secretary

0409#091

POTPOURRI

**Office of the Governor
Board of Examiners of Bar Pilots for the New Orleans
and Baton Rouge Steamship Pilots**

Hearing on Proposed Rule
(LAC 46:1XX.Chapters 61, 64, 66 and 67)

A Notice of Intent concerning the above referenced proposed Rules was published on August 20, 2004, in the *Louisiana Register* (see LR 30:1856-1866). Chapter 61 regarding the general operation of the Board of Examiners is intended to replace the former Chapter 61, which was entitled New Orleans and Baton Rouge Port Pilots. Chapter 64 pertains to the general qualifications necessary to become an apprentice candidate and the examination of pilots. Chapter 66 outlines standards of conduct, standards of proper and safe pilotage, standards of competency and recency of service, along with continuing education requirements. Chapter 67 establishes procedures for the investigation and enforcement of board rules, together with penalties associated therewith.

Subsequently, the Board of Examiners received oral comments regarding the proposed Rule. Accordingly, notice is hereby given of the Board of Examiners intention to amend the proposed Rule. By amendment, the board will specify that the First Class Pilot's license required for commissioning shall be from Chalmette, Louisiana to the Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana. The board will further amend the rules to clarify the standard of conduct of a NOBRA pilot and to clarify that the board has discretion regarding the action taken in response to an alleged violation of its rules. The board will further clarify its recency and continuing education requirements.

All interested persons are invited to submit written comments on the proposed rules and amendments. Such comments should be submitted no later than 4:30 p.m. on October 8, 2004, to Captain Henry G. Shows, 3900 River Road, Suite 7, Jefferson, LA 70121.

Henry G. Shows
President

0409#098

POTPOURRI

**Office of the Governor
Oil Spill Coordinator's Office**

Notice of Intent to Conduct Restoration Planning
St. Martin Parish Duck Lake Oil and Gas Field Oil Spill

Purpose

The Louisiana Oil Spill Coordinator's Office (LOSCO) as the Trustee coordinator for the State of Louisiana, in consultation and agreement with the state natural resource Trustees, namely the Louisiana Department of Environmental Quality (LDEQ) and the Louisiana Department of Wildlife and Fisheries (LDWF); have determined that the impacts of the discharge of crude oil from the pipeline, over which such Trustees have

jurisdiction, warrant conducting a natural resource damage assessment that will include restoration planning.

Site and Release Information

On or about December 4, 2002, a pipeline owned and operated by Hilcorp Energy Company (Hilcorp), discharged approximately 1,000 barrels of crude oil into Duck Lake Oil and Gas Field, a cypress-tupelo swamp located in St. Martin Parish, Louisiana. An undetermined amount of alluvial river swamp flora and fauna inhabiting this area may have been exposed to crude oil as a result of this discharge. The Trustees have determined that Hilcorp is the Responsible Party (RP) for this incident.

Duck Lake Oil and Gas Field is located in extensive forested wetlands which are periodically inundated with Atchafalaya River flood waters. This forested wetland, or swamp, is composed of an overstory of bald cypress and water tupelo trees and an understory of young trees and shrubs. This cypress-tupelo swamp is valuable habitat for numerous species of fauna and provides many ecological services to other resources.

Aquatic species present include, but are not limited to, finfish, such as catfish, sunfish, bass, and crappie, reptiles, and crustaceans, such as crawfish and blue crab. Wildlife species that may be present in the Duck Lake Oil and Gas Field swamp area include, but are not limited to, resident and migratory birds and furbearers. Some of the species that may be present have threatened or endangered status.

Authorities

The Trustees are designated pursuant to 33 U.S.C. §2706(b), Executive Order 12777, and the National Contingency Plan, 40 CFR §§300.600 and 300.605. Pursuant to R.S. 30:2460, the State of Louisiana Oil Spill Contingency Plan, September 1995, describes state trust resources, including the following: vegetated wetlands, surface waters, ground waters, air, soil, wildlife, aquatic life, and the appropriate habitats on which they depend.

Trustees' Determinations

Following the notice of the discharge, the Trustees have made the following determinations required by 15 CFR §990.41(a):

- The natural resource Trustees have jurisdiction to pursue restoration pursuant to the Oil Pollution Act (OPA), 33 U.S.C. §§2702 and 2706(c) and the Oil Spill Prevention and Response Act (OSPR), R.S. 30:2451, et seq. The Trustees have further determined that the discharge of crude oil into Duck Lake Oil and Gas Field and surrounding swamp on or about December 4, 2002, was an incident, as defined in 15 CFR §990.30 and LAC 43:XXIX.109.
- This discharge was not permitted under state, federal, or local law.
- This discharge was not from a public vessel.
- This discharge was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. §1651, et seq.
- Natural resources under the trusteeship of the natural resource Trustees listed above may have been injured as a result of the incident. The crude oil discharged contains components that may be toxic to aquatic organisms, birds, wildlife and vegetation. Vegetation, birds, and aquatic

organisms may have been exposed to the oil from this discharge, and mortalities to some flora and fauna and lost ecological services may have resulted from this incident.

Because the conditions of 15 CFR §990.41(a) were met, as described above, the Trustees made the further determination pursuant to 15 CFR §990.41(b) and LAC 43:XXIX.101 to proceed with preassessment. Hilcorp, at the invitation of the Trustees, agreed to participate in the preassessments, pursuant to 15 CFR §990.14(c) and LAC 43:XXIX.115.

Determination to Conduct Restoration Activities

For the reasons discussed below, the natural resource Trustees have made the determinations required by 15 CFR §990.42(a) and are providing notice pursuant to 15 CFR §990.44 and LAC 43:XXIX.123 that they intend to conduct restoration planning in order to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of this incident.

Injuries have resulted from this incident, the extent of which has not been fully determined at this time. The Trustees base this determination upon data, which is collected and analyzed pursuant to 15 CFR §990.43 and LAC 43:XXIX.119, which demonstrate that resources and services have been injured from this incident. Natural resources injured as a result of the discharge and the response actions may include, but are not limited to, sediment infauna, forested wetlands, birds, and wildlife species.

Although response actions were pursued, the nature of the discharge and the sensitivity of the environment precluded prevention of some injuries to natural resources. The Trustees believe that injured natural resources could eventually return to baseline through natural or enhanced recovery, but interim losses have occurred and will continue to occur until a return to baseline is achieved.

Feasible compensatory restoration actions exist to address injuries from this incident. Restoration actions that could be considered include, but are not limited to, replanting native wetland vegetation in appropriate areas, creation, enhancement, or protection of forested wetlands, protection of endangered species, and creation of bird colony areas.

Assessment procedures are available to evaluate the injuries and define the appropriate type and scale of restoration for the injured natural resources and services. Among these procedures are habitat injury assessment studies to be used in conjunction with the Habitat Equivalency Analysis, to determine compensation for injuries to swamp habitat. Models, comparisons to observations of injury resulting from similar releases, and/or other methodologies are available for evaluating injuries to the ecosystem.

Public Involvement

Pursuant to 15 CFR §990.44(c) and LAC 43:XXIX.135, the Trustees seek public involvement in restoration planning for this discharge, through public review of and comments on the documents contained in the administrative record, which is maintained in the Louisiana Oil Spill Coordinator's Office, as well as on the Draft Plan when completed.

For more information, please contact the Louisiana Oil Spill Coordinator's Office, State Office Building, 150 3rd

Street, Suite 405, Baton Rouge, LA, 70801; phone (225) 219-5800 (Attn: Oil Spill/Gina Muhs Saizan).

The Louisiana Oil Spill Coordinator, as the Lead Administrative Trustee, and on behalf of the natural resource Trustees of the State of Louisiana, pursuant to the determinations made above and in accordance with 15 CFR §990.44(d) and LAC 43:XXIX.135, hereby provides Hilcorp this Notice of Intent to Conduct Restoration Planning and invites their participation in conducting the restoration planning for this incident.

Roland J. Guidry
Louisiana Oil Spill Coordinator

0409#041

POTPOURRI

Department of Health and Hospitals Office of Public Health

WIC Program's State Plan for 2004-2005

In accordance with Public Laws 99-500 and 99-591 the Louisiana Special Nutrition Program for Women, Infants and Children (WIC) is soliciting comments from the general public on the WIC Program's State Plan for 2004-2005. The plan describes in detail the goals and the planned activities of the WIC Program for the next year. Interested persons may find copies of the state plan at the Central Nutrition/WIC Office (address below) or they may apply directly to the Nutrition/WIC Office for copies of the plan at 25 cents per page. Interested individuals should submit their requests for copies or their comments on the plan to the following address:

State of Louisiana
Department of Health and Hospitals
Office of Public Health
Nutrition Services-Room 406
Post Office Box 60630
New Orleans, Louisiana 70160
Attention: State Plan

Additional information may be gathered by contacting Debbie Luthy, Director of WIC-Nutrition Section, (504) 568-5065.

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

0409#038

POTPOURRI

Department of Labor Office of Workers' Compensation

Average Weekly Wage Rate

Editor's Note: This Potpourri is being republished to join the following Weekly Compensation Benefit Limits Potpourri that is its logical companion.

Pursuant to Act 583 of the Regular Session of the 1975 Louisiana Legislature, this state's average weekly wage upon which the maximum workers' compensation weekly benefit

amount will be based, effective September 1, 2004, has been determined by the Department of Labor to be \$584.40.

Karen Reiners Winfrey
Assistant Secretary/Director

0409#020

POTPOURRI

**Department of Labor
Office of Workers' Compensation**

Weekly Compensation Benefit Limits

Editor's Note: This Potpourri is being republished to correct errors in both the Maximum and Minimum Compensation rates as published in the August 2004 *Louisiana Register*.

Pursuant to R.S. 23:1202 and based on the statewide average weekly wage as determined by the Department of Labor, the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 2004 through August 31, 2005.

Average Weekly Wage	Maximum Compensation	Minimum Compensation	Mileage Reimbursement
\$584.40	\$438.00	\$117.00	\$0.34 per mile

*Effective July 1, 2004, the mileage reimbursement is \$00.34 per mile pursuant to R.S. 23:1203.D.

Karen Reiners Winfrey
Assistant Secretary/Director

0409#021

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
Assoc Oil & Gas Expl Inc et al	Wildcat-So La New Orleans District	L	Dorothy A Pizani et al		111039 (29)
F. A. Callery, Inc.	Wildcat	L	L E Jones	1	100311
Radford Byerly	Wildcat	L	L E Jones et al	1	110554

Operator	Field	District	Well Name	Well Number	Serial Number
Midstates Oil Corp.	Big Island	M	Thomas Ryder	2	041466
Natural Gas & Oil Co.	Kings Ridge	L	Alma A Thomas	001	066571
Forman Petroleum Corp.	Lafitte	L	D A Pizani	1	150430 (30)
Joe W. Elsbury	Bayou des Glaises	L	E.B. Schwing "B"	2	031248 (30)
Robin F. Scully	Wildcat	L	Lillian E Jones et al	1	125840
Robin F. Scully	Wildcat	L	Lillian E Jones et al	3	129804
TXLA Energy, Inc.	Cowards Gully	L	Boise Southern	002	157569
TXLA Energy, Inc.	Cowards Gully	L	Boise Southern A	004	191649
TXLA Energy, Inc.	Cowards Gully	L	Boise Southern A	003	195626
TXLA Energy, Inc.	Cowards Gully	L	Boise Southern	001	201749

James H. Welsh
Commissioner

0409#034

POTPOURRI

**Department of Transportation and Development
Sabine River Compact Administration**

Fall Meeting Notice

The fall meeting of the Sabine River Compact Administration will be held at the Fredericksburg Inn & Suites, Fredericksburg, Texas, Friday, October 1, 2004 at 8:30 a.m.

The purpose of the meeting will be to conduct business as programmed in Article IV of the bylaws 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

0409#004

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