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Executive Orders

EXECUTIVE ORDER MJF 00-8

Louisiana Women's Policy and Research Commission

WHEREAS, Executive Order No. MJF 2000-6, signed on February 16, 2000, established the Louisiana Women's Policy and Research Commission (hereafter "Commission"); and

WHEREAS, it is necessary to amend Executive Order No. MJF 200-6 to increase the membership of the Commission;

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

SECTION 1: Section 4 of Executive Order No. MJF 2000-6 is amended to provide as follows:

The Commission shall consist of a maximum of twenty-three (23) members who shall be appointed by the governor and serve at his pleasure. The Commission shall consist of the following members:

- A. The governor, or the governor's designee;
- B. The commissioner of administration, or the commissioner's designee;
- C. The secretary of the Department of Social Services, or the secretary's designee;
- D. The secretary of the Department of Health and Hospitals, or the secretary's designee;
- E. The superintendent of the Department of Education, or the superintendent's designee;
- F. The secretary of the Department of Labor, or the secretary's designee;
- G. The executive director of the Office of Women's Services, Office of the Governor, or the executive director's designee;
- H. The executive director of the Children's Cabinet, Office of the Governor, or the executive director's designee;
- I. Four (4) members of the Women's Legislative Caucus; and
- J. Eleven (11) Louisiana women who have significant academic and/or professional expertise in one (1) or more of the following areas:
 1. Business or industry,
 2. Economics,
 3. Education,
 4. Demographics,
 5. Public health,
 6. Law, or
 7. Social science and/or social work.

SECTION 2: All other sections and subsections of Executive Order No. MJF 2000-6 shall remain in full force and effect.

SECTION 3: This Order is effective upon signature and shall continue in effect until amended, modified,

terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 1st day of March, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0005#014

EXECUTIVE ORDER MJF 00-15

Bond Allocation Procedures

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 was issued on August 27, 1996 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 2000 (hereafter "the 2000 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2000 Ceiling; and

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

WHEREAS, it is necessary to amend Executive Order No. MJF 96-25 to reflect policy changes regarding the manner in which the bond allocation program should be administered and/or implemented;

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

SECTION 1: Subsection 4.4 of Executive Order No. MJF 96-25, issued on August 27, 1996, is amended to provide as follows:

Until November 1 of each year, the maximum allocation that may be granted for any project or purpose in any calendar year, except for Qualified Mortgage Bonds issued by the Louisiana Housing Finance Authority or Student Loan Bonds, shall not exceed the greater of thirty million dollars (\$30,000,000) or fifteen percent (15%) of the ceiling for that calendar 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 November 1 of that calendar year.

SECTION 2: All other sections and subsections of Executive Order No. MJF 96-25 shall remain in full force and effect.

SECTION 3: The provisions of this Order shall be retroactive to January 1, 2000, 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 19th day of April, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0005#015

EXECUTIVE ORDER MJF 00-16

Bond Allocation to The Finance Authority of New Orleans

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 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 2000 (hereafter **the 2000 Ceiling**);

(2) the procedure for obtaining an allocation of bonds under the 2000 Ceiling; and

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

WHEREAS, The Finance Authority Of New Orleans has requested an allocation from the 2000 Ceiling to be used in connection with a program to provide financing for qualified home-buyers of single family residences in the city of New Orleans, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2000 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name Of Project
\$25,000,000	The Finance Authority of New Orleans	Single Family Mortgage Revenue Bond Program

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

Ceiling submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2000, provided that such bonds are delivered to the initial purchasers thereof on or before July 18, 2000.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 19th day of April, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0005#013

EXECUTIVE ORDER MJF 00-17

Bond Allocation to Calcasieu Parish Public Trust Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 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 2000 (hereafter **the 2000 Ceiling**);

(2) the procedure for obtaining an allocation of bonds under the 2000 Ceiling; and

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

WHEREAS, the Calcasieu Parish Public Trust Authority requested an allocation of \$15,000,000 from the 2000 Ceiling to be used in connection with a program of financing mortgage loans for first time home-buyers of single family, owner-occupied residences throughout the parish of Calcasieu, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended, and received a \$7,000,000 allocation through Executive Order NO. MJF 2000-11, issued on March 28, 2000;

NOW THEREFORE I, M.J. **AMIKE** FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2000 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$5,500,000	Calcasieu Parish Public Trust Authority	Single Family Mortgage Revenue Bond Program

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2000, provided that such bonds are delivered to the initial purchasers thereof on or before July 24, 2000.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 25th day of April, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0005#012

EXECUTIVE ORDER MJF 00-18

Hiring and Spending Freeze

WHEREAS, pursuant to the provisions of Article IV, Section 5 of the Louisiana Constitution of 1974, as amended, Act 10 of the 1999 Regular Session of the Louisiana Legislature, and/or R.S. 42:375, the governor may issue executive orders which prohibit the filling of any new or existing employment vacancies in the executive branch of

state government (hereafter "hiring freeze") and/or limit expenditures on travel, professional services, supplies, acquisitions, and/or major repairs of the various agencies in the executive branch of state government (hereafter "spending freeze"); and

WHEREAS, to ensure that the state of Louisiana will not suffer a budget deficit due to 1999-2000 appropriations exceeding actual revenues, prudent money management practices dictate that the best interests of the citizens of the state of Louisiana will be served by the implementation of a hiring and spending freeze throughout the executive branch of state government to achieve as great a state general fund dollar savings as possible during the remainder of the 1999-2000 fiscal year;

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

SECTION 1:

A. Unless specifically exempted by a provision of this Order, no vacancy in an existing or new position of employment within the executive branch of state government, which exists on or occurs after May 4, 2000, shall be filled without the express written approval of the commissioner of administration.

B. Unless specifically exempted by a provision of this Order, no expenditure of funds shall be made within the executive branch of state government for travel, professional services, supplies, acquisitions, and/or major repairs, without the express written approval of the commissioner of administration. As used in this Order, "professional services" means all services subject to the approval of the Division of Administration, Office of Contractual Review, but not approved as of the effective date of this Order, including professional, personal, consulting and social services contracts, grants and/or interagency agreements as defined in Chapter 16 of Title 39, and cooperative endeavor agreements as defined in Executive Order No. MJF 96-24, issued on August 9, 1996.

SECTION 2:

A. The budget activities funded by Act 10 of the 1999 Regular Session of the Louisiana Legislature (hereafter "the Act") which are exempt from the prohibitions set forth in Section 1 of this Order are as follows:

1. All budget activities a) directly related to the official personal needs of a statewide elected official, or b) which are necessary for the statewide elected official to personally perform his or her constitutional functions;

2. All budget activities funded by the Act which are not financed by

a) funds from the State General Fund (Direct), as that term is used in the Act, or

b) other funds the balances of which revert to the State General Fund (Direct), as that term is used in the Act (hereafter "State General Fund Equivalent");

3. All budget activities funded by the Act which are set forth in the Act under Schedule 19 Higher Education for carrying out the functions of higher education; and

4. All budget activities funded by the Act which are expressly and directly mandated

- a) by existing and/or future court orders, or
- b) by settlement agreements of the Department of Public Safety and Corrections, the Department of Education, and the Department of Health and Hospitals entered to avoid litigation.

B. The budget activities funded by the Act which are exempt from the prohibitions set forth in subsection 1(A) of this Order are as follows:

1. Employee transfers, promotions, or re-allocations within a department, office, agency, board or commission of the executive branch of state government which will not, in any manner, increase the aggregate number of filled positions in that department, office, agency, board or commission as of the effective date of this Order;

2. Correctional security officers, probation and parole agents, direct medical care positions, and other positions in corrections services necessary for the maintenance of national accreditation, within the Department of Public Safety and Corrections;

3. All commissioned troopers of the State Police;

4. Revenue Tax Auditors, Revenue Analysts, Revenue Tax Directors, Tax Collection Analysts, Tax Officers, Tax Representatives, and all positions in the Operations Division within the Department of Revenue; and

5. All instructional and residential personnel, and all administrative personnel positions deemed to be absolutely critical for the operation, of the Louisiana School for the Visually Impaired, the Louisiana School for the Deaf, the Louisiana Special Education Center, the Louisiana School for Math, Science and the Arts, and the Special School Districts.

C. The budget activities funded by the Act which are exempt from the portion of the provisions of subsection 1(B) of this Order that prohibits the expenditure of funds for travel are as follows:

1. All travel associated with promoting or marketing the state of Louisiana and/or its products by a) the Office of State Parks and/or the Office of Tourism within the Department of Culture, Recreation, and Tourism, or b) the Department of Economic Development; and

2. All field travel that is necessary and essential to fulfill the mission of a department, office, agency, board or commission.

D. The budget activities funded by the Act which are exempt from the portion of the provisions of subsection 1(B) of this Order that prohibits the expenditure of funds for supplies are as follows:

1. Medical and food supplies for the Louisiana War Veterans Home and the Northeast Louisiana War Veterans Home;

2. Supplies for the Office of State Parks within the Department of Culture, Recreation and Tourism for maintenance and household needs to maintain state parks and commemorative areas;

3. Supplies for incarceration, rehabilitation, and health services, and/or the Blue Walters and Diagnostic Programs, of the state adult correctional institutions;

4. Supplies for state juvenile correctional institutions;

5. All medical, pharmaceutical and related supplies for the divisions of the Department of Health and Hospitals, the Department of Social Services, and the LSU Medical Center Health Care Services Division which provide direct patient care services;

6. Instructional, medical, and food supplies for the Louisiana School for the Visually Impaired, the Louisiana Special Education Center, the Louisiana School for the Deaf, Louisiana School for Math, Science, and the Arts, and the Special School Districts;

7. Automotive supplies for commissioned troopers of the State Police; and

8. All supplies of the Division of Administration that are necessary and essential to the training related activities of the Comprehensive Public Training Program or the maintenance and upkeep of public buildings and grounds.

E. The budget activities funded by the Act which are exempt from the portion of the provisions of subsection 1(B) of this Order that prohibits the expenditure of funds for acquisitions and major repairs are the buildings, grounds and general plant maintenance equipment needs of the Division of Administration for the maintenance and upkeep of public buildings and grounds.

SECTION 3: Each department, agency, office, board or commission shall file monthly reports with the commissioner of administration on June 1, 2000, and July 1, 2000, reflecting projected savings that the department, agency, office, board or commission will generate through the implementation of this Order. Such reports shall reflect a full accounting of personnel changes within the department, agency, office, board or commission for the reporting period covered, including an accounting of employment figures at the beginning and end of the reporting period and the number of vacancies filled and/or not filled during the reporting period, pursuant to the provisions of this Order. The reports shall include a categorized summary of transactions which resulted pursuant to the exceptions set forth in Section 2 and/or permitted pursuant to subsection 4(A) of this Order.

SECTION 4:

A. The commissioner of administration is authorized to grant any agency, department, office, board or commission in the executive branch of state government an exemption, on a case by case basis or by category, from all or a part of the prohibitions set forth in Section 1 of this Order, as he deems necessary and appropriate. Such an exemption shall be express and in writing.

B. Requests for an exemption from all or a part of the prohibitions set forth in Section 1 of this Order, on a case by case basis or by category, shall be submitted only by a

statewide elected official, by the secretary or head of a department, or by the head of an agency, office, board or commission which is not within a department. Each request for an exemption shall be in writing and shall contain a description of the type of exemption sought and full justification for the request.

C. The commissioner of administration may develop guidelines pertaining to requests for exemption from all or a part of the prohibitions set forth in Section 1 of this Order.

D. If necessary, the commissioner of administration may develop definitions for the terms and/or the descriptions used in this Order.

SECTION 5: This Order is effective upon signature and shall remain in effect through June 30, 2000, or until

amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 4th day of May, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0005#019

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Total Dissolved Carbon Dioxide Testing

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective April 27, 2000, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to adopt this rule to ban bicarbonate loading or the administration of milkshakes or other substances that affect total dissolved carbon dioxide levels when administered by use of nasogastric tube or any other means whatsoever, which shall be deemed to have an adverse affect on the horse by changing its normal physiological state through elevation of blood total dissolved carbon dioxide, and to include provisions for total dissolved carbon dioxide testing in horses.

Title 35 HORSE RACING

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1720. Total Dissolved Carbon Dioxide Testing

A. Definitions

1. *Bicarbonate Loading or Milkshaking* ζ terms used to describe the administration of bicarbonate of soda (sodium bicarbonate or NaHCO_3) or other substances that affect total dissolved carbon dioxide levels, administered through a nasogastric tube or by any other means, which shall be deemed to have an adverse affect on the horse by changing its normal physiological state through elevation of blood total dissolved carbon dioxide.

2. *Nasogastric Tube* ζ any tube which can be inserted through the nose that extends into the stomach.

B. Procedures

1. The state veterinarian may draw blood samples from a horse for the purpose of obtaining a TCO_2 (total dissolved carbon dioxide) concentration level.

2. Blood samples for TCO_2 shall be drawn not earlier than 90 minutes following the official post-time of the race.

3. The post-race TCO_2 level in the blood shall not exceed:

a. 39.0 millimole per liter if the horse is competing on furosemide (lasix) or other permitted medication known to affect TCO_2 ;

b. 37.0 millimole per liter if the horse is not competing on furosemide (lasix) or other permitted medication known to affect TCO_2 .

4. In the event a post-race sample drawn from a horse contains an amount of TCO_2 which exceeds the levels described above, the following penalties shall apply.

a. The first time the laboratory reports an excessive TCO_2 level, the trainer shall be fined \$1,000 and the purse shall be redistributed.

b. The second time the laboratory reports an excessive TCO_2 level, the stewards shall suspend the trainer for the duration of the race meeting plus ten days or for a period not to exceed six months, whichever is greater, and shall refer the case to the commission.

c. For each subsequent report of an excessive TCO_2 level, the penalties provided for in (B)(4)(b) shall apply.

5. The provisions of §1733 and §1769 through §1775, pertaining to split samples, shall not apply to blood samples drawn for the purposes of TCO_2 testing.

6. No permittee other than veterinarians shall possess a nasogastric tube, as described herein, on the premises under the jurisdiction of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission LR 26:0000 (May 2000).

Charles A. Gardiner III
Executive Director

0005#076

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)
(LAC 28:IV. 301, 501, 503, 509, 701, 703, 705,
801, 803, 805, 1701, 1703, 1901, 1903, 2107)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

The emergency rules are necessary to implement changes to the TOPS rules that were passed in Acts 69, 73, 105, 110 and 133 of the First Extraordinary Session, 2000 of the Louisiana Legislature in order to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that 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 April 19, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28
EDUCATION

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

Chapter 3. Definitions

§301. Definitions

A. 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.

* * *

Academic Year (High School) the annual academic year for high school begins with the fall term, includes the winter and spring terms and ends at the conclusion of the summer term, in that order. This definition is not to be confused with the Louisiana Department of Education's definition of school year, which is found in Louisiana Department of Education Bulletin 741.

* * *

Average Award Amount for those students attending a regionally accredited independent college or university in this state which is a member of the Louisiana Association of Independent Colleges and Universities and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the average maximum tuition, as determined by the agency, charged to full time students attending public postsecondary institutions for technical training that offer a vocational or technical education certificate or diploma program or a non-academic undergraduate degree.

* * *

Eligible Colleges or Universities Louisiana public colleges or universities and regionally accredited independent colleges or universities in the state that are members of the Louisiana Association of Independent Colleges and Universities.

* * *

First-Time Freshman a student who enrolls for the first-time as a full-time freshman in a postsecondary school subsequent to high school graduation, and continues to be enrolled full-time on the fourteenth class day (ninth class day for Louisiana Tech). A student who begins postsecondary or university attendance in a summer session will be considered a first-time enrollee for the immediately succeeding fall term. The fact that a student enrolls in a postsecondary school prior to graduation from high school and/or enrolls less than full time in a postsecondary school prior to the required date for full-time enrollment shall not preclude the student from being a First Time Freshman.

* * *

High School Graduate for the purposes of these rules, is defined as a student certified by award of a high school diploma to have satisfactorily completed the required units at a high school meeting the eligibility requirements of these rules or a student who has completed at least the final two years of a BESE-approved home study program and has reported such to BESE. A student who graduates at any time during an Academic Year (High School) shall be deemed to have graduated on May 31st of that year. For the purposes of determining when a student must begin postsecondary enrollment, all students that report completion of an approved home study course to BESE during an Academic

Year (High School) are deemed to have graduated on May 31st of that year.

* * *

Weighted Average Award Amount for those students attending a regionally accredited independent college or university in this state which is a member of the Louisiana Association of Independent Colleges and Universities and enrolled in an academic program, the total dollar value of awards made under TOPS in the prior academic year, excluding award stipends, to students attending public colleges and universities that offer academic degrees at the baccalaureate level, divided by the total number of students that received the awards.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:

Chapter 5. Application; Application Deadlines and Proof of Compliance

§501. Application

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

1. All applicants (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.

2. 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 except those sections related to the income and assets of the applicant and the applicant's parents.

3. In the event of a budgetary shortfall, applicants who do not complete all sections of the FAFSA will be the first denied a TOPS award.

B. Renewal Application

1. In order to remain eligible for TOPS awards, a student must file a renewal FAFSA by the deadline set in §503 (unless the student can demonstrate that he does not qualify for federal grant aid because of his family's financial condition).

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 FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

C. The deadline for priority consideration for state aid is published in the FAFSA's instructions and may be revised annually by the LASFAC.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17:959 (October 1991), amended LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1900 (October 1998), LR 26:

§503. Application Deadlines

A.-A.4. ...

B. Final Deadline For Full Award. 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.

C. ...

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 60 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 60 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. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:635 (April 1998), amended LR 24:1900 (October 1998), LR 25:655 (April 1999), LR 25: (December 1999), LR 26:

§509. American College Test (ACT) Testing Deadline

A. The student must take the official American College 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.

B. 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.

C. Final ACT Testing Deadline for Reduced Awards

1. Beginning with awards made for the 2000-2001 academic year and thereafter, an applicant's first qualifying score on the American College Test or on the Scholastic Aptitude Test for either the TOPS Opportunity Award or for the TOPS-TECH Award, or if the student has not previously qualified for either the TOPS Opportunity Award or for the TOPS-TECH Award, an applicant's first qualifying score on the American College Test or on the Scholastic Aptitude

Test for the TOPS Performance Award or the TOPS Honors Award that is obtained on an authorized testing date after the date of the applicant's high school graduation but prior to July 1 of the year of such graduation will be accepted; however, when granting an award to an applicant whose qualifying test score is considered by the agency pursuant to the provisions of this Subparagraph, the applicant's period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters. An applicant will not be allowed to use a test score obtained after high school graduation to upgrade a TOPS Opportunity Award to a TOPS Performance or Honors Award.

2. Students who fail to achieve an ACT or SAT qualifying score by July 1st after high school graduation shall not be considered for an award.

D. Students who graduated during the 1998-1999 school year who are otherwise qualified for a TOPS award and who obtained a qualifying score on the American College Test or the Scholastic Aptitude Test on an authorized testing date after the date of the student's graduation but prior to July 1, 1999 shall be considered to have met the requirements of section 509 A and B.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 26:

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

§701. General Provisions

A.-D.3. ...

E. Award Amounts. The specific award amounts for each component of TOPS are as follows:

1. The TOPS Opportunity Award provides an amount equal to undergraduate tuition for full-time attendance at an Eligible College or University for a period not to exceed eight semesters, twelve quarters, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1.H, or §503.D or §509.C.

2. The TOPS Performance Award provides a \$400 annual stipend, in addition to an amount equal to tuition for full-time attendance at an Eligible College or University, for a period not to exceed eight semesters, twelve quarters, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1.H, or §503.D or §509.C.

3. The TOPS Honors Award provides an \$800 annual stipend, in addition to an amount equal to tuition for full-time attendance at an Eligible College or University, for a period not to exceed eight semesters, twelve quarters, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1.H, or §503.D or §509.C.

4. ...

5. Students attending a regionally accredited independent college or university which is a member of the

Louisiana Association of Independent Colleges and Universities (LAICU):

a. In an academic program receive an amount equal to the Weighted Average Award Amount, as defined in §301, plus any applicable stipend.

b. In a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree receive an amount equal to the Average Award Amount, as defined in §301, plus any applicable stipend.

6. - 8. ...

9. Prior recipients of the Louisiana Honors Scholarship who attend a campus of the Louisiana Technical College may continue to attend that institution as a recipient of the TOPS Performance Award.

10. ...

11. Students enrolled and attending more than one college or university at the same time shall be awarded as follows:

a. students attending two or more Louisiana public two or four-year colleges or universities shall receive a total amount not to exceed the amount that would be charged to the student by the school with the highest tuition among those at which the student is simultaneously enrolled;

b. students attending two or more regionally accredited independent colleges or universities which are members of the Louisiana Association of Independent Colleges and Universities (LAICU) shall receive a total amount not to exceed the Weighted Average Award Amount, as defined in §301;

c. students attending a combination of Louisiana public two or four-year colleges or universities and regionally accredited independent colleges or universities which are members of the Louisiana Association of Independent Colleges and Universities (LAICU) in an academic program shall receive a total amount not to exceed the amount that would be paid at the public school with the highest tuition among those at which the student is simultaneously enrolled or the Weighted Average Award Amount, whichever amount is greater.

F. Beginning with the 2000-2001 academic year and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of \$200 per semester or \$400 per academic year which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. prior to June 18, 1999, the student was determined by the administering agency to be eligible for a Performance Award, but who chose either by submission of a completed Award Confirmation Form or by not sending in a completed Award Confirmation Form to receive an Opportunity Award and was awarded an Opportunity Award; and

2. the student, once enrolled at an eligible institution, has continuously met all requirements to maintain continued state payment for a Performance Award.

G. Beginning with the 2000-2001 academic year and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of \$400 per semester or

\$800 per academic year which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. prior to June 18, 1999, the student was determined by the administering agency to be eligible for a Honors Award, but who chose either by submission of a completed Award Confirmation Form or by not sending in a completed Award Confirmation Form to receive an Opportunity Award and was awarded an Opportunity Award; and

2. the student, once enrolled at an eligible institution, has continuously met all requirements to maintain continued state payment for a Honors Award.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:256 (February 1999) LR 26 (January 2000), LR 26: (June 2000), LR 26: (September 2000), LR 26:

§703. Establishing Eligibility

A.-A.2. ...

3. submit the completed Free Application for Federal Student Aid (FAFSA) in accordance with §501:

a. by the applicable state aid deadline defined in §503; and

b. the dependents of Louisiana residents on active duty with the Armed Forces stationed outside of the state of Louisiana must enter a Louisiana postsecondary institution in that section of the FAFSA which asks the applicant to name the colleges he plans to attend; and

4. initially apply and enroll as a First-Time Freshman as defined in §301, unless granted an exception for cause by LASFAC, in an eligible postsecondary institution defined in §1901; and

a. - f. ...

g. all students must apply for an award by July 1st of the Academic Year (High School) in which they graduate to establish their initial qualification for an award, except as provided by section 503.D. For a student entitled to defer acceptance of an award under section 703.A.4.b. or d., that student must apply by July 1st of the Academic Year (High School) in which the student graduates, except as provided by section 503.D, and must also apply by July 1st prior to the Academic Year (College) in which the student intends to first accept the award, and every year of eligibility thereafter, except as provided in Section 501.B;

5. - C. ...

D. Students who have qualified academically for more than one of the TOPS awards, excluding the TOPS Teacher Award, shall receive the award requiring the most rigorous eligibility criteria.

E. - F. ...

G. Early Admission to College

1. A student who enters an Eligible College or University under an early admissions program prior to high school graduation will be eligible for an appropriate award under the following conditions:

a. - d. ...

2. A student who graduates from high school in less than four years or who enters an Eligible College or University early admissions program prior to graduation

from high school shall be considered a First-Time Freshman, as defined in §703, not earlier than the first semester following the academic year in which the student would have normally graduated had he or she not graduated early or entered an early admissions program. A student who graduates high school in less than four years or enters an early admissions program will remain eligible for a TOPS award until the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student normally would have graduated.

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

HISTORICAL NOTE: Adopted by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17: 959 (October 1991), amended LR 22:338 (May 1996), LR 23:1648. Promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26: (January 2000), LR 26: (April 2000), LR 26: (June 2000), LR 26: (July 2000), LR 26: (August 2000), LR 26: (September 2000), LR 26:

§705. Maintaining Eligibility

A. ...

1. have received less than four years or eight semesters of TOPS Award funds, unless reduced as required by section 503.D; and

2. submit the Renewal FAFSA in accordance with §501.B; and

3. - 5. ...

6. continue to enroll and accept the TOPS award as a full-time undergraduate student in an eligible postsecondary institution, as defined in §1901, and maintain an enrolled status throughout the academic term, unless granted an exception for cause by LASFAC; and

7. by the end of each academic year, earn a total of at least 24 college credit hours during the fall and spring semesters or fall, winter and spring quarters in an academic program at an Eligible College or University, or either earn a total of at least 24 college credit hours or complete an average of 30 clock hours per week during the fall and spring semesters or fall, winter and spring quarters in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree at an Eligible College or University as determined by totaling the earned hours reported by the institution for each semester or quarter in the academic year. These hours shall include remedial course work required by the institution, but shall not include hours earned during summer sessions or intersessions or by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; and

8. ...

9. maintain at an Eligible College or University, by the end of each academic year (the conclusion of the spring term), a cumulative college grade point average (GPA) on a 4.00 maximum scale of at least:

a. a 2.30 with the completion of less than 48 credit hours, a 2.50 after the completion of 48 credit hours, for continuing receipt of an Opportunity Award; or

b. a 3.00 for continuing receipt of either a Performance or Honors Award.

B.-D. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999); LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:

Chapter 8. TOPS-TECH Award

§801. General Provisions

A. ...

B. Description, History and Purpose. The TOPS-TECH award is a merit based scholarship program for Louisiana residents pursuing skill, occupational training, or technical training at a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree. The purpose of TOPS-TECH is to provide an incentive for qualified Louisiana residents to prepare for and pursue technical positions in Louisiana.

C. - D. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1904 (October 1998), LR 26:

§803. Establishing Eligibility

A.-A.2. ...

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

4. - 11. ...

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 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65, 67 (January 2000), LR 26

§805. Maintaining Eligibility

A. ...

1. have received the TECH Award for less than two years, unless reduced as required by section 503.D; and

2. submit the Renewal FAFSA in accordance with §501.B; and

3.- B. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1701. Eligibility of Graduates Based Upon the High School Attended

A. Graduates of the following high schools are eligible to participate in LASFAC's Scholarship and Grant programs, as authorized herein:

1. Louisiana Public High Schools public high schools listed in the Louisiana School Directory (Louisiana Department of Education Bulletin 1462);

2. Approved Nonpublic High Schools

a. nonpublic high schools approved by the Louisiana Board of Elementary and Secondary Education (BESE) pursuant to R.S. 17:11 and which meet the standards required by BESE for students of the school to be eligible to receive from the state the benefit of appropriations for such items as transportation, textbooks, and administrative cost reimbursement; and

b. nonpublic schools approved by BESE pursuant to R.S. 17:11 prior to May 15, 2000, which have applied for and have had their application forwarded by the Louisiana Department of Education prior to May 15, 2000, seeking the approval necessary for the students in such school to be eligible to receive from the state the benefit of appropriations for such items as transportation, textbooks, and administrative cost reimbursement; and starting the 2003-2004 high school academic year, meet the requirements to be eligible to receive from the state the benefit of such appropriations;

c. the approvals by BESE may be provisional or probational approvals.

3.-B. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25:849 (May 1999), LR 26:68 (January 2000), LR 26:

§1703. High School Certification of Student Achievement

A.-B.1. ...

2. The certification form shall contain, but is not limited to, the following reportable data elements:

a.-b....

c. final cumulative high school grade point average for all courses attempted and recorded on the transcript, converted to a maximum 4.00 scale, if applicable (Note: Beginning with students graduating in 2002-2003, the cumulative high school grade point average will be calculated by using only grades obtained in completing the core curriculum.); and

d. through Academic Year (High School) 2000, number of core units earned and the number of core units unavailable to the student at the school attended. After the Academic Year (High School) 2000, core unit requirements may not be waived.

3. - C.2. ...

D. Certification. The high school headmaster or principal or designee shall certify that:

1.-3. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:642 (April 1998), amended LR 24:1921 (October 1998), LR 25:258 (February 1999), LR 26:

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A. ...

B. Regionally accredited private colleges and universities which are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU) are authorized to participate in TOPS (for both academic programs and programs for a vocational or technical education certificate or diploma or a non-academic undergraduate degree) and LEAP. As of April 2000, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, Our Lady of the Lake College of Nursing and Allied Health, Our Lady of Holy Cross College, St. Joseph Seminary College, Tulane Medical Center, Tulane University, and Xavier University.

C. Campuses of Louisiana Technical College are authorized to participate in TOPS, TOPS-TECH, and LEAP.

D. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:

§1903. Responsibilities of Postsecondary Institutions

A.-A.7. ...

B. Program Billing. Each term, institutions shall bill LASFAC for students who are recipients of a TOPS Award and who have enrolled at the institution in accordance with the following terms and conditions:

1.-7.d. ...

8. Before applying a TOPS award to pay a student's tuition, institutions shall first apply the student's out-of-pocket payments, including student loans, toward tuition charges. In those cases when a student's tuition as defined in 26 U.S.C. 25A is paid from a source other than the TOPS award, the institution shall apply the TOPS award toward payment of expenses other than tuition which are described in the term "cost of attendance" as that term is defined in 20 U.S.C. 1087(II), as amended, for the purpose of qualifying the student or his parent or guardian for the federal income tax credits provided for under 26 U.S.C. 25A.

C.-F. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:

Chapter 21. Miscellaneous Provisions and Exceptions

§2107. Funding and Fees

A.- C.3. ...

D. Insufficient Funds Appropriated

1. ...

2. In the event appropriated funds are insufficient to fully reimburse institutions for awards and stipends for all students determined eligible for the TOPS Opportunity, Performance, Honors and TECH Awards for a given academic year, then the number of eligible students shall be reduced in accordance with the following procedures until such funds are sufficient.

a. Applicants who do not submit financial data on the initial FAFSA or a renewal FAFSA or who do not submit a renewal FAFSA to allow determination of eligibility for federal aid will be the first students eliminated from consideration if insufficient funds are appropriated for the program.

b.-F. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:

Mark S. Riley
Assistant Executive Director

0005#032

DECLARATION OF EMERGENCY

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

Tuition Opportunity Program for Students
(TOPS) Eligibility (LAC 28:IV. 703)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

The emergency rules are necessary to implement changes to the TOPS rules to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that 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 April 4, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

**Title 28
EDUCATION**

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

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

§703. Establishing Eligibility

A. - A.5.a.ii ...

iii. for purposes of satisfying the requirements of §703.A.5.a.i., above, in addition to the courses identified in §703.A.5.a.ii. the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for students of the Louisiana School for Math, Science and the Arts:

Core Curriculum Course	Equivalent (Substitute) Course
English III	EN 210 Composition/Major Themes in Literature (1 unit)

	any two of the following 1/2 unit courses
English IV	EN 311 Readings in Literature (at least one 311 course is a requirement) EN 311A American Literature EN 311B British Literature EN 302 Studies in the English Language EN 304 Topics in American and British Literature EN 312 Studies in Poetry EN 314 Readings in World Literature EN 322 Studies in Fiction EN 332 Introduction to Film Studies EN 342 Studies in Modern Drama EN 401 Creative Writing EN 402 Expository Writing EN 412 Studies in a Major Author - Shakespeare EN 422 Studies in a Major Author - Faulkner IS 314 Dramatic Text and Performance IS 315 Literature and Science IS 317 Evolution and Literature IS 318 Sacred Literature IS 411 English Renaissance
Algebra II (one unit)	MA 120 College Algebra (1 unit), or MA 121 Accelerated College Algebra (? unit) and 1/2 unit of MA 203 Trigonometry
Physics	PH 110L Conceptual Physics (1 unit), or PH 210L General Physics (1 unit), or PH 250L Advanced Placement Physics (1 unit), or PH 310L Physics with Calculus
Biology II	BI 210L Advanced Placement Biology (1 unit), or BI 231L Microbiology (1/2 unit), and BI 241 Molecular and Cellular Biology (1/2 unit)
Civics (1/2 unit) and Free Enterprise (1/2 unit)	AH 243 American Government and Politics (1/2 unit), and SS 113 Economics (1/2 unit)
Western Civilization	EH 121 Ancient and Medieval History (? unit) and EH 122 Modern History (? unit)

or
A.5.b. - G.2. ...

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

HISTORICAL NOTE: Promulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:004 (January 2000), LR 26:689 (April 2000), LR 26:

Mark S. Riley
Assistant Executive Director

0005#005

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS) Qualified Summer Session
(LAC 28:IV.301, 509, 701, 703, 705, 805, 1903, 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to amend rules of the Tuition Opportunity Program for Students (TOPS), R.S. 17:3042.1 and R.S. 17:3048.1.

The emergency rules are necessary to implement changes to the TOPS rules to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that 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 May 4, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28 EDUCATION

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

Chapter 3. Definitions

§301. Definitions

Academic Year (College) the two- and four-year college and university academic year begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring term of the award year. The two- and four-year college and university academic year does not include summer sessions nor intersessions.

ACT Score the highest composite score achieved by the student on the official American College Test (including National, International, Military or Special test types) or an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT). ACT or SAT test scores which are unofficial, including so-called "residual" test scores, are not acceptable for purposes of determining program eligibility.

Program Year (Non-academic Program) the schedule of terms during a year leading to a vocational or technical education certificate or diploma or a non-academic undergraduate degree for such programs offered by Eligible Colleges and Universities, beginning with the fall term, including the winter and spring terms, and concluding with the summer term or the equivalent schedule at an institution which operates on units other than terms.

Qualified Summer Session those summer sessions for which the student's institution certifies that:

1. the summer session is required in the student's degree program for graduation and the student enrolled for at least the minimum number of hours required for the degree program for the session, or

2. the student can complete his program's graduation requirements in the summer session, or

3. the course(s) taken during the summer session is required for graduation in the program in which the student is enrolled and is only offered during the summer session.

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 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1645, 1648 (December 1997), 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, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:

Chapter 5. Application; Application Deadlines and Proof of Compliance

§509. American College Test (ACT) Testing Deadline

A. The student must take the official American College 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.

B. 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.

C. Final ACT Testing Deadline for Reduced Awards

1. Beginning with awards made for the 2000-2001 academic year and thereafter, an applicant's first qualifying score on the American College Test or on the Scholastic Aptitude Test for either the TOPS Opportunity Award or for the TOPS-TECH Award, or if the student has not previously qualified for either the TOPS Opportunity Award or for the TOPS-TECH Award, an applicant's first qualifying score on the American College Test or on the Scholastic Aptitude Test for the TOPS Performance Award or the TOPS Honors Award that is obtained on an authorized testing date after the date of the applicant's high school graduation but prior to July 1 of the year of such graduation will be accepted; however, when granting an award to an applicant whose qualifying test score is considered by the agency pursuant to the provisions of this Subparagraph, the applicant's period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters. An applicant will not be allowed to use a test score obtained after high school graduation to upgrade a TOPS Opportunity Award to a TOPS Performance or Honors Award.

2. Students who fail to achieve an ACT or SAT qualifying score by July 1st after high school graduation shall not be considered for an award.

D. For 1997 and 1998 high school graduates who have not previously taken an ACT test, the ACT Score shall include those scores obtained from a national ACT test taken not later than the October 1998 national test date.

E. Students who graduated during the 1998-1999 school year who are otherwise qualified for a TOPS award and who obtained a qualifying score on the American College Test or the Scholastic Aptitude Test on an authorized testing date after the date of the student's graduation but prior to July 1, 1999 shall be considered to have met the requirements of §509.A and §509.B.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 26:

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

§701. General Provisions

A. - D.3....

E. Award Amounts. The specific award amounts for each component of TOPS are as follows:

1. The TOPS Opportunity Award provides an amount equal to undergraduate tuition for full-time attendance at an eligible college or university for a period not to exceed eight semesters, including qualified summer sessions, twelve quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1.H, or §503.D or §509.C. Attending a qualified summer session for which tuition is paid will count toward the eight semester limit for TOPS.

2. The TOPS Performance Award provides a \$400 annual stipend, prorated by two semesters, three quarters, or equivalent units in each Academic Year (College) or by four terms or equivalent units in each program year (non-academic program), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, twelve quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1.H, or §503.D or §509.C. The stipend will be paid for each qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight semester limit for TOPS.

3. The TOPS Honors Award provides an \$800 annual stipend, prorated by two semesters, three quarters, or equivalent units in each Academic Year (College) or by four terms or equivalent units in each Program Year (Non-academic Program), in addition to an amount equal to tuition for full-time attendance at an Eligible College or University, for a period not to exceed eight semesters, including qualified summer sessions, twelve quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1.H, or §503.D or §509.C. The stipend will be paid for each qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight semester limit for TOPS.

4. ...

5. Students attending a regionally accredited independent college or university which is a member of the Louisiana Association of Independent Colleges and Universities (LAICU):

a. In an academic program receive an amount equal to the weighted average award amount, as defined in §301, plus any applicable stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (college). The stipend will be paid for each qualified summer session, semester, quarter, or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight semester limit for TOPS.

b. In a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree receive an amount equal to the average award amount, as defined in §301, plus any applicable stipend, prorated by four terms or equivalent units in each program year (non-academic program). The stipend will be paid for each term or equivalent unit for which tuition is paid.

6. - 9. ...

F. Beginning with the 2000-2001 academic year (college) or program year (non-academic program) and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of \$200 per qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. - 2. ...

G. Beginning with the 2000-2001 academic year (college) or program year (non-academic program) and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of \$400 per qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. - 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: Adopted by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1645, 1648 (December 1997), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:256 (February 1999) LR 26:67 (January 2000), LR 26:

§703. Establishing Eligibility

A. - A.3. ...

4. initially apply and enroll as a First-Time Freshman as defined in §301, unless granted an exception for cause by LASFAC, in an eligible postsecondary institution defined in §1901, and:

a. - f. ...

g. all students must apply for an award by July 1 of the academic year (high school) in which they graduate to establish their initial qualification for an award, except as

provided by §503.D. For a student entitled to defer acceptance of an award under §703.A.4.b. or d. that student must apply by July 1 of the academic year (high school) in which the student graduates, except as provided by section 503.D:

i. and, if enrolling in an academic program, must also apply by July 1 prior to the academic year (college) in which the student intends to first accept the award, and by July 1 of every year of eligibility thereafter, except as provided in §501.B; or

ii. and, if enrolling in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, must also apply by the July 1 immediately after the start of the program year (non-academic program) in which the student intends to first accept the award, and by July 1 of every year of eligibility thereafter, except as provided in §501.B.

A.5.-G.1. ...

2. A student who graduates from high school in less than four years or who enters an eligible college or university early admissions program prior to graduation from high school shall be considered a first-time freshman, as defined in §703, not earlier than the first semester following the academic year (high school) in which the student would have normally graduated had he or she not graduated early or entered an early admissions program. A student who graduates high school in less than four years or enters an early admissions program will remain eligible for a TOPS award until the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student normally would have graduated.

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 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1648 (December 1997), repromulgated LR 24:632 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:67 (January 2000), LR 26:689 (April 2000), LR 26:

§705. Maintaining Eligibility

A. ...

1. have received less than four years or eight semesters of TOPS Award funds, provided that each two terms or equivalent units of enrollment in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree shall be the equivalent of a semester; and

2. - 6. ...

7. Minimum Academic Progress:

a. in an academic program at an eligible college or university, by the end of each academic year (college), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter in the academic year (college). These hours shall include remedial course work required by the institution, but shall not include hours earned during qualified summer sessions, summer sessions nor intersessions nor by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure

to earn the required number of hours will result in permanent cancellation of the recipient's eligibility, or

b. in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree at an eligible college or university, maintain steady academic progress as defined in §301 and by the end of the spring term, earn a cumulative college grade point average of at least 2.50 on a 4.00 maximum scale. Unless granted an exception for cause by LASFAC, failure to maintain steady academic progress and to earn a 2.50 at the conclusion of the spring term will result in permanent cancellation of the recipient's eligibility; and

8. ...

9. maintain at an eligible college or university, by the end of the spring semester, quarter, or term, a cumulative college grade point average (GPA) on a 4.00 maximum scale of at least:

a. a 2.30 with the completion of less than 48 credit hours, a 2.50 after the completion of 48 credit hours, for continuing receipt of an opportunity award, if enrolled in an academic program; or

b. a 2.50, for continuing receipt of an opportunity award, if enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree; and

c. a 3.00 for continuing receipt of either a performance or honors award; and

10. has not enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree after having received a vocational or technical education certificate or diploma, or a non-academic undergraduate degree;

11. has not received a baccalaureate degree;

12. has not been enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree for more than two years.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1648 (December 1997), repromulgated 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:

Chapter 8. TOPS-TECH Award

§805. Maintaining Eligibility

A. - A.6. ...

7. has not received a vocational or technical education certificate or diploma, or a non-academic undergraduate degree, or a baccalaureate degree; and

8. has maintained steady academic progress as defined in §301; and

9. maintain, by the end of the spring term, a cumulative college grade point average of at least 2.50 on a 4.00 maximum scale.

B. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1903. Responsibilities of Postsecondary Institutions

A. - F. ...

G. Certification of Qualified Summer Session. The institution's submission of a payment request for tuition for a student's enrollment in a summer session will constitute certification of the student's eligibility for tuition payment for the summer session, the student's acknowledgment and consent that each payment will consume one semester of eligibility, and the student's enrollment.

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 17:959 (October 1991), amended LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459(August 1999), LR 26:

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. Initial Enrollment Requirement. Initially apply and enroll as a first-time freshman as defined in §301, unless granted an exception for cause by LASFAC, in an eligible postsecondary institution defined in §1901. Initial enrollment requirements specific to the TOPS are defined at §703.A.4 and for TOPS-TECH at §803.A.4.

B. ...

C. Less Than Full-time Attendance. The LASFAC will authorize awards under the TOPS opportunity, performance, honors and teachers awards, the TOPS-TECH award, and the T.H. Harris Scholarship Program for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

C.1. - E.11.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 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1648 (December 1997), repromulgated LR 24:649 (April 1998), amended LR 24:1916 (October 1998), LR 26:

Mark Riley
Assistant Executive Director

0005#021

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Board of Trustees of the State Employees
Group Benefits Program**

Penalty for Late Payment of Premiums

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, and in accordance with R.S. 42: 876 regarding collection and deposit of

contributions, the Board of Trustees hereby invokes the Emergency Rule provisions of La R. S. 49:953(B).

The Board finds that it is necessary, in the implementation of its responsibility for collection of premium contributions, to provide for assessment of a late payment penalty to participating employers that fail to remit full payment of premiums by the due date. Failure to adopt this rule on an emergency basis will result in financial impact adversely affecting the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule is effective January 1, 2000, and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

Collection and Deposit of Contributions

A. The Board shall be responsible for preparing and transmitting to each participating employer a monthly invoice premium statement delineating the enrolled employees of that agency, the class of coverage, total amount of employer and employees contributions due to the Board, and such other items as are deemed necessary by the Board.

B. It shall be the responsibility of the participating employer to reconcile the monthly invoice premium statement, collect employee contribution by payroll deduction or otherwise, and remit the reconciled monthly invoice premium statement and both the employer and employee contributions to the Board within thirty (30) days after receipt of the monthly premium invoice statement. Payments received by the Board shall be allocated as follows:

- 1. first, to any late payment penalty due by the participating employer;
- 2. second, to any balance due from prior invoices; and
- 3. third, to the amount due under the current invoice.

C. If any participating employer fails to remit, in full, both the employer and employee contributions to the Board within thirty (30) days after receipt of the monthly invoice premium statement, then:

- 1. at the request of the Board, the state treasurer shall withhold from state funds due the participating employer the full amount of the delinquent employer and employee contributions and remit this amount directly to the Board; and
- 2. the participating employer shall pay a penalty equal to one (1%) percent of the total amount due and unpaid, compounded monthly.

D. All employer and employee premium contributions for the payment of premiums for group benefits for state employees provided under the Board's authority shall be deposited directly with the Board. The Board shall pay all monies due for such benefits as they become due and payable.

A. Kip Wall
Chief Executive Officer

0005#049

DECLARATION OF EMERGENCY

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

Targeted Case Management Services Nurse Home Visits for First Time Mothers

Editor's Note: This Emergency Rule is being reprinted in its entirety to correct the effective date. The original Emergency Rule can be viewed in the April 2000 issue of the Louisiana Register on pages 625-226.

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following emergency rule under the Administrative Procedure Act, R.S. 49:950 et seq., and it shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule in July of 1999 restructuring targeted case management services under the Medicaid Program in order to enhance the quality of services and assure statewide access to services (*Louisiana Register*, Vol. 25, No.7). The Department now proposes to amend the July 1999 rule to extend the provision of case management services to a new targeted population of Medicaid recipients. The new targeted population shall be composed of first time mothers who reside in the Department of Health and Hospitals (DHH) designated regions of Thibodaux (3), Lafayette (4), Lake Charles (5), and Monroe (8). DHH Administrative Region 3 consists of Assumption, LaFourche, St Charles, St James, St John, St Mary, and Terrebonne Parishes. DHH administrative Region 4 consists of Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, and Vermillion Parishes. DHH administrative Region 8 consists of Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Quachita, Richland, Tensas, Union, and West Carroll Parishes. In addition, the staffing qualifications contained in the July 1999 rule are being amended to include specific requirements for case management agencies serving the new targeted population. The standards for participation are also being amended to include a new provider enrollment requirement applicable to all new case management agencies.

This action is necessary to protect the health and welfare of the Medicaid recipients in the targeted population group by providing access to case management services that encourage early prenatal care and reduces infant mortality. It is anticipated that the implementation of this emergency rule will increase expenditures by approximately \$1,141,440 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of services on or after April 21, 1999, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the July 1999 rule governing case management services to include a new targeted population of Medicaid recipients. The new targeted population shall be first time mothers who reside in the Department of Health and Hospitals (DHH) designated administrative regions of Thibodaux (3), Lafayette (4), Lake Charles (5), and Monroe (8). Providers

of Nurse Home Visits for First Time Mothers case management must provide home visit services for eligible recipients in all parishes of the Thibodaux, Lafayette, Lake Charles, and Monroe regions.

I. Eligibility Criteria

A Medicaid recipient must not be beyond the 28th week of pregnancy and must attest she meets one of the following definitions of a first-time mother in order to receive Nurse Home Visits of case management services:

A. is expecting her first live birth, has never parented a child and plans on parenting this child; or

B. is expecting her first live birth, has never parented a child and is contemplating placing the child for adoption; or

C. has been pregnant, but has not delivered a child because of an abortion or miscarriage; or

D. is expecting her first live birth, but has parented stepchildren or younger siblings; or

E. had previously delivered a child, but her parental rights were legally terminated within the first six months of that child's life; or

F. has delivered a child, but the child died within the first six months of life.

A physician's statement, medical records, legal documents, or birth and death certificates will be required as verification of first-time mother status.

After the birth of the child, the focus of Nurse Home Visit for First-Time Mothers case management is transferred from the mother to the child and services may continue until the child's second birthday. However, recipients may not receive more than one type of Medicaid funded case management at a time. A complete reassessment and a update of the comprehensive plan of care must be completed to incorporate the needs of the child within six weeks of the delivery and 30 days prior to the child's first birthday. If during the reassessment it is determined that the child qualifies for Childnet and Infants and Toddler's case management, the Nurse Home Visit case manager shall transfer the child to the Infant and Toddler Program.

II. Staffing Qualifications

Case managers and supervisors providing services to this targeted population must meet the following educational qualifications: possession of a license or temporary permit to practice professional nursing in the State of Louisiana, certification of training in the David Olds Prenatal and Early Childhood Nurses Home Visit Model and the supervisor must have one year of professional nursing experience. A master's degree in nursing or public health may be substituted for the required one year of professional nursing experience for the supervisor.

III. Standards for Participation

All new providers interested in enrolling to provide Medicaid case management services must submit a written request to the Division of Home and Community Based Waiver Services (DHCBS) identifying the case management population and the region they wish to serve. A new provider must attend a Provider Enrollment Orientation prior to obtaining a provider enrollment packet. The Bureau will offer orientation sessions at least twice per year. Enrollment packets will only be accepted for service delivery in those DHH regions that currently have open enrollment for case management agencies interested in serving certain targeted populations.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0005#043

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Wrap-Around Child Care (LAC 67:III.Chapter 52)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt the following rule to establish the Wrap-Around Child Care Program.

The need for child care services, primarily for school-aged children of low-income working parents, significantly increases in the summer months. At this time, the agency's Child Care Assistance Program is rapidly reaching its capacity and may be unable to meet this additional area of need. In order to assure the care level of a major population of these children, the Office of Family Support, through certain contracted Head Start Program grantees, establishes the Wrap-Around Child Care Program to be funded through Louisiana's Temporary Assistance for Needy Families Block Grant. Otherwise, as many as 8,000 children could go without proper care and be subject to neglect and, in some cases, abuse.

The purpose of the program is to provide working families whose incomes are at or below the federal poverty level with quality, full-time child care during the summer, and before- and after-school care during the school year. This rule, which is effective June 1, 2000, will remain in effect for a period of 120 days or until the final rule takes effect.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance

Chapter 52. Wrap-Around Child Care Program

§5201. Authority

The Wrap-Around Child Care Program is established effective June 1, 2000 and is administered under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

§5202. Definitions

Head of Household the individual who may apply for Wrap-Around Child Care services for a child who customarily resides more than half the time with him/her, that is, the child's parent or the adult with primary

responsibility for the child's care and financial support if the child's parent is not living in the home or is living in the home but under age 18 and not emancipated by law.

Household a group of individuals who live together consisting of the head of household, the spouse of the head of household, and all children under the age of 18, including the minor unmarried parent of any dependent children who need child care assistance (unless the minor unmarried parent has been emancipated by law).

Employment Mandatory Participant each household member who is required to be employed a minimum average of 30 hours per week, including the head of household, spouse of head of household, and the minor unmarried parent of a child who needs Wrap-Around Child Care services.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

§5203. Conditions of Eligibility

A. A household must meet all of the following eligibility criteria:

1. all children receiving services must reside with their parent or adult head of household;

2. household members may not be receiving assistance from the Family Independence Temporary Assistance Program (FITAP) or the Child Care Assistance Program (CCAP);

3. each parent and/or adult household member must be working a minimum average of 30 hours per week earning at least the federal minimum-hourly wage;

4. each parent and/or adult household member must be working during the hours that child care is needed, that is, child care will only be provided during hours that parents and/or adult household members are actually at work, or commuting to, or from, work;

5. the household must include at least one child with a need for Wrap-Around Child Care services defined as full-day/full-year child care, that is, full-time during the summer, and before-school, after-school and holiday care during the school year, who is:

a. under age 13; or

b. age 13 to under age 18, with a physical, mental, or emotional disability rendering him incapable of caring for himself, as verified by a physician or licensed psychologist;

6. the child needing care must customarily reside more than half of the time with the head of household who is applying for child care services, ensuring that only one household can receive child care service for that child;

7. the head of household or another adult household member must be responsible for the payment of child care costs for a child who lives in the household:

a. a need for child care services does not exist if child care costs will be paid by a third party who is not a household member. However, this will not apply if a third party, not legally obligated to make child care payments, is temporarily doing so until payments begin; and

8. there must be a current need for child care at the time of application.

B. Eligibility is based on:

1. gross earnings from all sources of employment and the profit from self-employment, and

2. any unearned income, such as child support, alimony, retirement and disability benefits, Social Security, SSI, unemployment compensation benefits, or veteran's benefits, that is received by any household member.

C. The household must qualify under the income guidelines set forth in §5205.

D. The child in need of care must be either a citizen or a qualified alien. Program policy on qualified aliens is the same as policy defined in LAC 67:1223.

E. The household must provide the information and verification necessary for determining eligibility and payment amount. Required verification includes:

1. proof of social security numbers for all household members;
2. birth or baptismal certificates for all children in need of care;
3. proof of all countable household income; and
4. proof of the hours of all employment.

F. Eligible cases may be assigned a certification period of up to twelve months.

G. The household is required to report any changes that could affect eligibility or payment amount within five days of knowledge of the change. Failure to report a change that affects eligibility or payment amount may result in action to recover any ineligible payment.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

§5205. Income Limits

A. A household must have total countable income no greater than the monthly maximum amount for the appropriate household size as follows:

Household Size	Monthly Maximum	Household Size	Monthly Maximum
		11	\$3037
2	\$ 922	12	\$3272
3	\$1157	13	\$3507
4	\$1392	14	\$3742
5	\$1627	15	\$3977
6	\$1862	16	\$4212
7	\$2097	17	\$4447
8	\$2332	18	\$4682
9	\$2567	19	\$4917
10	\$2802	20	\$5152

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

§5207. Rights and Responsibilities

A. The head of the household applying for, or receiving, Wrap-Around Child Care services has the following rights and responsibilities:

1. information provided by the household will not be released without written consent, except to agencies and officials as allowed by law (LAC 67:101-103);
2. the household is entitled to receive timely, written notification of action taken on applications or reported changes in household circumstances;

3. the head of household is responsible for reporting changes in household composition, employment or hours worked, address, earned and unearned income, and/or in the number of days or hours that a child is in care, within five days of knowledge of the change;

4. any applicant or recipient who has been denied services under the program may appeal the denial by filing a written request within ten days of receipt of the written notice of denial. The request must contain a copy of the notice of denial and must state the reason(s) the applicant believes services were wrongfully denied. Notice of denial is deemed received on the seventh calendar day after it is mailed to the applicant or recipient with correct postage paid at the address listed on his most recent application.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

§5209. Head Start Grantees

A. The agency will provide services to eligible individuals through contracts with some Head Start Program grantees.

B. The contracted Head Start grantee will establish a child care program that consists of the following:

1. a summer program that runs at least nine but no more than ten weeks;
2. a before- and after-school program that meets the needs of working parents; and
3. a school-year holiday program that meets the needs of working parents.

C. The hours of the summer program shall be at least from 7:30 a.m. to 5:30 p.m.

D. The before-school care program shall begin no later than 7:30 a.m.

E. The after-school care program shall end no sooner than 5:30 p.m.

F. The hours of the school-year holiday program shall be at least from 7:30 a.m. to 5:30 p.m.

G. With prior written approval of the agency, the beginning and ending hours of service may be commenced at an earlier time or ended at a later time.

H. In addition to the week after the end of the Head Start school year and the week prior to commencement of the Head Start school year, the center may be closed on the following days: July 4, Labor Day, Thanksgiving Day, Christmas Day, New Year's Day, and Good Friday, and an additional four days designated by the grantee.

I. The center shall provide child care services on all weekdays other than the days specified above.

- J. The center shall maintain child/staff ratios as follows:
1. 4:1 up to age 12 months;
 2. 6:1 from age 12 months to age 24 months;
 3. 8:1 from age 24 months to age 36 months;
 4. 10:1 from age 36 months to age 60 months;
 5. 16:1 from age 5 years to age 12 years;
 6. children with disabilities will have a child/staff ratio sufficient to provide adequate care but under no circumstances shall the child/staff ratio exceed 16:1.

K. Each group/class shall consist of two staff members for the appropriate number of children. In mixed-age groups, the ratio and group size for the youngest child shall be used.

L. Each group/class shall be supervised by one teacher and one aide, or by two teachers. All teachers at each facility

must have at least a CDA (Child Development Associate credential) for the appropriate age of children,

M. The grantee shall ensure that procedures are in place to prevent, identify, and report suspected abuse or neglect of children as required by Children's Code Articles 601-610 and 45 CFR 1301.31.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

§5211. Payment

A. In the summer program, the Head Start grantee will be paid a weekly rate of \$85 per week per child for full day service.

B. In the school holiday program, the Head Start grantee will be paid \$2.12 per hour for up to a maximum of eight hours per child for full day services.

C. The Head Start grantee will be paid \$2.12 per hour per child for before- and after-school care during the school year.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

J. Renea Austin-Duffin
Secretary

0005#0002

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Community Services**

**Residential Facilities Freezing Reimbursement Rates
(LAC 67:V.3503)**

The Department of Social Services, Office of Community Services adopts the following emergency rule in the Foster Care Program as authorized by R.S. 46:153. This emergency rule shall be in effect for 120 days effective May 5, 2000.

The Department of Social Services, Office of Community Services previously adopted a rule (*Louisiana Register*, Vol.25, No. 6) which set the rate setting methodology for residential facilities caring for foster children. There are technical difficulties in the administrative component of the rate setting methodology. Implementing the rule would cause a fiscal emergency for many residential providers which would adversely affect their ability to continue caring for foster children in residential placements. The Department previously published an emergency rule (*Louisiana Register*, Vol. 26, No. 1) delaying implementation of the revised rate setting system. The department sets rates in August of each year. An emergency rule is needed to continue the frozen rates issued in August, 1999 until rates are set again in August, 2000. Therefore, the department amends LAC 67:V.3503 to add D, freezing the residential rates issued for the 1999/2000 rate year at the 1998/1999 amount.

The Department of Social Services, Office of Community Services amends LAC 67:V.3503 to add D.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 5. Foster Care

Chapter 35. Payments, Reimbursables and Expenditures

§3503. Reimbursement Rates for Residential Facilities

A. - C. ...

D. For rates issued for the 1999/2000 rate year, the Department will freeze the rates at the 1998/1999 amount.

Authority Note: Promulgated in accordance with R.S.15:1084.

Historical Note: Promulgated by the Department of Social Services, Office of Community Services, LR 14:542 (August 1988), amended LR 20:898 (August 1994), LR 25:1144 (June 1999), LR 25:1609 (September 1999), LR 26:01 (January 2000), LR 26:582 (March 2000), LR 26:

J. Renea Austin-Duffin
Secretary

0005#0001

DECLARATION OF EMERGENCY

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

2000 Spring Inshore Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters, the Wildlife and Fisheries Commission does hereby set the 2000 Spring Inshore Shrimp Season to open as follows:

Zone 1 - that portion of Louisiana's inshore waters from the Mississippi State line to the eastern shore of South Pass of the Mississippi River, to open at 6 a.m., May 22, 2000, except the open waters of Breton and Chandeleur Sounds as described in the menhaden rule (LAC 76:VII.307D) which shall open at 6 a.m., May 15, 2000; and

Zone 2 - that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, as well as that portion of the State's Territorial Waters south of the Inside/Outside Shrimp Line as described in R.S. 56:495 from the Atchafalaya River Channel at Eugene Island as delineated by the River Channel buoy line to Freshwater Bayou, all to open at 6 a.m., May 8, 2000; and

Zone 3 - that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Texas State Line, to open at 6 a.m., May 8, 2000.

The Commission also hereby grants to the Secretary of the Department of Wildlife and Fisheries the authority to close any portion of the State's inshore waters to protect small

white shrimp if biological and technical data indicates the need to do so, or enforcement problems develop.

Thomas M. Gattle, Jr.
Chairman

0005#030

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2000 Spring Commercial Red Snapper 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 resolution of December 2, 1999, to close the 2000 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 was projected to be filled, the Secretary hereby declares:

Effective 12:00 noon, May 8, 2000, the commercial fishery for red snapper in Louisiana waters will close and remain closed until 12:00 noon, October 1, 2000. Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen while the recreational season is open. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Effective with the 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. The prohibition on sale/purchase of red snapper during the closure does not apply to red snapper that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor provided appropriate records in accordance with R.S. 56:306.5 are properly maintained.

The Secretary has been notified by National Marine Fisheries Service that the commercial red snapper season in Federal waters of the Gulf of Mexico will close at 12:00 noon, May 8, 2000. Closing the season in State waters is necessary to provide effective rules and efficient enforcement for the fishery, and to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.
Secretary

0005#0004

Rules

RULE

Department of Economic Development Board of Architectural Examiners

Architects Selection Board (LAC 46:I.Chapter 19)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners amended LAC 46:I Chapter 19 pertaining to the election of members of the Louisiana Architects Selection Board. The Board repealed the rules contained in existing LAC 46:I Chapter 19 and adopted the rules contained herein. The rules contained herein, also replaced the emergency rules adopted at a special meeting of the Board of Architectural Examiners held on July 27, 1999, which were published in the August 20, 1999 issue of the *Louisiana Register*. The rules have no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 19. Architects Selection Board

§1901. Districts

A. Only one architect may be elected from each of the districts set forth in La. R.S. 38:2311(A)(1)(a).

B. If the parishes comprising any district or if the number of districts are changed by the legislature, these rules shall be revised to be consistent with the latest expression of the legislature without the need of formal action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 26:988 (May 2000).

§1903. Nominations

For terms commencing September 15 of each year, the board will accept nominations for election to the Architects Selection Board on the following basis: any resident architect holding a current Louisiana license desiring nomination must deliver a written nomination on a current form and/or reproduction obtained from board office to the board office in Baton Rouge, signed by not less than 10 resident architects other than the nominee holding a current Louisiana license, between May 1 and May 31 at 5:00 p.m. preceding the election. The nomination shall state the parish in which the nominee resides and the district for which election is sought. Nominations received on or before such deadline shall be considered timely delivered. Confirmation of receipt is the sole responsibility of the nominee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336

(September 1978), amended LR 10:741 (October 1984), LR 26:988 (May 2000).

§1905. Waiver of Election

If only one resident architect is nominated from any district, no election shall be held in that district, and that nominee shall be deemed elected without any further activity of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26:988 (May 2000).

§1907. Ballots

If an election is necessary, an official ballot and an official return envelope will be mailed to each resident architect in Louisiana in good standing approximately three weeks after the closing date for nominations. On the ballot shall be printed the names of the candidates for each district in alphabetical order, the date for the return of the ballots, and any other information the board believes helpful in the election process. Attachments to the ballot may include biographical information of the candidates and instructions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26:988 (May 2000).

§1909. Voting

A. Only resident architects in good standing in Louisiana shall have the right to vote. A resident architect may vote in one or more but less than all district elections, and no ballot shall be voided for that reason.

B. Ballots shall be returned in the official return envelopes provided by the board to the board office in Baton Rouge. No marks identifying the voting architect shall be placed on the ballot itself. The voting architect shall sign and provide his or her license number in the upper left-hand corner of the return envelope.

C. The ballot shall not be valid unless:

1. the signature and license number appear on the return envelope; and

2. the return envelope is received by the board office on or before the deadline. No write-in candidates will be allowed, and any ballot containing a vote for a write-in candidate will be voided. Any ballot containing more than one vote for candidates in one district will be entirely voided. Ballots returned in an envelope other than the official return envelope provided by the board shall not be voided for that reason, provided;

3. the signature and license number of the voting architect appear on the return envelope; and

4. the return envelope is received by the board office on or before the deadline.

D. The deadline for returning the ballots will be fixed by the president and will be at least 14 calendar days after the

ballots are mailed to all resident architects. Ballots received after the deadline shall not be counted.

E. Upon receipt, each return envelope shall be stamped by the board office showing the date received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 26: 989 (May 2000).

§1911. Plurality

The candidate elected in each district will be based on plurality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26: 989 (May 2000).

§1913. Tabulation

A. On a date fixed by the president, within 14 calendar days of the deadline for receipt of ballots, tellers appointed by the president, including at least one board member, shall meet at the board office for the purpose of tabulating the ballots. Following a determination that each return envelope contains the required signature and license number, and was timely received, the tellers shall open and count all ballots properly prepared. The executive director will notify the candidates of the results.

B. Alternatively, when in the discretion of the president the manual tabulating of the ballots by tellers in accordance with the preceding paragraph would be burdensome, or for some other reason should be performed by an outside person, the president may refer the entire tabulating of the ballots, or any part thereof, to an accounting firm, data processing company, or other such qualified person in addition to one board member. The outside person may use such clerical or other assistance, including whatever assistance from the board staff, as he or she deems necessary. The outside person shall:

1. determine that each return envelope contains the required signature and license number, and was timely received;

2. count all ballots properly prepared; and

3. certify the number of votes received by each candidate to the board president and the executive director, who shall notify the candidates of the results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26: 989 (May 2000).

§1915. Tie

A. In the event no candidate receives a plurality, a run-off election between those candidates who received the highest number of votes will be held.

B. If a run-off election is necessary, an official ballot and an official return envelope will be mailed to each resident architect in Louisiana in good standing approximately two weeks after it has been determined that such an election is necessary.

C. The official ballot shall contain the information set forth in §1907, except only the names and information for those candidates in the run-off election shall be included.

D. The rules for voting, for determining the person elected, and for tabulating votes set forth in §1909, §1911, and §1913 shall be applicable.

E. In the event no candidate in the run-off election receives a plurality, the procedure set forth herein shall be repeated until one candidate receives a plurality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 26: 989 (May 2000).

§1917. Vacancies

Any vacancy occurring with respect to any person elected shall be filled in the following manner. The executive director shall give notice of the vacancy to any person who has previously requested such notice in writing, and the executive director shall also publish in the official journal of the state an advertisement which will appear for a period of not less than 10 calendar days. The advertisement in the official journal of the state need not appear more than three times during the 10 day period. The executive director may publish other such advertisements in his or her discretion. The advertisements shall identify the district in which a vacancy has occurred and state that any resident architect in that district holding a current Louisiana license desiring nomination must furnish a nomination signed by not less than 10 resident architects holding a current Louisiana license by certified mail to the board office, that a sample of the nomination may be obtained upon request from the board office, the deadline for filing the nomination, and any other information the board may consider necessary. The deadline for filing a nomination to fill a vacancy shall be at least 10 calendar days subsequent to the expiration of the last advertisement appearing in the official journal of the state. The board shall appoint one of the nominees to fill the vacancy, which appointee shall serve the unexpired term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26: 989 (May 2000).

§1919. Election Contest

A. The executive director will notify the candidates of the results of the election by U. S. Mail. The 10 calendar days for contesting an election shall commence three work days (excluding Saturdays, Sundays, and legal holidays) after the results of the election are deposited in the mail by the executive director.

B. Any candidate desiring to contest an election shall, within the time period mentioned in the preceding paragraph, file a written petition addressed to the board stating the basis of the complaint. Upon receipt of such petition, the president shall call a special meeting of the board to hear the complaint, which meeting shall be held within 10 calendar days from the date the petition is received

and at a time and place to be designated by the president. At the hearing the board shall consider any evidence offered in support of the complaint. The decision of the board shall be announced within 72 hours after the close of the hearing.

C. All ballots shall be preserved until the expiration of the time allowed for the filing and hearing of a contest. After such period has elapsed, if the election be not contested, the executive director shall destroy the ballots. If the election is contested, the executive director shall maintain the ballots until the contest is concluded, after which the executive director shall destroy the ballots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 26:990 (May 2000).

Mary "Teeny" Simmons
Executive Director

0005#003

RULE

Department of Economic Development Office of Financial Institutions

NSF Collection Fees (LAC 10:XV.505)

Under the authority of the Louisiana Administrative Procedure Act, LSA-R.S. 49:950, et seq., and in accordance with the Collection Agency Regulation Act, LSA-R.S. 9:3576.1, et seq., and specifically, LSA-R.S. 9:3576.4, and pursuant to Louisiana Attorney General Opinion 98-257, the acting commissioner of financial institutions hereby promulgates the following rule to regulate the licensing, operations and practices of collection agencies and debt collectors to protect the welfare of the citizens of Louisiana, by clarifying the amount of fees which may be collected by collection agencies and debt collectors for debts involving checks returned for nonsufficient funds.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part XV. Other Regulated Entities

Chapter 5. Debt Collection Agencies

§505. Collection of Nonsufficient Funds Fees

A. Purpose. In connection with the recovery of sums represented by returned checks for their clients, certain debt collection agencies are collecting service fees in excess of those allowed by law. The commissioner of the Office of Financial Institutions is statutorily mandated to implement the provisions of the Collection Agency Regulation Act, (CARA), LSA-R.S. 9:3516.1, et seq., as amended, to regulate the licensing, operations, and practices of collection agencies and debt collectors to protect the welfare of the citizens of Louisiana. This rule is being promulgated to clarify the amount of fees and charges which may be collected by debt collection agencies for debts involving checks returned for nonsufficient funds.

B. Definitions. The definitions for the terms utilized in this rule are the same as those provided for in the definitions section of the CARA, and specifically LSA-R.S. 9:3576.3.

C. Collection by a debt collection agency. In a debt collection agency's collection of claims represented by checks returned to its clients for nonsufficient funds, the debt collection agency may collect only those fees and charges allowed by Louisiana law, including but not limited to LSA-R.S. 9:2782.

D. Action. The commissioner may order a debt collection agency to return any fees and charges in excess of those allowed by Louisiana law. Failure to comply with this rule or the commissioner's order shall constitute a violation of the CARA and may subject the debt collection agency to administrative and/or enforcement action by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 9:3576.4

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 26:990 (May 2000).

Doris B. Gunn
Acting Commissioner

0005#044

RULE

Department of Economic Development Racing Commission

Parlay Wagering (LAC 35:XIII.Chapter 119)

The Louisiana State Racing Commission hereby adopts the following rule.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 119. Parlay Wagering

§11901. Series of Wagers

The parlay is not a separate mutual pool, it is a series of wagers (consisting of legs) combining wagering entries in win, place or show pools. The initial amount wagered constitutes the wager on the first leg, and if successful, the payout from the first leg constitutes the wager on the second leg, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S.4:149.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:990 (May 2000).

§11903. Limitation of Wagers

A parlay wager is limited to win, place or show which have a corresponding pool conducted on the race selected. The wager must combine at least two races but not more than six races. The races in a parlay must be in chronological order but do not need to be consecutive races or combine the same type pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S.4:149.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:990 (May 2000).

§11905. Combinations

A parlay wager may only be on one pool and one wagering interest per leg and cannot combine wagers on races on other days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S.4:149.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:991 (May 2000).

§11907. Breakage

Payouts included as wagers in subsequent races and the final payout to the parlay wagerer shall be broken to the nearest dime. Parlay breakage shall be reported separately and added to regular breakage at the end of the day for the purpose of taxation and distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S.4:149.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26: 991 (May 2000).

§11909. Payouts

Parlay payouts will be included as wagers in subsequent pools by the track operator so the amount of such wagers, including their impact on the wagering odds, will be displayed. Wager totals in such pools shall be displayed in truncated fashion, to the lowest dollar.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S.4:149.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:991 (May 2000).

§11911. Cancellations

Parlay wagers may be cancelled by the ticket holder, in accordance with track policy, only before the start of the first parlay leg in which a parlay selection starts. Parlay wagers not cancelled must be completed or terminated by operation of these rules in order to be entitled to a payout.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S.4:149.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:991 (May 2000).

§11913. Scratches

If a race, pool or wagering entry in a parlay is scratched, which includes an entry being declared a non-starter for wagering purposes, or a race or pool is cancelled, the parlay shall consist of the remaining legs. The parlay terminates if there are no remaining legs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S.4:149.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:991 (May 2000).

§11915. Coupled Entries and Fields

A wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field if any part of the coupled entry or field starts for pari-mutuel purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S.4:149.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:991 (May 2000).

Albert M. Stall
Chairman

0005#022

RULE

Board of Elementary and Secondary Education

Bulletin 1794~~6~~ State Textbook Adoption Policy and Procedure Manual (LAC 28:XXXIII.Chapter 1-3)

Editor's Note: Bulletin 1794 was promulgated as a rule in LR 13:496 (September 1987), amended LR 14:227 (April 1988), LR 16:956 (November 1990), LR 16:957 (November 1990), LR 18:255 (March 1992), LR 18:955 (September 1992), LR21:201(February 1995), LR21:551 (June 1995), LR21:1329 (December 1995), and LR 24:434 (March 1998) in uncodified format. This bulletin became a codified document in (June)1999 and historical notes will reflect activity from that time forward.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education adopted amendments to Bulletin 1794 promulgated in LR 25:1436-1458 (August, 1999) in codified format, referenced in LAC 28:I.919.A. The amendments reflect newly enrolled legislation that affects standards and procedures for the state textbook adoption process. The majority of revisions to the document are editorial. The bulletin is being reprinted in its entirety.

Title 28

EDUCATION

Part XXXIII. Bulletin 1794~~6~~ State Textbook Adoption Policy and Procedure Manual

Chapter 1. Purpose

§101. Introduction

A. The State Board of Elementary and Secondary Education (SBESE), in accordance with Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, Part I, Sections 7 (4), 8(A)(1)(a) and Part IV, Section 351(A)(1), has the responsibility to prescribe, adopt, control and supervise the distribution and use of free school books and other materials of instruction in elementary, secondary, special, post secondary and vocational-technical schools across the state of Louisiana. The Louisiana Legislature appropriates funds in accordance with Article VIII, Section 13(A) of the Constitution for the purpose of providing school books and other materials of instruction free of charge to the children of this state at the elementary and secondary levels.

B. It is hoped that the policies and procedures contained in this bulletin will help local school districts to provide textbooks that will have a significant, positive impact on student achievement, student attitudes and behaviors, and on the interactions in the learning environment for students of all ages, abilities, backgrounds and areas of interest. Any interested citizen may request his or her name be placed on

the mailing list for textbook adoption information (R.S. 17:415.1A) by writing to

State Department of Education
Division of School Standards, Accountability
and Assistance
7th Floor, Room 740
Baton Rouge, Louisiana 70802
Attn: State Textbook Administrator

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:992 (May 2000).

Chapter 3. General Provisions

§301. Definitions

Ancillary materials shall be defined as materials that are intended and designed to be used with a comprehensive basal program submitted by the same publisher and may include materials such as workbooks, puzzles, assessment materials, black line masters, transparencies, etc. Ancillary materials will be added to the publisher's contract after the SBESE's approval of the basal textbook and teachers' edition.

Basal shall be defined as student-based curricular materials (print or non-print) that encompass the SBESE-approved Louisiana Content Standards for specified subject areas. These curricular materials are considered a major teacher and student resource for attainment of the State standards and benchmarks and for the locally designed and aligned curriculum and course.

Core Subject Cycle refers to the adoption period for English/language arts, science, social studies, and mathematics.

Teachers' Edition shall be defined as materials used for informing teachers' instruction and are not designed or intended to be used by students. Teachers' editions may include teacher guides or instructors' manuals.

Textbook shall be defined as any medium or material (print or non-print), book, or electronic medium that constitutes the principal source for teaching and learning in a specified subject area. A textbook shall be a systematically organized core of stand alone instructional materials (which may be hardbound, softbound, electronic or other media) designed to support the teaching and learning of a curriculum based on the SBESE-approved content standards or state curricular guides [e.g., home economics, foreign language, health, business education].

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:992 (May 2000).

§303. Textbook Approval

A. The State shall prescribe and adopt free school books and other materials of instruction for use in elementary and secondary schools.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S.17:8(A)(B); R.S. 17: 351(A)(B)

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26: 992 (May 2000).

§305. Textbooks and Materials of Instruction

A. State Screening of Textbooks and Materials of Instruction

1. The State shall assure that all school books, and materials for instruction submitted by State adoption are thoroughly screened, reviewed and approved as to their content by the SBESE and the local parish or city school board. Textbooks and teaching materials shall be available for public inspection at the Department's book depository and public libraries during regular office hours.

B. Adequate and Appropriate Instructional Materials Instruction [at the local level] shall be supported with adequate and appropriate instructional materials, equipment, and available community resources that support the stated philosophy and purposes of the school system and state adopted content standards.

C. Formal Adoption and Implementation of Textbooks

1. Each school district shall make a formal adoption of textbooks within three months from the date of State-level approval by the State Board of Elementary and Secondary Education (SBESE) (Refer to Chapter 5, Local School System Representatives).

2. School systems shall implement the latest textbook adoption for core subject areas of English/language arts, science, social studies, and mathematics within a three year period, in accordance with locally determined levels of access to be provided to students (i.e. classroom sets, personal copy) (Refer to Chapter 5, Local School System Representatives).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26: 992 (May 2000).

§307. Louisiana State Adoption Cycle and Time Lines

A. Texts for specific subject areas shall be adopted every seven years. See appendix for adoption cycles.

B. Broad time lines governing the adoption process are listed in §307.C. The Department of Education shall annually specify dates to be followed in each adoption year, per the Invitation Circular Letter to Submit Textbooks and Materials of Instruction for State Adoption, which is issued annually to publishers.

C. Time Lines

Invitation to Submit Textbooks and Materials of Instruction Issued by SDE.	Early March
Notice of Publisher's Intent to Participate Due to SDE.	End March
SDE Supplies Submission Packet and Forms to Requesting Publishers.	End March
State Committee is Appointed (confidential letter).	April
SDE Informs Participating Publishers of State Committee Names/Publicly Names State Adoption Committee.	April
SDE Provides Publishers' Mandatory Orientation Program for Publishers.	April
Submission Forms are Due from Publishers to SDE; Manufacturing Standards on each Book are Due to SDE.	May
Detailed Specifications are Filed by Publishers with SDE Regarding Hardware, Software, and Special Equipment Needed to review to review any items included in the bid.	May
Detailed Correlations to State Content Standards/Curriculum Guides are Due to SDE from Publishers.	May
SDE provides the mandatory State Committee Orientation.	June/July
State Committee Files a List with SDE of Equipment Needed to Review Textbooks.	June/July
Publishers Supply Textbooks for Review to Designated Locations.	June/July
State Committee Reviews Textbooks.	June/July - Mid September
Public Reviews Textbooks.	June/July - Mid September
Final Date for State Committee Members to Submit Written Questions to Publishers on Books Under Consideration.	Mid September
Final Date for Publishers to Submit Copies to SDE of Answers to Written Questions from State Committee.	October 1
SDE to Forward to State Committee Publishers' Written Answers.	First Week October
SDE to Forward to State Committee All Written Public Comments.	First Week October
State Committee Makes Final Recommendations for Adoption; State Committee Files Affidavit Regarding Contact with or by Publishers.	Mid October
Pub Publishers File Affidavit Regarding Contacts with State Board of Elementary and Secondary Education Members, Textbook And Media Advisory Council and Members of the Statewide Adoption Committee.	End October
SBESE receives the Report on Public Comments by Textbook and Media Advisory Council.	End October
Publishers Submit Final Versions of Texts to Replace Initial Galley Proofs.	End October
SBESE Approval of Textbooks is Recommended for Current Adoption and Contact Affidavits.	End October
SBESE Approves Publisher's Contracts.	November/December
Final Publishers of Adopted Textbooks Comply with SDE Directives on Production of Braille Materials.	End March
Textbook Caravan	November - January
Local Adoption	November - End March
Local Ordering	March - Mid May

NOTE: Specific dates and timelines to be specified by SDE each year with Invitation Circular Letter.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351 -353; 361-365; 415.1; 463.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:993 (May 2000).

§309. Funding for Textbooks

A. The Constitution provides that the Legislature shall appropriate funds to supply free school books and other materials of instruction prescribed by the State Board of Elementary and Secondary Education (SBESE) to the

children of this state at the elementary and secondary levels. The SBESE annually develops and adopts a formula to determine the cost of a minimum foundation program of education. Additional funds for textbooks may be awarded through state grants (e.g., 8g Quality Educators and K-3 Reading) and through federal grants.

B. State funds shall be used for the purchase of textbooks on the SBESE-adopted textbook list and academically related ancillary materials according to state guidelines (Bulletin 741, 3.026.13). Funds may also be used to purchase instructional materials that are manipulative and

concrete in nature for grades Kindergarten-3 and appropriate special education classes in order to support the instructional program at these grade levels. Waivers for purchase of non-adopted textbooks/materials that exceed 10 percent of the state allocations may be granted to local school systems in special circumstances.

C. The State Board of Elementary and Secondary Education, at its meeting of June 22, 1989, exercised those powers conferred by the emergency provision of the Administrative Procedure Act, R.S. 49:953 B, and adopted the following guidelines to allow State textbook funds to be used to purchase instructional materials for Grade K-3 as recommended by the Department of Education.

1. For classes K-3, the school district superintendents are authorized to use textbook funds to purchase textbooks and other materials that can be used to support the instruction in these four elementary grades (K-3).

2. The major emphasis in selecting instructional materials for K-3 should be on manipulative and concrete materials such as blocks, dramatic/housekeeping toys, manipulative (puzzles, legos, etc.), gross motor materials (jump ropes, balls, etc.) and other manipulative materials.

3. The characteristics and needs of the child in grades K-3 should be considered when selecting appropriate materials.

D. The State Board of Elementary and Secondary Education may authorize the Louisiana School of Math, Science and the Arts and other parish or city school boards with programs for gifted students to select and purchase textbooks not included on the lists adopted by the Board pursuant to the provisions of this Section, provided that such authorization shall be on an ad hoc basis and shall be subject to prior approval by the Board. Such purchases may be made using funds appropriated by the Legislature for the purchase of textbooks as provided for here.

E. Public Schools

1. State and local funding for approved textbooks is generated through the Minimum Foundation Program (MFP) funding formula. The formula determines the minimum cost of total operational expenditures for each school system. Districts receive the State Board's share as part of a monthly allotment with provision for local flexibility that allows funds to be used as deemed appropriate by school systems. The amount of funding needed to supply an adequate number of new textbooks for any given adoption can be estimated using the following formula:

October 1 Student Membership (by Grade Level)	X	Textbook Unit Price (As Adopted by LEA)	=	Estimated Textbook Costs (Costs Shared State and Locally)
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2. It is required that districts take no more than three years to purchase newly adopted textbooks for core curriculum areas at all grade levels.

The following example provides a method for estimating minimum expenditures for any given adoption cycle. e.g., Mathematics Adoption Cycle:

Step 1	October 1 Membership	Unit Price	Estimated Costs	
	1,000 (Grades K-6)	X \$30.00	= \$30,000	Full Implementation
	+1,000 (Grades 7-12)	X \$40.00	= \$40,000	Full Implementation
	2,000 (Total)		= \$70,000	Full Implementation
Step 2	\$70,000/3	= \$23,333	Estimated Minimum First Year <i>Math Implementation for a school district with student population 2,000</i>	

F. Nonpublic Schools

1. Each nonpublic school receives a textbook allocation based on the number of K-12 nonpublic students enrolled in the SBESE and Brumfield-Dodd approved nonpublic schools. Reimbursement will be made to local school districts for purchases of nonsectarian books for nonpublic school students at the rate of \$27.02 per student.

All books (textbooks, library books, encyclopedias and encyclopedic references) that meet state standards and appropriate guidelines for selection are considered appropriate and may be purchased for nonpublic school students. Orders for textbooks and materials of instruction must be delivered during each fiscal year (i.e., July 1 to June 30) in order to be eligible for reimbursement.

October 1 Student Enrollment (Academically and Brumfield-Dodd approved schools)	X	\$27.02	=	State Nonpublic Textbook Allocation
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2. If materials and supplies are included in purchase orders, it will be the responsibility of the local school district to conduct audits to ensure that the materials and supplies are used to provide students with nonsectarian instruction. Furthermore, all textbooks must be purchased and distributed through the local school district for each eligible nonpublic school in its area. It is requested that reimbursement requests be submitted in a timely manner. Payments will be made from invoices only. In no event should these funds be distributed directly to nonpublic schools.

3. Payments for textbooks and textbook administration will be made upon receipt of the completed Nonpublic School Textbook Invoice form provided through the Division of Educational Finance Services.

G. Special Funding For Textbooks

1. 8(g) Quality Education Support Fund

a. School districts and approved nonpublic schools may use 8(g) Quality Education Support Funds to supplement state MFP and local funding for textbooks and materials of instruction. The purpose of these funds is to ensure an adequate supply of superior textbooks, library books, and/or reference materials for these approved schools.

b. Effective with the 1996-97 granting cycle, Consent Judgement 90-880-A enjoins the State Board of Elementary and Secondary Education from making grant awards for library books and/or reference materials to nonpublic agencies that are determined to be pervasively sectarian entities.

c. Guidelines, issued each year by the State Board of Elementary and Secondary Education, should be consulted for specific requirements related to expenditures and for funding allocations.

H. Availability of Prestige License Plates and Applicable Revenues. R.S. 47:463.46, enacted during the 1997 Legislative Session, provides for a prestige license plate to provide special funding for the purchase of textbooks in approved elementary and secondary schools. The plate, bearing the words Helping Schools, is available for purchase from the Department of Public Safety and Corrections at an annual fee of \$25, in addition to the regular fee. Revenues must be invested by the State Treasurer, on behalf of the SBESE. Funds must be used solely for the purchase of textbooks.

I. Use of Federal Funds. School districts are encouraged to develop a consolidated plan, using all available funding streams, including federal funds, in order that adequate and appropriate textbooks and materials of instruction are available for students.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:995 (May 2000).

§311. Invitation Circular Letter

A. Specific dates are determined each year and are documented in the Invitation Circular Letter issued to publishers.

B. The Invitation Circular Letter shall be sent to interested publishers from the Office of Student and School

Performance (tentatively set for March 1 of each year; refer to specific guidelines issued by the SDE each year). The invitation will announce the subject and disciplines of materials being considered for adoption. Included in the invitation will be written guidelines and instructions covering the adoption process. The review of materials and adoption vote will be limited to the student book (basal) and the teacher's edition. Publishers are also required to list on appropriate forms all ancillary and free materials that will accompany the basal texts. (Refer to §301 for definitions of textbooks, basal, teachers= edition, ancillary, and core subject cycle.)

C. The SDE shall provide specific forms to be used for textbook submissions. Publishers must list each book separately, along with copyright, price, printing edition, and grade/subject area to be considered for adoption, even if the book is only part of a series.

D. No substitutions shall be allowed to the list of textbooks once publishers have submitted the response to Louisiana Textbook (LT) forms. Publishers will not be allowed to discuss upcoming editions or pending revisions of texts at any meetings of the State Textbook Selection Committee.

E. Each book must be evaluated on the basis of its current content. Final bound galley proofs may be submitted under certain circumstances, providing that the final hardbound copy is submitted, received and approved by the SDE prior to the final vote of the State Board of Elementary and Secondary Education. (Refer to specific timelines issued by the SDE for each adoption cycle.) Unbound manuscripts will not be accepted.

F. Publishers must guarantee that textbooks and materials of instruction that are submitted for consideration in the "LT Submission" form will be made available for duration of a seven-year contract period. Publishers cannot submit materials that cannot be guaranteed for the duration of the contracted period. No substitutions of texts or prices are allowed (unless the price is lowered, per Favored Nations clause) once the Submission Form has been received by the SDE.

G. The Invitation Circular Letter shall also include an Intent to Participate form, which shall be returned to the SDE by all publishers interested in responding to the Invitation.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:995 (May 2000).

§313. Establish State Textbook Adoption Committee

A. All textbook adoption committees appointed by the Superintendent of Education shall contain a membership of not less than one-third of which are teachers, not less than one-third of which are parents who are not public educators, and the remainder of which are other persons. For purposes of this section, the term teacher shall mean any person employed by a city or parish school board, who, as a condition of employment, is required to hold a valid teaching certificate issued by the Department of Education (R.S. 17:415.1).

B. Nominations for membership may be made by the State Board of Elementary and Secondary Education, local school superintendents, and representatives of the SBESE Nonpublic School Commission, as well as the State Superintendent of Education. The Committee shall contain a broad cross section in membership, to include parents, nonpublic educators, special educators, district-level curriculum supervisors, classroom teachers, and others who have interest and or knowledge of curriculum and subject matter under adoption.

C. Potential committee members shall be screened for potential conflict of interest with textbook publishers. Appointed members shall have no direct or indirect contact with publishers nor shall members have any business relationship, previous or planned, with any publisher. Committee members shall receive nothing of value from publishers or representatives in the state textbook adoption procedures, nor shall they accept any gratuity or offer of payment for services or attendance at publisher-sponsored functions. Potential members shall be asked to submit background information, including training and experience, willingness and availability to serve, and also an affidavit attesting that no conflict of interest with textbook publishers exists.

D. Committee members and publishers shall be informed in writing of appointment to the State Selection Committee by the State Superintendent according to the time line specified.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:996 (May 2000).

§315. Establish Criteria and Procedure for Evaluation and Selection of Textbooks and Materials of Instruction

A. The following SBESE-approved definition shall serve as a framework for the review of textbooks and materials of instruction which are offered for adoption.

1. A State-Approved Textbook is defined as a systematically organized core of instructional materials (which may be hardbound, softbound, electronic or other media) designed to support the teaching and learning of a curriculum based on the State-approved content standards and state assessment as approved by the SBESE. This definition includes any medium or material (print or non-print), book, or electronic medium that constitutes the principal source of study for teaching in specified subject areas.

B. At a minimum, the following framework shall guide evaluation.

1. Textbooks and materials of instruction shall align with the standards and benchmarks of the State content standards, State-approved curriculum guides, and State assessment program.

2. Textbooks and materials of instruction should promote an understanding of the history and values of the people of the United States and Louisiana, including the free enterprise system, private property, constitutional liberties, democratic values, and traditional standards of moral values. (R.S. 17:351).

3. Textbooks and materials of instruction should accurately reflect the contributions and achievements of people of differing races. (R.S. 17:351).

4. Other criteria as specified in the SDE-developed evaluation instrument(s).

Note: The SDE shall establish an appropriate evaluation instrument(s) that shall be used by State Textbook Adoption Committee members, and their local subcommittees, as tools for final decision making. In addition to the above frameworks, additional evaluation criteria shall focus on alignment of proposed textbooks and materials with the SBESE-approved state content standards/curriculum guides and assessment programs.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:996 (May 2000).

§317. Provide for a Publishers' Orientation

A. The SDE shall schedule an orientation for all interested publishers. Publishers who are interested in submitting textbooks and materials of instruction for consideration are required to have representation at the orientation or be eliminated.

B. Publishers will receive information regarding expectations for content of state-adopted textbooks and materials of instruction. Procedures for submission, review and evaluation, and contracting will be discussed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:996 (May 2000).

§319. Establish Procedures for Concerned Citizens' Involvement in the Review Process and a Procedure for Response by Textbook Publishers

A. A minimum of eight public sites shall be established for display and review of all basal textbooks presented for consideration. Sites shall include, at a minimum, New Orleans, Baton Rouge, Shreveport, Monroe, Alexandria, Lake Charles, Lafayette, and Houma.

B. The SDE shall establish, in accordance with R.S. 17:415.1, a procedure that allows interested persons who are legal residents of Louisiana to inspect and review the books offered for adoption at the public review sites. Said procedure shall allow for written comments by citizens and written responses by publishers, and if requested, oral presentations by citizens and publishers.

C. Interested citizens who choose to make oral objections before the State Textbook Adoption Committee shall be allotted a maximum of ten minutes. Oral objections by citizens shall be limited to those objections that have been previously filed in writing with the Department of Education following review at the public display sites. Upon request, citizens may also request to state oral objections before the Textbook, Media and Library Advisory Council of the SBESE who will report findings to the Student Standards and Assessment Committee of the SBESE. Comments shall be limited to ten minutes and include only those previously filed in writing with the Department of Education.

D. Publishers shall provide a written response and shall have an option (maximum of ten minutes) to present a response before the State Textbook Selection Committee and the Textbook, Media and Library Advisory Council of SBESE.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:996 (May 2000).

§321. Role and Responsibilities of the State Textbook Adoption Committee

A. Committee members shall receive nothing of value from publishers during the state textbook adoption process, nor shall they accept any gratuity or offer of payment for services or attendance at publisher-sponsored functions. Potential members shall be asked to submit background information, including training and experience, willingness and availability to serve, as well as an affidavit attesting that no conflict of interest with textbook publishers exists.

1. Members shall be informed in writing that they shall have no contact with publishers once formal appointment to the State Adoption Committee has been received. Publishers shall not attempt to influence the deliberations or vote of a Committee member, either directly or through third parties. Violations of this requirement may result in immediate disqualification of the publisher and committee member.

2. State Committee members shall be provided orientation and training by the Department of Education on purposes of the adoption, criteria for evaluation, use of the evaluation instrument(s), and procedures to be followed if local subcommittees assist in the review process. Staff members of the Department of Education shall serve as consultants on curricular content and adoption procedures during all meetings of the Committee.

3. Committee members are required to be in attendance and participate in all *scheduled* activities of the Committee. Members must be in attendance at all scheduled meetings of the Committee in order to cast a vote for textbooks under consideration. The committee chair shall verify the attendance of the members.

4. State Committee members shall evaluate all titles submitted for adoption using the state-approved evaluation instrument(s). One evaluation form shall be completed by each State Committee member on each title reviewed. Evaluation forms are designed to assist the State Committee member in formulating a final decision and vote. *Forms shall in no way be considered as binding upon the final vote of the committee member.* In accordance with public records law, evaluation forms used for decision making will be collected by the SDE.

a. Part of the evaluation allows each State Committee member to formulate and prioritize relevant questions to be addressed by publishers on each book. Said questions shall be forwarded to the SDE by each Committee member by a date to be specified by the SDE.

b. The Committee may elect to move titles of textbooks from one subject area to another if they believe that the publisher placed the book inappropriately in a subject area.

B. Each State Committee member may select, with assistance of the local textbook supervisor, a local five-

member subcommittee. The Department encourages local subcommittees be made up of a broad cross section in membership, that may include parents, nonpublic educators, special educators, district-level curriculum supervisors, classroom teachers, and others who have interest and or knowledge of curriculum and subject matter under adoption to assist in the evaluation process.

1. Each subcommittee should evaluate textbook materials using procedures and instruments that parallel those specified by the Department of Education for the State Committee. The evaluation instrument(s) include an area for written questions to be addressed by publishers on specific textbooks. The questions will then be submitted to the State Committee member for consideration.

2. Evaluation forms completed by local subcommittees are to assist the State Committee member. Only those forms used by the State Committee members for decision making will be collected by the SDE.

C. The final vote on each textbook under consideration shall be through a voice roll-call vote, by those seated and present, with written record, which shall be duly recorded by the SDE. The State Committee member shall have discretion and final authority in the vote on each textbook under consideration for adoption.

1. Each book must receive a favorable majority (defined as one vote over half of appointed committee members in attendance) of votes of the State Textbook Selection Committee in order to be placed on the state adopted list.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:997 (May 2000).

§325. Adopting Authority

A. The State Board of Elementary and Secondary Education (SBESE) is the official adopting authority in the state of Louisiana. The SBESE will receive the report from the Textbook, Media, and Library Advisory Council regarding public comments on textbooks proposed for adoption.

B. Oral objections shall be limited to those that have been previously filed in writing with the Department of Education following review at the public display sites. Persons choosing to make oral objections shall be allotted a maximum of ten minutes to address the full Board.

C. Publishers shall be allowed to provide a written response and or allotted a maximum of ten minutes to present relevant information before the full Board.

D. The Textbook, Media, and Library Advisory Council shall be composed of members appointed by the State Board of Elementary and Secondary Education. The Council's function is to review relevant legislation and proposed SBESE policy, to hear public comments regarding textbooks and materials of instruction proposed for state adoption, and to report findings to the Student Standards and Assessment Committee.

E. The Student Standards and Assessment Committee is made up of members of the State Board of Elementary and Secondary Education. The Committee may hear public comments which have been scheduled as a result of written comments received during the public review period. The

Committee will in turn make recommendations to the full Board of Elementary and Secondary Education.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:997 (May 2000).

Chapter 5. Local School System Responsibilities

§501. Local Planning

A. Local school systems shall develop a plan for providing adequate and appropriate instructional materials for students. Such plans shall include formal adoptions and appropriate procedures, as well as plans for implementation of policies included in §505. Districts must submit plans to SDE by June 30 of each year.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:998 (May 2000).

§503. Formal Adoption (see also, Bulletin 741, 1.070.03)

A. School systems shall make a formal adoption of textbooks according to the state adoption cycle within three months from the date of formal approval by the State Board of Elementary and Secondary Education (SBESE).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26: 998 (May 2000).

Note: will require a change in *Bulletin 741*

§505. Local Implementation

A. Adequate and Appropriate Instructional Materials

1. Textbooks and materials of instruction for all curriculum areas at the local level shall be supported with adequate and appropriate instructional materials, equipment, and available community resources that support the stated philosophy and purposes of the school system (see also, Bulletin 741, 1.070.00).

a. School systems shall make a formal adoption of textbooks within three months from the date of state-level approval by the State Board of Elementary and Secondary Education (SBESE). Local school systems shall provide students with access to current textbooks that conform to minimum standards of quality.

2. Textbooks for Core Curriculum Areas

a. School systems shall implement the latest textbook adoption for core subject areas of English/language arts, science, social studies, and mathematics within a three-year period, in accordance with locally determined levels of access to be provided to students (i.e., classroom sets, personal copy, other specified arrangement).

b. Currency: a school system shall implement the latest textbook adoption for core subject areas within a three-year period. Waivers of this policy shall be approved by the SBESE only upon extenuating circumstances as documented in the local Plan of Implementation to be submitted by June 30 of each year to the Department of Education.

c. Quality: a school system shall annually provide students with textbooks and materials of instruction that are useable and functional. Upon initial adoption, textbooks and materials must conform to the Minimum Manufacturing Standards and Specifications for Textbooks as developed by

the National Association of State Textbook Administrators (NASTA) in consultation with the American Publishers and Book Manufacturers=Institute.

d. Access: a school system shall, based on input from local teachers, principals, administrators, and others, determine how access to textbooks in core subject areas will be made available to students. School systems must ensure that each child within the classroom will have equal access to any available instructional materials. School systems shall also inform each parent/guardian in writing at the beginning of each school year of the method of access to textbooks which has been selected for each course or grade level. A contact person and phone number should be provided.

i. Options for providing textbook access for students may include

(a) textbooks provided for each student;

(b) textbooks provided via a classroom set;

(c) textbooks provided as both a classroom set and take home copy for each student; or

(d) other specified arrangement as deemed appropriate to the subject area by local officials.

3. Textbooks for Areas Other than Core Curriculum

a. Local school systems shall fully implement adoption in subject areas other than core as soon as funds will permit or as programmatic needs dictate. School systems must ensure that each child within the classroom will have equal access to any available instructional materials for non-core subject areas.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172;351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:998 (May 2000).

§507. Local Adoption Procedures

A. Purpose

1. To assure local public school systems have a defined procedure for textbook adoption.

2. To provide an opportunity for appropriate input in textbook selection.

3. To ensure curriculum content that reflects current national, state, and local standards of instruction.

B. Each local school system will hold a formal textbook adoption. The local textbook adoption process shall focus on those textbooks selected at the state level. after the State Committee textbook recommendations have been approved by the State Board of Elementary and Secondary Education, within thirty days local school systems will be provided the list of State-approved textbooks. Additional information regarding cost items included with the basal text, as well as all items to be given at no cost to local school systems, shall also be made available.

C. Local Adoption Procedures

1. An Established Time Line

a. Local school systems must hold textbook adoption each year following SBESE approval of newly adopted texts. Districts are encouraged to hold local adoptions between November and the end of March. Participation in the State Textbook Caravan is optional but may be used as a part of the local adoption procedures (see §507 D).

b. The SDE must be notified as to the locally adopted textbooks by June 30 and the school system's Plan for Implementation in the school year of the adoption.

2. Properly Constituted and Trained Local Adoption Committee

a. The local adoption committee will be composed of teachers, parents, and others with equitable representation by race, gender, and ethnic origin. For purposes of this section, the term teacher shall mean any person employed by a city or parish school board, who, as a condition of employment, is required to hold a valid teaching certificate issued by the Department of Education (R.S. 17:415.1).

b. Diverse membership is encouraged to include parents, special educators, district-level curriculum supervisors, classroom teachers, and others who have interest and or knowledge of curriculum and subject matter under adoption.

c. Local adoption committee members are to receive special training in textbook selection criteria (i.e., knowledge of subject area content standards and assessments), voting procedure, and integrity of interaction with publishers.

D. Participation in State Textbook Caravan

1. School systems are encouraged to participate in the State Textbook Caravan as scheduled by the SDE. The State Textbook Caravan affords all school systems an equal opportunity to preview all State-adopted textbooks and ancillary materials with onsite availability of publishers to answer questions.

2. All school systems, public, private and parochial, are eligible to participate in the State Textbook Caravan.

E. Provision for Publishers= Contacts with Local School District; Optional Requests for Local Presentations

1. Local school systems are strongly encouraged to establish a formal policy regarding the method, time line, and procedure for publishers seeking to have contact with personnel at central offices and local school sites. Such policies may also address the provision of written materials to school and central office personnel as well as attendance of school and central office personnel at functions sponsored by publishers. Local school systems are further encouraged to inform publishers of local policy.

2. Local school systems may use the State Textbook Caravan as the single opportunity for publishers' presentations within the city/parish OR as a vehicle for identifying those publishers to be called for a local presentation.

3. *At the district's request, one* additional presentation by a publisher will be permitted at the local level for clarification of information on textbooks under consideration for adoption. However, such follow-up presentation may not occur prior to the conclusion of the State Textbook Caravan.

F. Sampling of Textbooks by Publishers; Violation will Disqualify Publisher.

1. Publishers are to furnish examination copies only at the written request of the local school system textbook adoption coordinator after the State Committee review.

2. Samples are to be limited to sufficient quantities for the designated local adoption committee members only, as determined by the local system textbook adoption coordinator.

3. Other persons choosing to examine samples must use samples provided by the SDE at predesignated sites for public review.

4. No other examination copies will be permitted.

5. Publishers must notify local school systems, in writing, of the need to have samples returned. If notified by publishers, all samples received by local school systems must be picked up by the publisher within thirty days after the local adoption.

6. Publishers must make all necessary arrangements for sample returns at publisher's expense.

G. Local Selection of Textbooks

1. An evaluation instrument must be used by local school districts. Alignment with State-adopted content standards and State and local curriculum objectives, where applicable, *shall* be a primary consideration in the evaluation process. Local school districts may model state developed procedures and evaluation instruments.

2. An official summary report of local evaluation results is to be kept on file for a minimum of three years.

H. Notifying State of Local Textbook Selections

1. Local school districts shall notify the SDE of all textbooks selected by discipline and course via the local Plan of Implementation. Said notification must be made by June 30 in the school year of the state adoption (Refer to §515 Records and Reporting Requirements).

I. Notifying Schools of Locally Selected Textbooks

1. Each school shall be provided a list of all components of the locally adopted basal textbook in each subject area, including those items which may be purchased with textbook funds and those items to be supplied by the publishers at no cost.

2. Local school systems may share with each school a list of the strengths and weakness of all textbooks selected.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:999 (May 2000).

§509. Ordering

A. All local systems must establish the amount of monies to be used for textbooks, library books, and school supplies from their MFP allocation. This breakdown shall be forwarded to the Office of Student and School Performance with its Plan of Implementation for the purchase of textbooks each year. The Plan of Implementation shall be submitted by June 30 of each year.

B. Once the LEA determines the need of the schools based on the adoption schedule, orders may be placed with the SDE-designated textbook depository or directly with publishers.

C. When placing orders with the depository, the following schedule is suggested for ordering:

1. March 15 - May 15: Initial Ordering

(*suggested time for ordering textbooks to be placed in schools for the first time in the coming school year)

2. May 15 - October 15: Second Ordering

(*suggested time for revising initial order, ordering replacement or additional copies of texts already in use in the schools)

3. School systems may place orders in advance of the starting dates of each cycle.

D. All orders placed with the depository shall be delivered within ninety days of the end of each ordering cycle unless a later delivery date is requested by the LEA. Publishers and/or the state textbook depository may be fined 1 percent of all outstanding balances on orders not delivered within 90 days of the end of each ordering cycle, or within

30 days for orders not placed during the ordering period, based upon complaints of local school districts and follow up review by the SDE. See §1901, Appendix.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1000 (May 2000).

§511. Direct Order of Textbooks

A. Effective January 1, 1998, HB 1057 of the 1997 Regular Session provides that any governing authority of a public elementary or secondary school may order and receive State-adopted textbooks directly from a textbook publisher. Textbooks purchased directly from the publisher must be either the same price or lower than that offered from any other source.

B. Publishers may be fined 1 percent of all outstanding balances on orders not delivered within 90 days of the end of each ordering cycle, based upon complaints of local school districts and follow up review by the SDE. (See §519 and §1901, Appendix.)

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1000 (May 2000).

§513. Waivers

A. Purchasing Books not on the Approved State List

1. A local school system or school may use up to but not exceed 10 percent of its textbook allotment for the purchase of non-state adopted textbooks and materials of instruction. Approval by the State Board of Elementary and Secondary Education is not required.

B. Special Waiver to Exceed 10% of Textbook Allotment on Non-adopted State Textbooks and Materials of Instruction

1. A local school system, with the approval of its local school board or chartering authority, may petition in writing the State Department of Education for permission to spend in excess of the 10 percent allowance for non-adopted state textbooks. The Office of Student and School Performance will present the petition to the SBESE for action and notify systems of the results.

2. Requests shall be accepted from March through May 31. Textbook orders may not be processed until waivers have been approved. The last month for SBESE action on such waivers shall be *June*. Any extenuating circumstances shall be handled on an individual basis.

C. Purchase of Instructional Materials for Grades K-3

1. The State Board of Elementary and Secondary Education, at its meeting of June 22, 1989, exercised those powers conferred by the emergency provision of the Administrative Procedure Act, R.S. 49:953 B, and adopted the following guidelines to allow State textbook funds to be used to purchase instructional materials for Grade K-3 as recommended by the Department of Education.

a. For classes K-3, the school district superintendents are authorized to use textbook funds to purchase textbooks and other materials that can be used to support the instruction in these four elementary grades (K-3).

b. The major emphasis in selecting instructional materials for K-3 should be on manipulative and concrete

materials, such as blocks, dramatic/housekeeping toys, manipulatives (puzzles, legos, etc.), gross motor materials (jump ropes, balls, etc.) and other manipulative materials.

c. The characteristics and needs of the child in grades K-3 should be considered when selecting appropriate materials.

D. Special Purchase for Gifted Programs

1. The State Board of Elementary and Secondary Education may authorize the Louisiana School of Math, Science and the Arts and other parish or city school boards with programs for gifted students to select and purchase textbooks not included on the lists adopted by the Board pursuant to the provisions of this Section, provided that such authorization shall be on an ad hoc basis and shall be subject to prior approval by the Board. Such purchases may be made using funds appropriated by the Legislature for the purchase of textbooks as provided for herein.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1000 (May 2000).

§515. Records and Reporting Requirements (see also, Bulletin 741, 1.026.12-13; 3.026.12)

A. School systems shall maintain an inventory system for submitting records and reports as required by the Department of Education and include all textbooks on hand at the beginning of the session, as well as records of those added, worn out and in need of replacement.

1. Local Plan of Implementation

a. Local school systems shall submit an annual *Plan of Implementation* for textbook adoption to the SDE by June 30 of each year. Such plans shall document local implementation of adequate and appropriate instructional materials. Specific forms for this purpose will be provided by the SDE. In addition, an ongoing textbook inventory system should be used to maintain records for a minimum of three years.

b. The SDE must be notified of all textbook titles selected by discipline/course. This plan must address the number of books to be ordered by subject, course, and grade level. The school system shall indicate which of the following options will be applicable to the latest subject adoption:

- i. textbooks will be provided for each student;
- ii. textbooks will be provided via a classroom set;
- iii. textbooks will be provided as both a classroom set and take-home copy for each student;
- iv. other specified arrangements as deemed appropriate to subject area by local officials.

2. Textbooks Used By Blind and Visually Impaired Students

a. School systems in need of books and materials for use by blind and visually-impaired students should begin by contacting the school district's special education supervisor to ensure the student has an approved Individualized Educational Plan (IEP) that states the need for braille or large print materials. The local Textbook Implementation Plan submitted to the State Textbook Administrator each year should include a statement of need and a plan for securing textbooks for students who are blind or visually impaired. This plan should include the following:

- i. procedures for requesting/ordering from Louisiana Learning Resource System (LLRS);
- ii. procedures for securing textbooks not available from LLRS;
- iii. number of students included on the census of students with visual impairments compiled by LLRS school code;
- iv. number of students reported visually impaired and or blind to the Student Information System (SIS) at each school code.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1001 (May 2000).

§517. Textbooks for Home Study Program

A. The following procedures shall be used for ordering of textbooks to be used in approved home study programs. Parents and or guardians *must* proceed through the following steps in order to access textbooks for students in home study:

- 1. submit an application to the SDE and obtain approval for participation in the Home Study Program;
- 2. present a copy of the approved Home-Study application form to the local Textbook Supervisor or designee at local school board office;
- 3. select the textbooks and/or materials needed from the listing provided by the textbook personnel at each local school board office (only materials approved by the SBESE and adopted by local school districts are provided, when available);
- 4. provide a deposit equal to fifty percent (50%) of the replacement cost. Such deposit will be returned when the books are returned. If books are not returned or paid for, the parent or legal guardian shall not be eligible to continue participation in the textbook rental program until all textbooks debts have been cleared.

NOTE: Only one grade level set of texts per child per subject is available at any single time.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13 (A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236-236.1; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1001 (May 2000).

§519. Report on Status of Local Ordering -Late Delivery by Publishers

A. LEAs shall inform the SDE of any publisher who fails to provide textbooks within ninety (90) days of the end of each ordering cycle, or within thirty (30) days for orders not placed during the ordering period. Such notice shall be on forms prescribed by the SDE. (See §1901, appendix).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1001 (May 2000).

§521. Sale of Textbooks No Longer in Use

A. LEAs shall request permission of the SDE to dispose, sell, or donate out-of-date or unuseable or unsaleable textbooks. Limitation: Textbooks no longer in use may not be sold to anyone whose intent is to resell them.

B. In order to obtain the greatest utility from out-of-use textbooks and to assist local school districts and schools, the following options are available to local school districts.

1. If a textbook or library book has been out of use for over six months, or upon replacement by a new edition of books, a parish or city school board may, with the approval of the [State] Board, donate said book to any public hospital, any jail or prison, or any public institution, or to any individual for private use free of charge.

a. Any textbook or library book which a parish or city school board is unable to sell or donate after being out of use in excess of six months, or upon replacement by a new edition of books, or any textbook or library book which is deemed by said board to be unusable or unsaleable, shall be disposed of in an appropriate manner.

b. A parish or city school board, with the prior approval of the State Board of Elementary and Secondary Education, may by the debinding and shredding method, dispose of any textbook or library book that has not been sold or donated and has been out of use parish wide in excess of six months. If the debinding and shredding method is chosen, the following procedures are to be followed

- i. The local district shall submit request(s) to the SDE between March - June 30 of each year;
- ii. upon submission of request (s), the local school districts shall notify all SBESE and Brumfield-Dodd approved non-public schools within their district of the availability of these textbooks by disciplines, giving them three weeks to express their interest in securing any of these textbooks;
- iii. the local school district may select a vendor and enter into a contract for the debinding and shredding of those books no longer in use;
- iv. the local school district shall maintain appropriate records for three years;
- v. the local school district shall derive all funds from the debinding. Funds derived from such sale shall be used by the parish or city school board *solely* for textbook or library book purchases.

c. The reproduction of any textbook or library book no longer in use by a parish or city school system and the use of multiple copies of such books by organized groups or by an educational agency or entity is prohibited, per R.S. 17:8.1.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1001 (May 2000).

§523. Reasonable and Proper Care for and Control over Textbooks and Other Materials of Instruction.

Note: This policy shall also be applicable to instructional materials, supplies, and equipment (See also *Bulletin 741.*)

A. HB 2175 of the 1997 Regular Session authorizes local school systems to establish methods by which responsibility for reasonable and proper care for and control over textbooks and other materials of instruction is ensured. The SDE recommends that Student Handbooks, issued to students at the beginning of each school year, include a policy statement that stipulates responsibility for proper use and control over textbooks and other materials of instruction that are on loan to the students during the school year. Signature lines should be included for both students' and parent/legal guardians' acknowledgment of responsibility. In addition, a contact name and phone number should be

provided. Payment plans for restitution by parents/guardians may be specified.

B. Each school system, as part of its responsibility to ensure proper care and control of textbooks, shall adopt procedures that hold students and parents/guardians responsible for exercising reasonable and proper care of textbooks and materials of instruction.

C. Such procedures may provide that parents and/or legal guardians may be required to compensate the school district for lost, destroyed, or unnecessarily damaged books and materials, and for any books which are not returned to the proper schools at the end of each school year or upon withdrawal of their dependent child. Under no circumstances may a student of school age be held financially responsible for fees associated with textbook replacement.

D. Compensation by parents or guardians may be in the form of monetary fees or community/school service activities, as determined by the school governing authority. In the case of monetary fees, fines shall be limited to no more than the replacement cost of the textbook or material, but may, at the discretion of the governing authority, be adjusted according to the physical condition of the lost or destroyed textbook. A school system may waive or reduce the payment required if the student is from a family of low income and may provide for a method of payment other than lump-sum payment.

E. In lieu of monetary payments, both school systems and parents/guardians may elect to have students perform school/community service activities, provided that such are arranged so as not to conflict with school instructional time; these activities shall be properly supervised by school staff and shall be suitable to the age of the child.

F. School systems may withhold the grades of a student if a parent or guardian fails to compensate adequately the school or school system for lost, destroyed, or unnecessarily damaged books (through monetary fees or community/school service activities).

G. However, under no circumstances may a school or school district refuse the parent/guardian the right to inspect relevant grades or records pertaining to the child; nor may the school or school district refuse to transfer promptly the records of any child withdrawing or transferring from the school, per requirements of the Federal Family Educational Rights and Privacy Act. Transfer of records shall not exceed 45 days from the date of request.

H. Under no circumstances may a school or school district deny a student promotional opportunities, as a result of his/her failure to compensate the school district for lost or damaged textbooks. Students shall not be denied continual enrollment each grading period nor re-entry in succeeding school years as a result of lost or damaged books.

I. Students shall not be denied the use of a textbook during school hours each day. Each school system shall annually inform parents and/or legal guardians of the locally adopted procedures pursuant to state law and regulation, regarding reasonable and proper control of textbooks (See also *Bulletin 741, Louisiana Handbook for School Administrators* (Revised, 1997) for policy regarding this legislation).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1002 (May 2000).

§525. Ongoing Inventory System

A. Schools are required to develop and maintain an ongoing textbook inventory system. Records should be kept on file a minimum of three years. Data elements should include those requested for the district's Plan of Implementation.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1002 (May 2000).

Chapter 7. Publishers- Responsibilities

§701. Requirements for Publishers- Participation in State Textbook Adoption

A. Publishers are required to follow the procedures below in order to be eligible to participate in any state textbook adoption process. Publishers must provide the required information to the Department of Education by the specified time each year in order for submissions to be accepted for consideration.

B. An Intent to Participate form shall be mailed during each adoption year to publishers whose names and addresses are on file in the Department of Education.

C. Publishers are required to file an Intent to Participate form with the SDE by the assigned date in March each year in order to receive a full textbook submission packet.

D. Publishers are required to provide proof of registration with the Louisiana Secretary of State's Office in order for contracts to be legally negotiated. It is the responsibility of the publisher to ensure that proper forms have been completed and that the company is registered according to state laws and regulations.

E. Publishers are encouraged to submit such documentation along with the return of the Intent to Participate form. However, publishers may submit the verification at a later date, but no later than October 1 of each year. Under no circumstances will a contract be negotiated with a publisher without such documentation.

F. Publishers are required to provide the name, address, telephone, fax number, and electronic mail address, if applicable, of one local representative and one corporate representative of the company. The designated representatives should be those officials who are authorized to speak on behalf of the company within the State of Louisiana and who, at the corporate level, are authorized to enter into contract agreements with the Department of Education/SBSE. Such information shall be submitted with the Notice of Intent to Participate form to be submitted each year by interested publishers.

G. Publishers are required to provide written notification to the Office of Student and School Performance of changes in agents or representatives, addresses or phone numbers. No more than two names and addresses may be designated to receive information at any one time for any one person, firm, corporation or organization.

H. Publishers who are interested in submitting textbooks and materials of instruction for consideration are required to have representation at the orientation to be scheduled annually by the SDE. Failure to have representation will result in disqualification of the publisher.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1003 (May 2000).

§703. Publishers- Formal State Textbook and Materials of Instruction Submission

A. Publishers shall submit a formal response on SDE developed forms.

1. State Submission Forms for Textbooks and Materials of Instruction

a. Publishers must submit the Intent to Participate form by the prescribed deadline each year in order to receive the Invitation Circular Letter and accompanying SDE textbook submission packet.

b. All SDE forms must be fully and accurately completed. A publisher's submission form must clearly state each book or series of books the publishing company intends to offer in the appropriate subject area and for the appropriate grade level.

c. All submissions must be received in the Office of Student and School Performance, Department of Education building by 4:30 p.m. on the date specified each year. There will be no exceptions.

d. Failure to complete all required information on the submission form may result in disqualification of the publisher.

e. Publishers are required to submit detailed manufacturing standards on each book listed on the state submission forms. Manufacturing standards must be submitted along with the submission forms.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1003 (May 2000).

§705. Notification of Required Hardware, Software, Special Equipment Needed by State Textbook Adoption Committee Members to Review Textbooks and Materials Submitted by Publishers

A. Publishers are required to submit in writing to the SDE by the designated time each year a detailed list of hardware, software, and any special equipment which may be needed by State Textbook Adoption Committee members for review of textbooks and materials of instruction.

B. Publishers will be responsible for costs associated with rental of needed equipment by State Committee members, if other means are not available to the member. Publishers will be billed by the SDE for rental of such equipment.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1003 (May 2000).

§707. Submission of Correlations to State-Approved Content Standards/Curriculum Guides

A. Publishers are required to submit in writing detailed correlations to State Content Standards/Curriculum Guides for subject/content areas under adoption by the specified time each year.

B. Specific requirements shall be issued by the SDE regarding the format and methods to be used in preparing and reporting of correlations.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1003 (May 2000).

§709. Textbook Samples for Review by State Textbook Adoption Committee Members and State Citizens

A. Publishers are required to place a fixed label on the outside of each book to be mailed to Committee members or to Public Review sites. Each label shall clearly identify the following, in this order:

1. traditional; non-traditional; thematic;
2. subject area which corresponds to the state submission form;
3. applicable grade level;
4. title;
5. teacher or student edition;
6. publisher; and copyright date.

B. A checklist of titles should be enclosed with each box.

1. The checklist should include the following, in this order:

- a. book title,
- b. corresponding state adoption subject area,
- c. applicable grade level,
- d. teacher or student edition,
- e. publisher, and
- f. copyright date.

2. In addition, a list of all textbooks submitted for State adoption is required in order to determine whether total shipments from the publisher have arrived.

C. Publishers shall not provide any item of value, no matter how insignificant, to State Committee members (i.e., no mugs, book bags, pens, or other token of appreciation) when samples are distributed. No brochures or marketing information shall be included with shipments.

D. Publishers shall send appropriately labeled samples of all basal and teachers' editions listed on submission forms to location(s) designated by the Department of Education.

E. Publishers should obtain a returned signed receipt as verification that all titles submitted for State Textbook Adoption Committee review have been received at designated location(s). Publishers shall be responsible for ensuring that books are received at designated location(s) for subsequent review by State Textbook Adoption Committee members. A summary check list that corresponds with materials submitted for review is required in addition to individual packing lists.

F. If samples are not received by the SDE-specified deadline, or are not of sufficient quantity for distribution, the book shall be disqualified from the adoption process.

G. The publisher will have the responsibility of making arrangements to have materials picked up from the Committee members at the conclusion of the voting process. If the publisher fails to make the necessary arrangements within thirty days after the adoption, the materials will become the property of the Committee members.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1003 (May 2000).

§711. Submission of Galley Proofs

A. Galley proofs may be submitted to designated location(s) as samples for review by State Committee members provided that the finished books will be available by the date specified by the SDE each year.

B. A galley proof shall be defined as the final bound manuscript set in type with all corrections made and the elements of the pages arranged in their final form [i.e., only book binding required for completion].

C. In the case of galley submissions, publishers must also submit detailed manufacturing standards that will be used when the final book is published.

D. Publishers shall pick up galleys from the designated public review sites and replace them with finished books prior to the State Caravan.

E. Any new or updated editions of the originally adopted book must be provided to the SDE at the same price and terms as stipulated in the submission form and State contract. Updated editions or additions to complete a series previously adopted must be submitted to the SDE for review and recommendation to the SBESE by the specified time each year.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1004 (May 2000).

§713. Samples for Public Review

A. Publishers are required to supply an adequate quantity of textbooks/materials of instruction for placement at the public review sites.

B. The SDE shall arrange sites for public display of proposed textbooks and shall provide a written form for public comment. Copies of basal textbooks being considered for adoption shall be placed in cooperating public libraries in those cities named in R.S. 17:415.1: New Orleans, Baton Rouge, Shreveport, Monroe, Alexandria, Lake Charles, Lafayette and Houma. Public libraries must be contacted initially for use of their facilities for public display; and if they are unable to accommodate the display, the State Department of Education may select an alternate site.

C. Publishers shall pick up galleys from the designated regional library/ public review sites and replace them with finished books prior to the State Caravan.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1004 (May 2000).

§715. Role of the Publisher During State Committee Review

A. The SDE shall inform all publishers submitting an Intent to Participate form of the names of appointed State Committee members. Publishers shall have no personal contact with the State Committee members once names of Committee members have been released by the SDE and until such time as the State adoption process has been completed.

B. Personal contact shall be defined as any one-on-one, written, or third parties contact, other than the presentation of materials or provision of SDE requested materials at State-requested or conducted textbook adoption proceedings.

C. Publishers shall not attempt to influence the deliberations or vote of a Committee member, either directly or through third parties. Violations of this requirement will result in immediate disqualification of the publisher.

D. Publishers shall provide nothing of value to any Committee member at any time during, or after the adoption process.

E. Publishers shall be required to file written affidavits regarding any contact with state

Textbook Adoption Committee members and with State Board of Elementary and Secondary Education members.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1004 (May 2000).

§717. Written Questions and Responses to Questions Regarding Textbooks Under Consideration

A. Each State Textbook Adoption Committee member may formulate and prioritize relevant questions to be addressed by publishers on each book under consideration for adoption. Questions shall be forwarded to the SDE by each Committee member on forms prescribed for such purpose by a date to be determined by the SDE.

B. Questions may address the physical characteristics and layout; factual content of the book; relationship to State content standards and assessment; organization, presentation and sequencing of content; and any other area specified for evaluation on the State evaluation form. Questions may not address items contained on the Ancillary Materials Submission Form, Free Materials Submission Form, including in-service offerings. Questions will be forwarded to publishers.

C. Written responses shall be developed by publishers according to SDE instruction. Failure to respond according to the specified time line will disqualify the book for consideration of adoption.

D. Responses by publishers may not address items contained on the Ancillary Materials Submission Form, Free Materials Submission Form, including in-service offerings.

E. Sufficient copies of the written responses shall be forwarded to the SDE by respective publishers according to the specified time each year. The SDE shall be responsible for forwarding copies of the written responses to State Committee members.

F. All meetings of the State Textbook Adoption Committees shall be open to the public. The SDE shall post official public notice of all meetings of the Committee.

G. Each publisher shall be invited to a question/answer session during which time State Committee members may seek further clarification to written responses provided by publishers or may pose additional questions for publishers' response. Publishers shall be allowed to discuss how their basal and teacher= editions align with the state content standards and assessment program. Publishers may not address ancillary or free materials proposed for addition after SBESE approval of the basals.

H. Publishers shall be allocated a maximum time period for the question/answer session, as specified by the SDE .

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1005 (May 2000).

§719. Publisher Conduct During the State Caravan

A. Publishers shall not provide any item of value, no matter how insignificant to local committee members (i.e., NO mugs, book bags, pens, or other tokens of appreciation) when samples are distributed.

B. Publishers shall not solicit names or make requests related to samples.

C. No sample books are to be removed from the Caravan.

D. Publisher fees will be collected to cover costs of refreshments at each location.

E. Folders of related product information may be offered.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1005 (May 2000).

§721. Obligations to Provide Textbooks and Materials of Instruction within Prescribed Time Periods

A. Publishers must ensure that textbooks are delivered to local school systems within ninety days of the end of the appropriate ordering cycle as specified. The SDE may authorize fines on textbook publishers who fail to deliver ordered materials within the ninety day time line. Said fine shall equal 1% of the outstanding balance for any order that has not been received by the local school system within ninety days after the closing date of the appropriate ordering cycle.

1. State Contract for Adopted Textbooks and Materials of Instruction

a. The State Board of Elementary and Secondary Education, at its meeting of June 28, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B, and approved the following amendments to textbook adoption procedures, effective June 28, 1990:

Note: In the 1990-91 adoption and all other adoptions thereafter, all titles approved through the State textbook adoption process will carry a definite contract not to exceed seven years.

b. The State textbook adoption process shall be limited to basal textbooks and Teacher's Editions only.

Ancillary materials will carry a fixed cost for the life of the contract. Free materials included in the formal submission by publishers must clearly indicate period of availability, if other than the seven-year contractual period.

c. Publishers with materials under contract with the State of Louisiana may add materials during the specified time each year. The *addition* can be only textbooks that complete an adopted series, ancillary materials that accompany an adopted basal program, or a new copyright edition of an adopted textbook. If a new copyright edition is requested for addition it, *must* be priced as the same cost of the copyright edition under contract. At any time during the life of this contract, if the publisher should charge less to others for materials under contract, the publisher must agree to reduce the price to the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1005 (May 2000).

§723. Braille Accessibility (R.S. 17:1985; SCR 15 of 1997; SCR 149 of 1997)

A. SCR15 of the 1997 Regular Session requires the State Board of Elementary and Secondary Education (SBESE) to coordinate a statewide system of providing braille books to visually-impaired students by tracking braille books already available and supplying funds for those needed. In addition, SCR 149 of the 1997 Regular Session provides for access and use of technology by blind and visually impaired students.

B. Publishers shall furnish, within ninety days of state adoption, to the American Printing House for the Blind computer diskettes for State-adopted literary subjects in an electronic text file from which braille or large print versions can be produced. Files will be used by blind or visually impaired students in Louisiana. Electronic text files for nonliterary subjects - including natural science, computer science, mathematics, and music - must be provided when braille specialty code translation software is available.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1005 (May 2000).

Chapter 9. Appendix A

Note: Forms contained in the Appendix are subject to revision by SDE.

§901. Adoption Cycle

**Louisiana State Textbook Adoption Cycle:
Core Subject Areas Are Adopted Every Seven Years**

1998-99	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
Social Studies K-12	Language Arts K-8	Language Arts 9-12	Vocational Agricultural	Science K-12	Foreign Language	Mathematics K-12
	Grades 6-12 Literature	Reading K-8	Business Education	Health and Physical Education	Handwriting Music/Fine Arts	Computer Science
	Computer Literacy		Home Economics Health Occupations	Computer Literacy		

Note: Separate categories for special education are no longer adopted.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1005 (May 2000).

State of Louisiana
Department of Education
State Textbook Adoption

PUBLISHER'S AFFIDAVIT

I, _____ (printed name), an authorized representative of the publishing company (printed name), do hereby certify the following:

- A) No representative of my company or affiliate company will try to influence the vote of a State _____ Adoption Committee member, either directly or through a third party.
- B) No item of value, no matter how insignificant, will be given to any *State Committee member* by my company after the State Department of Education (SDE) publicly discloses the names of the State Committee members. Items of value shall include money, trips, meals, mugs, book bags, pens, and any other item of value or token of appreciation.

In the event that my company has within *the last year* given any item of value to a person named as a State Committee member, I shall immediately (*within ten days* of the naming of the State _____ Adoption Committee) inform the SDE in writing of such gift. The written correspondence shall describe the nature of such gift and shall be mailed to the SDE Textbook Administrator.

- C) I assure that my company has no affiliation or business arrangement with any State Adoption Committee member.

In the event that my company has within the *last year* had an affiliation with or any business arrangement with a person named as a State Committee member, I shall immediately [*within ten days* of the naming of the State _____ Adoption Committee] inform the SDE in writing of such relationship. The written correspondence shall describe the nature of the business arrangement or affiliation and will be mailed to the LDE Textbook Administrator.

- D) I assure that I will comply with all directives of the State Board of Elementary and Secondary Education and the SDE regarding materials to be provided and procedures to be followed during the State _____ adoption process.

Signature of Authorized Local Representative

Date

Note: *REQUIRED FORM* -- Must be returned to SDE by _____
Date

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1006 (May 2000).

State of Louisiana
Department of Education
State Textbook Adoption

STATE ADOPTION COMMITTEE MEMBER-S AFFIDAVIT

I, _____(printed name), do hereby certify the following:

- A) No representative from any publisher or affiliated company will influence my vote, either directly or through a third party.
- B) No item of value, no matter how insignificant, will be accepted from publishers or affiliated companies once the Louisiana Department of Education (SDE) discloses the names of the State Committee members. Items of value shall include money, trips, meals, mugs, book bags, pens and any other item of value or token of appreciation.

In the event that I have within the *last year* taken any item of value from a publisher submitting materials for adoption, I shall immediately [*within ten days*] of naming the State Textbook Adoption Committee] inform the SDE of such gift. The written correspondence shall describe the nature of the gift and shall be mailed to the SDE Textbook Administrator.

- C) I assure the Department that I have no affiliation or business arrangement with any publisher or its affiliated company. In the event that I have within the *last year* had an affiliation with or any business arrangement with a publisher submitting materials for adoption, I shall immediately [*within ten days* of naming the State Textbook Adoption Committee] inform the SDE in writing of such relationship. The written correspondence shall describe the nature of the business arrangement or affiliation and shall be mailed to the SDE Textbook Administrator.
- D) I assure that I will comply with all directives of the State Board of Elementary and Secondary Education and the LDE regarding materials to be provided and procedures to be followed during the state textbook adoption process.
- E) I assure the Department that I will attend two mandatory meetings, the orientation to be held and full committee review _____.

(Date)

(Date)

Signature of State Adoption Committee Member

(Date)

Note: REQUIRED FORM: Return to SDE by _____.
Attn: Jackie Bobbett
Baton Rouge, LA 70802
FAX: (225) 342-3463

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1007 (May 2000).

State of Louisiana
Department of Education
State Textbook Adoption

LOCAL ADOPTION SUBCOMMITTEE MEMBER-S AFFIDAVIT

I, _____ (printed name), do hereby certify the following:

- A) No representative from any publisher or affiliated company will influence my vote, either directly or through a third party.
- B) No item of value, no matter how insignificant, will be accepted from publishers or affiliated companies once selected by the State Adoption Committee Member. Items of value shall include money, trips, meals, mugs, book bags, pens and any other item of value or token of appreciation.

In the event that I have within the *last year* taken any item of value from a publisher submitting materials for adoption, I shall immediately (*within ten days*) inform the State Adoption Committee Member in writing of such gift. The written correspondence shall describe the nature of the gift and shall be mailed to the LDE Textbook Administrator.

- C) I assure the Department that I have no affiliation or business arrangement with any Publisher or its affiliated company.

In the event that I have within the *last year* had an affiliation with or any business arrangement with a publisher submitting materials for adoption, I shall immediately (*within ten days*) inform the State Adoption Committee Member in writing of such relationship. The written correspondence shall describe the nature of the business arrangement or affiliation and shall be mailed to the LDE Textbook Administrator.

- D) I assure that I will comply with all directives of the State Board of Elementary and Secondary Education and the **SDE** regarding materials to be provided and procedures to be followed during the State Textbook adoption process.

Signature of Local Adoption Subcommittee Member Date
Note: REQUIRED FORM: -- To be collected by State Committee Member

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1008 (May 2000).

Chapter 17. Appendix E
§1701. Public Comment Form

State of Louisiana

Department of Education
 Division of School Standards, Accountability, and Assistance
 _____ State Textbook Adoption
PUBLIC COMMENT FORM

Forms must be typed or neatly printed. A separate form should be completed for each textbook.

The State is currently considering textbooks and materials of instruction for _____ classrooms, grades _____. This form is intended to allow Louisiana citizens to make comments regarding those textbooks under consideration.

Publisher: _____ Subject Area: _____
 Title: _____ Author: _____
 Grade Level: _____ Copyright: _____ Name of person making comment:
 Address: _____ Area Code/Telephone No.: Home () Work: ()
 Parish of Residence: _____

Do you represent: ? Yourself An Organization (Name): _____
 Do you have children of school age? ? Yes ? No;
 If yes, what type of school do they attend? ? Public ? Non-Public (Receive State Funds) ? Non-Public (Does not Receive State Funds)
 ? I would like to present my comments in the form of an oral presentation before the State Committee(s) involved with adoption.
 The following information must be completed:
 I object to the following materials in this textbook. Please be specific: i.e., cite passages, pages, ideas, pictures, chart, copyright, etc.
 (Please use additional sheets if needed.)

Have you personally reviewed the material in its entirety? ? Yes ? No ? Segments Only
 Is your objection to this material based upon: ? Personal exposure? ? Reports you have heard? ? Both?
 Are you in anyway affiliated with a publishing company presenting material for adoption? ? Yes ? No
 Would the publication have merit if the objectionable pages were removed? Explain

 Signature

 Date

Form must be returned by 4:30 p.m. MMDDYY to Jackie Bobbett, State Textbook Administrator
 Division of School Standards, Accountability, and Assistance Louisiana Department of Education
 P. O. Box 94064
 Baton Rouge, LA 70804-9064
 FAX: (504) 342-5736

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1009 (May 2000).

STATE OF LOUISIANA
DEPARTMENT OF EDUCATION

NOTICE OF PUBLISHER'S FAILURE TO DELIVER
STATE ADOPTED TEXTBOOKS AND MATERIALS OF INSTRUCTION IN
ACCORDANCE WITH STATE CONTRACTS

School districts should complete the following form and submit an original signed copy to the State Textbook Administrator in the event that State-adopted textbooks and materials of instruction are not delivered within ninety days of the last ordering cycle. Upon approval by the State Department of Education, local school systems may fine a publisher 1% of the outstanding balance of delinquent order. State contracts stipulate that failure to deliver textbooks and materials of instruction within ninety days of the last ordering cycle may render state contracts null and void.

Date

Name of Publisher

(Mo/Day/Year)

Briefly explain steps taken to date to trace/recover State adopted textbook order:

Signature District Superintendent

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1010 (May 2000).

Chapter 21. Appendix , State Laws

§2101. Free School Books

The legislature shall appropriate funds to supply free school books and other materials of instruction prescribed by the State Board of Elementary and Secondary Education to the children of this state at the elementary and secondary levels. [Article VIII, Section 13(A) of the Louisiana Constitution of 1984]

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1010 (May 2000).

§2103. Duties, Functions, And Responsibilities Of Board [R.S. 17:7(4)]

The Board shall prescribe and adopt free school books and other materials of instruction for the children of this state at the elementary and secondary levels and all other schools and programs under its jurisdiction for which the legislature provides funds, in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1010 (May 2000).

§2105. School Books Prescribed By Board; Contracts With Publishers [R.S. 17:8]

A.1.a. The Board shall prescribe and adopt and shall exercise control and supervision over the distribution and use of free school books and other materials of instruction for use in elementary and secondary schools and special schools, as provided by Part IV of Chapter 1 of Title 17 of

the Louisiana Revised Statutes of 1950, and shall adopt necessary rules and regulations governing their use by schools, parish and city school boards, and parish and city superintendents of education. Such rules and regulations shall include but not be limited to a requirement that each parish and city school board shall adopt by not later than the beginning of the 1991-1992 school year procedures permitting any public school student to have use after regular school hours during the week and on weekends of any school book used to teach reading. Any public school student using any school book pursuant to the provisions of this Subsection shall be responsible for such school book. These procedures shall not be applicable to basal readers and programs.

b.i. All school students and persons responsible for a student's school attendance shall be accountable for exercising reasonable and proper care for and control over school books and other instructional materials, supplies, and equipment.

ii. Notwithstanding any law or rule or regulation to the contrary, the governing authority of an elementary or secondary school may withhold the grades of a student who does not reimburse the school or school system for the student's failure to exercise reasonable and proper care for and control over school books or other instructional materials, supplies, and equipment.

iii. In accordance with the authority granted to the State Board of Elementary and Secondary Education by the provisions of this Subsection, the Board shall formulate, develop, adopt, and provide for implementation by not later than January 1, 1998, by each governing authority of a public elementary or secondary school of appropriate policies and procedures consistent with the provisions of this Subparagraph, including meaningful sanctions and penalties, to enable school administrators to hold public school students and persons responsible for a student's school

attendance accountable for failing to exercise reasonable and proper care for and control over any public school book or other instructional materials, supplies, and equipment.

c. The Board shall adopt lists of basic textbooks and shall adopt one or more lists thereof. It may authorize and approve revised editions of any school book it adopts.

2. The Board may authorize the Louisiana School of Math, Science and the Arts and other parish or city school boards with programs for gifted students to select and purchase textbooks not included on the lists adopted by the Board pursuant to the provisions of this Section, provided that such authorization shall be on an ad hoc basis and shall be subject to prior approval by the Board. Such purchases may be made using funds appropriated by the legislature for the purchase of textbooks as provided for herein.

B. The Board shall prescribe and adopt and shall exercise supervision and control over the distribution and use of school books and other learning materials, supplies, and equipment for post secondary and vocational-technical schools and programs.

C. Each contract with a publisher for school books shall be awarded on a competitive basis. Each such contract shall be made for a term to be determined by the State Board of Elementary and Secondary Education. Each contract shall be so made as to authorize the Board to terminate it upon ninety days notice. The procedure for the announcement of school book adoptions, examining books, and awarding contracts shall be under the control of the board and in accordance with any applicable law. The Board shall have authority to set and collect fees from publishers participating in the State school book adoption procedures.

D. Each contract shall stipulate that the publisher shall automatically reduce the net cost of textbooks in the state when the net cost of the publisher for books covered by the contract are reduced anywhere in the United States, so that no edition of that textbook shall at any time be sold in this state at a higher net cost than that received for that book elsewhere in the United States.

E. Each contract with a publisher shall stipulate that the book or books covered by the contract to be sold in this state shall be identical with the official samples filed with the Board with respect to size, paper, binding, print, illustrations, subject matter, and all other particulars which may affect the value of said books. However, during the period of the contract, the Board may approve revised editions of an adopted textbook or service at the bid price, which will authorize a publisher to provide such revisions.

F. Each contract with a publisher shall stipulate that, whenever five thousand or more copies of a textbook of a single title and edition are to be purchased by the State from a single publisher during a twelve month period which shall be established by the Board by rule, not less than eighty percent of the total number of the copies of such book purchased by the state shall be printed and bound by a printer licensed to do business and doing business within the state, provided that the publisher receives a timely bid made according to the publisher's bid-making requirements from such a printer and provided that the printer is able to print and bind such book in accordance with the manufacturer's specifications for state textbooks as promulgated by the State Department of Education and at a cost equal to or less than the unit cost per book for the same number of books made in

a otherwise qualified bid by any out-of-state printer bidding on the same work. Whenever two or more printers in this state submit bids which would qualify all of them to print and bind textbooks pursuant to this Section and one such printer is a minority-owned business as defined in R.S. 39:1952(13), the minority-owned business shall be awarded not less than ten percent of the printing and binding required by this Section to be done in this state.

G. The State Department of Education shall be the depository in the state for books for the schools. The superintendent may do all things necessary and proper for the Department to function as such depository, including but not limited to the power to enter into contracts or agreements and to acquire property, through lease or purchase, in which the depository is to be located, and to determine the location or locations of the depository. The superintendent may require publishers to maintain a depository in the state or may contract, in accordance with the procedures for the letting of contracts set forth in applicable provisions of the Louisiana Procurement Code particularly R.S. 39:1593 with any other public or private agency to act as the depository.

H. The State Department of Education shall require any depository with whom the Department does business to provide the Department a written summary of all purchase orders for textbooks received by the depository from the Department. The depository shall transmit such summary within three business days whenever the Department requests it to do so and the Department shall make such a request upon the written request of any printer licensed to and actually doing business in Louisiana. Such a summary shall be a public record. The summary shall itemize the total number of copies of each book which is the subject of a purchase order, the unit price of each book, the commissions paid to or the discounts received by the depository, and the publishers of each book.

I. The books shall be distributed to the several parish and city school boards from the depository on requisition of the superintendent of education for public elementary and secondary education.

J.1. The Board shall establish a procedure enabling any governing authority of a public elementary or secondary school, effective January 1, 1998, and thereafter, to order and receive textbooks approved by the board directly from textbook publishers. The procedure shall include but not be limited to permitting a public elementary or secondary school governing authority to contract with a textbook publisher and receive any applicable publishers' discount. However, any textbook purchased under the provision of this Paragraph shall be purchased at the same or lower price than such textbook can be purchased from any source other than the publisher.

2. The Board shall adopt necessary rules and regulations in accordance with the Administrative Procedure Act to implement the provision of the Subsection.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1011 (May 2000).

§2207. Sale Of Schoolbooks No Longer In Use
[R.S. 17.8.]

A. A parish or city school board with the prior approval of the State Board of Elementary and Secondary Education

may sell any textbook or library book no longer in use in the school system to any person or entity for private use at a fee established by the parish or city school board. Funds derived from such sale shall be used by the parish or city school board solely for textbook or library book purchases.

B. If a textbook or library book has been out of use for over six months, or upon replacement by a new edition of any such books, a parish or city school board may, with the approval of the [State] Board, donate said book to any public hospital, any jail or prison, or any public institution, or to any individual for private use free of charge.

C. Any textbook or library book which a parish or city school board is unable to sell or donate after being out of use in excess of six months, or upon replacement by a new edition of any such book, or any textbook or library book which is deemed by said Board to be unuseable or unsaleable, shall be disposed of in an appropriate manner. The reproduction of any textbook or library book no longer in use by a parish or city school system and the use of multiple copies of such books by organized groups or by an educational agency or entity is prohibited.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1012 (May 2000).

§2209. Operation Of Public Elementary And Secondary Schools In Accordance with State Law Or Policy: Penalties For Violation [R.S. 17:172]

No free school books or other school supplies shall be furnished nor shall any state funds for the operation of school lunch programs, or any other school funds be furnished or given to any elementary or secondary school which violates the provision of this Section.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1012 (May 2000).

§2211. Free school books and other materials of instruction [R.S. 17:351]

A.1.The State Board of Elementary and Secondary Education shall prescribe and adopt school books and other materials of instruction, which it shall supply without charge to the children of this state at the elementary and secondary levels out of funds appropriated therefore by the legislature in accordance with the requirements of Article VIII, Section 13(A) of the Constitution of Louisiana.

2. The State Board of Elementary and Secondary Education shall prescribe and adopt those school books and other materials of instruction which accurately reflect the contributions and achievements of people of differing races.

3. The State Board of Elementary and Secondary Education shall prescribe and adopt those school books and other materials of instruction which promote an understanding of the history and values of the people of the United States and Louisiana, including the free enterprise system, private property, constitutional liberties values, and traditional standards of moral values.

B. The Board also shall prescribe and supply school books and other materials of instruction for use by students attending vocational-technical schools and programs under the jurisdiction of the board.

C.1.The Board shall establish rules and procedures for supplying schoolbooks and other materials of instruction approved by the State Board of Elementary and Secondary Education as required by this Section for children participating in any home-study program approved by the board when available. Such rules and procedures shall include but not be limited to a requirement that any school books and other materials of instruction provided pursuant to this Subsection shall be made available only to the child or children of the parent or legal guardian obtaining approval for a home study program.

2. The board shall provide a copy of such rules and procedures to any parent or legal guardian applying for approval of a home study program.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1012 (May 2000).

§2213. Books, Films, Other School Materials; Screening Required [R.S. 17:352]

A.1.The State Board of Elementary and Secondary Education, the State Department of Education or either of these shall take such action as is necessary to assure that all school books and materials of instruction submitted for state adoption are thoroughly screened, reviewed and approved as to their content by the State Board of Elementary and Secondary Education and the local parish or city school board concerned.

2. The State Board of Elementary and Secondary Education or the State Department of Education shall take such action as is necessary to assure that any state committee or other group responsible for screening, reviewing, and evaluating any materials of instruction and computer and related technological equipment and supplies, including but not limited to any group created pursuant to the provision of R.S.17:415.1, shall contain a membership not less than one-third of which are teachers as defined in R.S. 17:415.1.

B. The State Board of Elementary and Secondary Education shall maintain a copy of all approved textbooks and teaching materials. Such textbooks and teaching materials shall be maintained in the Department of Education for a period of one year following their initial approval and thereafter shall be maintained in the Department's book depository during the time they are approved for use in Louisiana's public schools. Such textbooks or teaching materials shall be available for public inspection during regular office hours.

C. The State Board of Elementary and Secondary Education shall adopt rules and regulations to carry out the provisions of this Section.

D. Whoever intentionally violates any provision of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment for not to exceed six months, or both.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1;172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1013 (May 2000).

§2215. Costs Of Administration; Textbooks And Instructional Material Distribution To Nonpublic School Students [R.S. 17:353]

A. Beginning with the 1993-1994 school year, each city and parish school board which disburses school library books, textbooks, and other materials of instruction to nonpublic school students shall submit to the Superintendent of Education such documentation as he may require to verify the administrative costs incurred by the school board in the disbursement of such books and instructional materials.

B. The verified costs of administration incurred by each city and parish school board shall be paid by the State.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1013 (May 2000).

§2217. Required Reports And Records; Cost Reimbursement To Approved Nonpublic Schools (Reimbursement Of Required Costs) [R.S. 17:361]

The Superintendent of Education, in accordance with rules and regulations adopted by the State Board of Elementary and Secondary Education, shall annually reimburse each approved nonpublic school, for each school year beginning on and after July, 1979, an amount equal to the actual cost incurred by each such school during the preceding school year for providing school services, maintaining records and completing and filing reports required by law, regulation or requirement of a state department, state agency, or local school board to be rendered to the state, including but not limited to any forms, reports or records relative to school approval or evaluation, public attendance, pupil health and pupil health testing, transportation of pupils, federally-funded educational programs including school lunch and breakfast programs, school textbooks and supplies, library books, pupil appraisal, pupil progress, transfer of pupils, teacher certification, teacher continuing education programs, unemployment, annual school data, and any other education-related data which are not or hereafter shall be required of such nonpublic school by law, regulation or requirement of a state department, state agency, or local school board.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1013 (May 2000):.

§2219. Applications For Reimbursement [R.S. 17:362]

Each school which seeks reimbursement pursuant to this Part shall submit to the superintendent an application therefore, together with such additional reports and documents as the superintendent may require, at such times, in such form, and containing such information as the superintendent may prescribe in order to carry out the purposes of this Part.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of State Elementary and Secondary Education, LR 26:1013 (May 2000).

§2221. Maintenance Of Records [R.S. 17:363]

Each school which seeks reimbursement pursuant to this Part shall maintain a separate account or system of accounts

for the expenses incurred in rendering the required services for which reimbursement is authorized by R. S. 17:361. Such records and accounts shall contain such information and be maintained in accordance with regulations adopted by the Board, but for expenditures made in the school year 1979-1980, the application for reimbursement made in 1980, pursuant to R.S. 17:361 shall be supported by such reports and documents as the Superintendent shall require. In promulgating such regulations concerning records and accounts and in requiring supportive documents with respect to expenditures incurred in the school year 1979-1980, the Superintendent shall implement the audit procedures provided in R.S. 17:365. The records and accounts supporting reimbursement for each school year shall be preserved at the school until the completion of such audit procedures.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 72; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1013 (May 2000).

§2223. Payment [R.S. 17:364]

No payment to a school shall be made pursuant to this Part until the Superintendent has approved the application submitted pursuant to R.S. 17:362.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1013 (May 2000).

§2225. Audit [R.S. 17:365]

A. No application for reimbursement under this Part shall be approved except upon such audit of vouchers or other documents by the Superintendent as is necessary to insure that such payment is lawful and proper.

B. The legislative auditor may from time to time examine, in accordance with the provision of R.S. 24:513, any and all accounts and records of a school which have been maintained pursuant to this Part in support of an application for reimbursement for the purpose of determining the cost to such school of rendering the services referred to in R.S. 17:361. If after such audit it is determined that any school has received funds in excess of the actual cost of providing such services, such school shall immediately reimburse the state in such excess amount.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1013 (May 2000).

§2227. Materials; Adoption Procedures [R.S. 17:415.1]

A. Any interested citizen may request that his name be included on the mailing list for textbook adoption information by writing to the Director of the Bureau of Materials of Instruction and Textbooks; State Department of Education; Capitol Station; Baton Rouge, Louisiana. Any person who has made this request shall be timely notified of the name and address of each member of all textbook adoption committees and the Textbook and Media Advisory Council; the times, places, and agenda of all committee and council meetings; and the titles, authors, and publishers of all textbooks proposed for adoption.

B.1. All textbook adoption committees appointed by the superintendents of elementary and secondary education shall

contain a membership not less than one-third of which are teachers, not less than one-third of which are parents who are not public educators, and the remainder of which are other persons. All meetings of textbook adoption committees and the Textbook and Media Advisory Council shall be open to the public. Any member of the public may attend and file written or make oral objections to any textbook under consideration. The State Board of Elementary and Secondary Education shall adopt a form whereby any member of the public may file written objections to any textbook being considered for adoption.

2. For purposes of this Subsection, the term **Teacher** shall mean any persons employed by a city or parish school board who, as a condition of employment, is required to hold a valid teaching certificate issued by the Department of Education.

C. The State Department of Education shall ensure that, all textbooks being considered for state adoption are placed prior to State adoption and for a period of at least 60 days in a cooperating public library in New Orleans, Baton Rouge, Shreveport, Monroe, Alexandria, Lake Charles, Lafayette, Houma, and any other city designated by the Superintendent of Elementary and Secondary Education. Any interested person may inspect and review the books during the period when they are on display.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1014 (May 2000).

§2229. SCR 15 of 1997, Regular Session

The Legislature of Louisiana urges and requests the State Board of Elementary and Secondary Education to coordinate a statewide system of providing Braille books to visually impaired students by tracking the Braille books already available and providing funding for those books which are needed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1014 (May 2000).

§2231. SCR 149 of 1997, Regular Session

A. The Legislature of Louisiana hereby urges and requests that information technology programs and activities of the state which are supported in whole or in part by public funds incorporate aspects which facilitate access to and use of such technology by the blind and visually impaired. In addition, the Louisiana Data Base Commission and other state entities involved in the development of information technology adopt guidelines which shall ensure the following, to the extent feasible,

1. That information technology, equipment, or software used by employees or program participants who are blind or visually impaired can present information for effective, interactive control and use by both visual and non-visual means; is compatible with equipment and software used by other individual with whom the blind or visually impaired must interact; and can be integrated into the network or networks used to share communications among employees or program participants.

2. That information technology used in the dissemination of services to the public provides blind or

visually impaired individuals with access, including interactive use of equipment and services, which is equivalent to that provided to individuals who are not blind or visually impaired; and that such information technology is designed to present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use.

3. That the procurement of information technology, whether through contract or agreement, shall be accomplished so as to provide equivalent access for effective use by both visual and non-visual use; and can be integrated into networks for obtaining, retrieving, and disseminating information used by individual who are not blind or visually impaired.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of State Elementary and Secondary Education, LR 26:1014 (May 2000).

§2233. R.S. 39:1615 Multiyear Contracts

Note: This section refers to R.S. 39:1615(D).

A. Educational institutions excepted.

1. An educational institution may enter into a multiyear nonexclusive contract, not to exceed ten years, with a vendor who has made a gift to the institution of equipment utilized for promoting products and university activities at a cost to the vendor in excess of fifty thousand dollars. Further, for this exception to be applicable, the contract shall cover products for resale within the institution.

2. The State Superintendent of Education may enter into a multiyear contract, not to exceed ten years, with any public or private agency to act as the depository in the state for school books.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of State Elementary and Secondary Education, LR 26:1014 (May 2000).

§2335. Books for School; Special Plates [R.S. 47:463.46]

A. The Secretary of the Department of Public Safety and Corrections shall establish a prestige license plate for motor vehicles, restricted to passenger cars, pickup trucks, and vans for the purpose of promoting support for elementary and secondary education. The Secretary shall determine the design of the special prestige license plate issues under the provisions of this Section, provided such design shall bear the words "Helping Schools" and include a logo which is a symbol for reading programs in education.

B. The prestige plate shall be issued upon application to any citizen of Louisiana in the same manner as any other motor vehicle license plate.

C. The charge for this special license plate shall be \$25.00 annually in addition to the regular fee charged under the provisions of R.S. 47:463.

D. The revenue from the additional \$25.00 fee imposed by Subsection C of this Section, shall be deposited immediately upon receipt into the state treasury. After compliance with the requirements of Article 7, Section 9(B) of the Constitution of Louisiana relative to the Bond, Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited shall be credited to the State Board of Elementary and Secondary Education and shall be used solely for the

purchase of textbooks to be used in approved elementary and secondary schools of the state. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund.

E. The Superintendent of the Department of Education shall promulgate rules and regulations as necessary to implement the provisions of this Subsection relative to the purchase and distribution of textbooks.

F. The secretary shall promulgate rules and regulations to implement the provisions of Subsections A, B, C and D of this Section.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1015 (May 2000)..

Interested persons may submit written comments until 4:30 p.m. March 10, 2000 to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064, or fax to 225-342-5843.

Weegie Peabody
Executive Director

0005#073

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)
(LAC 28:IV.2103)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends rules of the Tuition Opportunity Program for Students (R.S. 17:3042.1 and R.S. 17:3048.1).

Title 28

EDUCATION

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

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - C.3. ...

D. Procedure for Requesting Exceptions to the Initial and Continuous Enrollment Requirement

1. The student should complete and submit an exception request form, with documentary evidence, to the Office as soon as possible after the occurrence of the event or circumstance that supports the reinstatement request and must submit the request no later than May 30 of the academic year the student requests reinstatement into TOPS.

2. If determined eligible for an exception, the recipient will be reinstated if he or she enrolls in the first fall, winter or spring term immediately following the exception ending date.

3. If determined ineligible for an exception provided in §2103.E 11(2) by LOSFA, recipient may appeal in accordance with §2109 of these rules.

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared ineligible for TOPS because of failure to meet the initial or continuous enrollment requirements may request reinstatement in TOPS based on one or more of the following exceptions.

1. Parental Leave

a. Definition. The student/recipient is pregnant or caring for a newborn or newly-adopted child less than one year of age.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts; and

ii. a written statement from a doctor of medicine who is legally authorized to practice certifying the date of diagnosis of pregnancy and the anticipated delivery date or the actual birth date, or written documentation from the person or agency completing the adoption that confirms the adoption and date of adoption.

c. Maximum Length of Exception. Up to two consecutive semesters (three consecutive quarters) per child.

2. Physical Rehabilitation Program

a. Definition. The student/recipient is receiving rehabilitation in a program prescribed by a qualified medical professional and administered by a qualified medical professional.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including the reason for the rehabilitation, dates of absence from class, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and any other information or documents; and

ii. a written statement from a qualified medical professional describing the rehabilitation, including the diagnosis, the beginning date of the rehabilitation, the required treatment, and the length of the recovery period.

c. Maximum Length of Exception. Up to four consecutive semesters (six consecutive quarters) per occurrence.

3. Substance Abuse Rehabilitation Program

a. Definition. The student/recipient is receiving rehabilitation in a substance abuse program prescribed by a qualified professional and administered by a qualified professional.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, the reason for the rehabilitation, dates of absence from class, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and any other information or documents; and

ii. a written statement from a qualified professional describing the rehabilitation, including the diagnosis, the beginning date of the rehabilitation, the required treatment, and the length of the recovery period.

c. Maximum Length of Exception. Up to two consecutive semesters (three consecutive quarters). This exception shall be available to a student only one time.

4. Temporary Disability

a. Definition. The student/recipient is recovering from an accident, injury, illness or required surgery, or the student/recipient is providing continuous care to his/her spouse, dependent, parent or guardian due to an accident, illness, injury or required surgery.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, the reason for the disability, dates of absence from class, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and any other information or documents; and

ii. a written statement from a qualified professional of the existence and of the accident, injury, illness or required surgery, including the dates of treatment, the treatment required, the prognosis, the length of the recovery period, the beginning and ending dates of the doctor's care, and opinions as to the impact of the disability on the student's ability to attend school.

c. Maximum Length of Exception. Up to four consecutive semesters (six consecutive quarters) for recipient; up to a maximum of two consecutive semesters (three consecutive quarters) for care of a disabled dependent, spouse, parent, or guardian.

5. Permanent Disability

a. Definition. The student/recipient is permanently disabled in a manner that prevents the student from attending classes on a full time basis.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, a description of the disability, the reason for the disability, the reason(s) the disability restricts class attendance to less than full time; and

ii. a written statement from a qualified professional stating the diagnosis of and prognosis for the disability, stating that the disability is permanent, and opining why the disability restricts the student/recipient from attending classes full time.

c. Maximum Length of Exception. Up to the equivalent of eight full time semesters of postsecondary education in part time semesters.

6. Exceptional Educational Opportunity

a. Definition. The student/recipient is enrolled in an internship, residency, cooperative work, or work/study program or a similar program that is related to the student's major or otherwise has an opportunity not specifically sponsored by the school attended by the student that, in the opinion of the student's academic dean, will enhance the student's education. Participation in one of the programs does not qualify as an exception to the initial enrollment requirement.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts; and

ii. a written statement from the college/school official that the applicant is a student at the school/college and that the program is offered or sponsored by the college/school, or a statement from the dean of the college or the dean's designee that the program is related to the student's major and will enhance the student's education. The

statements must include the dates of leave of absence, the semester(s) or number of days involved, the beginning and ending dates of the program.

c. Maximum Length of Exception. Up to two semesters (three consecutive quarters) or required program of study.

7. Religious Commitment

a. Definition. The student/recipient is a member of a religious group that requires the student to perform certain activities or obligations which necessitate taking a leave of absence from school.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and the length of the religious obligation; and

ii. a written statement from the college official and a written statement from the religious group's governing official evidencing the requirement necessitating the leave of absence including dates of the required leave of absence.

c. Maximum Length of Exception. Up to four consecutive semesters (six consecutive quarters).

8. Death of Immediate Family Member

a. Definition. The student's spouse, parent, guardian, dependent, sister or brother or grandparent dies.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts; and

ii. a copy of the death certificate or a doctor's or funeral director's verifying statement or a copy of the obituary published in the local newspaper.

c. Maximum Length of Exception. Up to one semester or two quarters per death.

9. Military Service

a. Definition. The student/recipient is in the United States Armed Forces Reserves and is called on active duty status or is performing emergency state service with the National Guard.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, the dates of the required leave of absence, necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and the length of duty (beginning and ending dates), and

ii. a written certification from the commanding officer or regional supervisor including the dates and location of active duty; or

iii. a certified copy of the military orders.

c. Maximum Length of Exception. Up to the length of the required active duty service period.

10. Transfer/Graduation Part Time

a. Definition. A student/recipient who completed his or her program requirements for graduation or for transfer to another institution.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts and the semester affected; and

ii. a written statement from the dean of the college or the dean's designee certifying that the student/recipient was not required to attend full time in order to complete his or her program requirements for graduation or for transfer to another institution.

c. Maximum Length of Exception. One semester or one quarter.

11. Exceptional Circumstances

a. Definition. The student/recipient has exceptional circumstances, other than those listed in §2103.E.1-10, which are beyond his immediate control and which necessitates full or partial withdrawal from, or non-enrollment in, an eligible postsecondary institution.

i. The following situations are not exceptional circumstances:

(a). financial conditions related to a student's ability to meet his or her educational expenses are not a justified reason for failure to meet the hours or continuous enrollment requirement, because TOPS is a merit, rather than need-based award;

(b). dropping a course, failing a course, or withdrawing from school to protect the student's grade point average or because of difficulty with a course or difficulty arranging tutoring;

(c). not being aware of or understanding the requirements;

(d). assumption that advanced standing, summer course work, or correspondence course work credited outside the appropriate regular semesters or quarters would be applied to the hours requirement;

(e). differing scholarship or award requirements for other programs, such as NCAA full-time enrollment requirements;

(f). voluntary withdrawal from school to move out of state or pursue other interests or activities;

(g). claims of receipt of advice that is contrary to these rules, public information promulgated by LOSFA, award letters, and the Borrower's Rights and Responsibilities document that detail the requirements for full-time continuous enrollment;

(h). failure to provide or respond to a request for documentation within 30 days of the date of the request, unless additional time is requested in writing, LOSFA grants the request, and the requested documentation is provided within the additional time granted.

ii. All other situations will be assessed at the discretion of LOSFA and subject to appeal to the Commission.

b. Certification Requirement. Submit a completed exception request form including a sworn affidavit from the student detailing the circumstances and including the official college transcripts and documentation necessary to support the request for reinstatement.

c. Maximum Length of Exception. Up to two consecutive semesters or three consecutive quarters.

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

HISTORICAL NOTE: Adopted by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17:959 (October 1991), amended LR 22:338 (May 1996),

repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1017 (May 2000).

Jack L. Guinn
Executive Director

0005#068

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Recordkeeping for Specific Licensing of Radioactive Material (LAC 33:XV.325, 342, and 478)(NE022)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Radiation Protection regulations, LAC 33:XV.325, 342, and 478 (Log #NE022*).

This rule is identical to federal regulations found in 61 FR 24669, May 16, 1999, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact resulted from the rule; therefore, the rule is promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule specifies records important to decommissioning. It requires the transfer of records pertaining to decommissioning to the new licensee and states that the license will not be terminated until the Nuclear Regulatory Commission (NRC) receives the required records. Changes have occurred in the federal regulations that must be reflected in the state regulations. The basis and rationale for this rule are to maintain state compatibility with the NRC.

This rule meets an exception listed in R.S. 30:2019 (D)(3) and R.S.49:953 (G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 3. Licensing of Radioactive Material §325. General Requirements for the Issuance of Specific Licenses

* * *

[See Prior Text in A – D.6.d]

7. Each person licensed under this Chapter shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with LAC 33:XV.331.B, licensees shall transfer all records described in this Paragraph to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important

to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the division considers important to decommissioning consists of the following:

* * *

[See Prior Text in D.7.a – d.iv]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 23:1140 (September 1997), amended LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1018 (May 2000).

§342. Records

A. If licensed activities are transferred or assigned in accordance with LAC 33:XV.331.B, each licensee authorized to possess radioactive material, with a half-life greater than 120 days, in an unsealed form, shall transfer the following records to the new licensee, and the new licensee will be responsible for maintaining these records until the license is terminated:

- 1. records of disposal of licensed material made under LAC 33:XV.461, 462, 463, and 464; and
- 2. records required by LAC 33:XV.472.B.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1018 (May 2000).

Chapter 4. Standards for Protection Against Radiation

Subchapter I. Records

§478. Records of Waste Disposal

* * *

[See Prior Text in A]

B. The licensee or registrant shall retain the records required by LAC 33:XV.478.A until the division terminates each pertinent license or registration requiring the record. Requirements for disposition of these records, prior to license termination, are located in LAC 33:XV.342.

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 26:1018 (May 2000).

James H. Brent, Ph.D.
Assistant Secretary

0005#047

RULE

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

**Formula Distribution of Federal Grant Funds
(LAC 22:III.Chapter 57)**

In accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and R.S. 15:1201, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, hereby promulgates rules and regulations regarding the formula for the distribution of federal funds.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE, AND LAW
ENFORCEMENT**

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

**Subpart VI. Grant Applications or Subgrants Utilizing
Federal, State, or Self-Generated Funds**

**Chapter 57. Formula for Distribution of Federal
Grant Funds**

§5701. Adoption

The proposed distribution formula will be adopted by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1201, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 26:1018 (May 2000).

§5702. Introduction

The Commission distributes federal grant funds to the state's local law enforcement agencies through law enforcement planning districts via a formula initially devised in 1977. Neither the formula nor the data that support it have been revised since 1977.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1201, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 26:1018 (May 2000).

§5703. Distribution Formula

A. Included in the 1977 distribution formula was a variable base of funding for each law enforcement planning district based on the percentage of the district's crime rate to that of the entire state, as well as a rural adjustment for those areas of the state facing unique fund distribution problems given their population and criminal justice manpower percentage deviations. The rural adjustment allowed these rural districts to have sufficient funding for meaningful programs. Once the variable base and adjustments have been

determined, the formula uses the following variables to determine how the remaining funds are distributed to each law enforcement planning district:

1. planning district's percentage of the state's total Uniformed Crime Reporting Part 1 Offenses;
2. planning district's percentage of state's total criminal justice manpower;
3. planning district's percentage of state's total population.

B. Given the changes in the state's crime, population, and manpower figures since 1977, the Commission collected data on the aforementioned variables for the year 1997, the most recent year for which complete data was available. The distribution formula devised for the years 2000 through 2010 maintains the variable base and modifies the rural adjustment to reflect current conditions, and adds an urban adjustment for Orleans Parish-given the demographic changes that have occurred in Orleans Parish over the last twenty years-in order for that district to have sufficient funding for meaningful programs.

C. The proposed distribution formula percentage for each Law Enforcement Planning District for the years 2000 through 2010, as based on the 1997 data, is as follows:

Law Enforcement Planning District	Formula Distribution Percentage
Northwest	11.11
North Delta	7.82
Red River	9.54
Evangeline	10.50
Capital	15.60
Southwest	10.16
Metropolitan	15.88
Orleans	19.39

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1201, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 26:1019 (May 2000).

Michael Ranatza
Executive Director

0005#024

RULE

**Office of the Governor
Crime Victims Reparation Board**

Award Limits (LAC 22:XIII.503)

In accordance with the provisions of R.S. 46:1801 et seq., the Crime Victims Reparations Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Crime Victims Reparations Board hereby promulgates rules and regulations to the awarding of compensation to applicants. There will be minor impact on family earnings and family budget as set forth in R.S. 49:972 by an expansion of reimbursable child care expenses.

**Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part XIII. Crime Victims Reparations Board

Chapter 5. Awards

§503. Limits on Awards

- A. - C.3. ...
- D. Lost Wages/Earnings
 1. - 4. ...
 5. Repealed
 6. - 7. ...

8. If a person is not gainfully employed or is not receiving entitlement at the time of the crime, then no lost wages can be determined nor awarded. However, an award for loss of wages based on seasonal, nonsalaried or intermittent work, or a bona fide offer of employment may be based on an average net anticipated salary for the period of employment.

- 9. - 11. ...
- E. - K.2. ...
- L. Child Care Expenses

1. A maximum of \$1,500 may be paid for each eligible child care claim.

2. The board may award up to \$100 per week per child, up to a maximum of \$200 per week per family.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 24:328 (February 1998), LR 25:2170 (January 1999), LR 26:1019 (May 2000).

Lamarr Davis
Chairman

0005#004

RULE

**Office of the Governor
Division of Administration
Office of Facility Planning and Control**

Rental and Lease Procedure and Regulations
(LAC 34:III.Chapter 5)

Title 34

**GOVERNMENT CONTRACTS,
PROCUREMENT AND PROPERTY CONTROL**

Part III. Facility Planning and Control

Chapter 5. Rental and Lease Procedure and Regulations

§501. Authority, Policy, Purpose, and Application

A. Authority. Louisiana Revised Statutes provide that all agreements for the lease or rental of space shall be made by the agency whose offices and/or activities are to be housed, but shall be made and entered into only with the approval of the commissioner of administration. (Louisiana Procurement

Code, Louisiana Revised Statutes, Chapter 17 of Title 39 R.S. 39:1551 et seq. with particular reference to 39:1641-1644). The commissioner has designated the Office of Facility Planning and Control, Real Estate Leasing Section, to administer this function (1641).

B. Policy. It is the policy of the Division of Administration to acquire the best available rental space for state agencies with the greatest amount of competition among lessors of privately owned facilities (1594(G), 1594(E) as amended, 1643(A) as amended).

C. Purpose. The purpose of these procedures and regulations is to simplify and clarify the procurement practices for renting and leasing of space for state agencies, to provide increased economy and efficiency in procurement activities, to foster more effective competition for bid space, ensure fair and equitable treatment of all persons involved, to enable greater public confidence in the lease procurement process, and to maintain a procurement system of quality and integrity.

D. Application. The definition of "agency" stated in R.S. 39:2(2) shall be the sole definition of the term "state agency" employed herein in connection with the acquisition of housing space and the fact that an agency is supported by fees or taxes collected by, or dedicated to, the agency or which otherwise receives its operating funds through means other than direct appropriations, shall not be a test as to whether these rules shall be applicable to an agency of the state. [39:1641(C)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department in LR 10:902 (November 1984), amended LR 26:1020 (May 2000).

§503. Space Acquisition Method

A. In General

1. The Office of Facility Planning and Control, Real Estate Leasing Section, will retain an original of each lease and will notify a user agency when its lease is about to expire.

2. All standard forms mentioned herein are available on request from the Office of Facility Planning and Control, Real Estate Leasing Section.

3. Every lease for the use of 5,000 square feet or more, with the exception of emergency and sole source procurements as set forth in Rules 513 and 514 and cooperative use agreements between public procurement units, as set forth in R.S. 39:1701 and 1704, must be procured in accordance with R.S. 39:1594.

4. All leases and lease amendments, including amendments both for space of less than 5,000 square feet (which can be negotiated) and for 5,000 square feet or more, which must be bid, must be preceded by a request for approval form RL-2A (negotiable and amended leases) and RL-2B (leases competitively bid) on which the request for space, location and terms of lease are detailed.

5. The Office of Facility Planning and Control, Real Estate Leasing Section, will examine the request in relation to authorized programs, funds, and personnel, and will approve, take under advisement, or disapprove the user agency request, taking into consideration, including but not limited to, the price per square foot of rental space, space allocation, availability of housing in State-owned space,

location of the requested space, number of locations considered, timeliness of the availability of the requested space.

B. Procedure for Space Less than 5,000 Square Feet

1. An agency seeking to acquire a lease for less than 5,000 square feet or to amend an existing lease which will result in total leased space of less than 5,000 square feet, shall attempt to obtain at least three written proposals. Upon receipt of these proposals, the user agency shall enter into a negotiation process to obtain the best price and terms possible under the circumstances subject to approval by the Division of Administration.

2. Once the agency has completed this negotiation process and has selected a prospective lessor, it submits an RL-2A form to the Office of Facility Planning and Control, Real Estate Leasing Section, for approval of the proposed lease.

3. If an RL-2A request is not approved, the agency is notified in writing of the reasons for disapproval. Facility Planning and Control, Real Estate Leasing Section, may request additional information for further consideration.

4. Upon approval of the RL-2A request, the Real Estate Leasing Section will prepare the lease and extract of lease/amendment. The lease, extract of lease/amendment, and accompanying affidavit are executed, first by the lessor, then by the lessee, who is the user agency or department, and then given final approval by the Division of Administration. The extract of lease and the affidavit become a part of the lease. All leases and amendments shall be executed as four originals and distributed as follows: two leases shall be distributed to the user agency, one distributed to the lessor, and one retained by the Office of Facility Planning and Control, Real Estate Leasing Section. The lessor shall record the extract of lease/amendment, lease or amendment in the public records of the parish in which the leased premises are located, and provide the Real Estate Leasing Section with a certified copy showing such recordation.

C. Space 5,000 Square Feet or Greater

1. The Bid Specifications and Solicitation

a. The Office of Facility Planning and Control, Real Estate Leasing Section, receives the RL-2B from the user agency. If an RL-2B is not approved, the agency is notified in writing of the reasons for disapproval. Additional information may be requested for further consideration. If the RL-2B is approved, the Office of Facility Planning and Control, Real Estate Leasing Section, prepares the bid specifications. The bid specifications shall include the bid proposal form, affidavit attesting to control of the offered property and parking area, evidence of agency, corporate, or partnership authority (if applicable), space specifications and requirements, criteria for evaluation of the bids and a sample lease. Criteria for evaluation of bids shall include location of the proposed space, conditions of the proposed space, suitability of the proposed space for the user agency's needs, and timeliness of availability of the proposed space. (Act 635 of 1995 amending 39:1594(E) and Act 121 of 1997 adding 39:1594(C)(4).

b. The Real Estate Leasing Section forwards the bid specifications to the user agency for final review and comment prior to advertisement.

2. Advertisement and Notice. As required by R.S. 39:1643, leases for the use of 5,000 square feet or more of

space are to be awarded pursuant to R.S. 39:1594 (unless exempt under R.S. 39:1593) which requires adequate public notice of the invitation for bids to be given at least 20 days prior to bid opening date. This notice is given by advertising in the official journal of the state and in the official parish journal of the parish where the property is to be leased. The advertisement shall be published twice in the state and parish journals, with one publication on a Saturday, if available. The bid specifications are then made available and distributed to bidders who request a copy. Bidders receiving a copy of the bid specifications, become a "Bidder of Record" for that solicitation.

3. Pre-Bid Conference. A pre-bid conference may be held upon the request of the user agency to answer questions from prospective bidders. The date and time of the pre-bid conference shall be included in the advertisement, which shall state if attendance at the pre-bid conference is a prerequisite to submission of a bid.

4. Addenda to Bid Specifications

a. A potential bidder or the user agency can request changes/alterations to the advertised bid specifications, but only in writing to the Office of Facility Planning and Control, Real Estate Lease Section. The written request is reviewed by the Real Estate Leasing Section and by the user agency. If approved, an addendum to the bid specifications is issued and provided to all "Bidders of Record."

b. Addenda modifying the bid specifications must be issued no later than three working days prior to the advertised time for the opening of bids, excluding Saturdays, Sundays and any other legal holidays. If the necessity arises to issue an addendum modifying the bid specifications within the three-day period prior to the advertised time for the opening of bids, the opening of bids shall be extended exactly 14 days, without the requirement of re-advertising. Addenda shall be sent to all "Bidders of Record."

c. If any changes/alterations to the advertised bid specifications are a substantial deviation from the advertised bid specifications, the solicitation must be re-advertised with a new bid opening date established. The bid opening is rescheduled for at least 20 days after the re-advertisement. Any alterations or changes to advertised geographic boundaries may be grounds for re-advertisement of the solicitation.

5. Bid Opening

a. Bids are opened by the Real Estate Leasing Section at the specified date, time and place. The Real Estate Leasing Section evaluates the bids and arranges them on a bid tabulation sheet. If deemed necessary by the Real Estate Leasing Section, additional information and documentation evidencing control of the offered property and parking areas can be requested of the apparent low bidder.

b. The Real Estate Leasing Section sends the bid tabulation to the user agency with a request that the user agency verify availability of funds for rental payments to the apparent low bidder and compliance of the property offered by the apparent low bidder with the specified geographic boundaries.

6. Determination of Lowest Bidder

a. Upon receipt from the user agency of verification of availability of rental payments to the apparent low bidder and verification of compliance of the property offered by the apparent low bidder within the specified geographic

boundaries, the Real Estate Leasing Section sends written notice to the apparent low bidder requesting schematic floor plans, site plans, and outline specifications of the proposed lease space. The apparent low bidder is allowed 20 days in which to provide the required documents. The user agency shall then review the documents as to adjacencies and layout of the space. If they meet the agency's requirements, the agency shall then submit the schematic plans, site plans, and outline specifications to the Real Estate Leasing Section for review. Once the Real Estate Leasing Section determines they are in compliance with the advertised bid specifications, it will proceed with the issuance of the lease documents.

b. If the schematic plans, site plans, and outline specifications are not approved by the Real Estate Leasing Section, the apparent low bidder is allowed ten days in which to correct any deficiencies or discrepancies between the submitted plans and the advertised bid specifications. Upon receipt of the revised plans, the Real Estate Leasing Section reviews for compliance with the advertised bid specifications. If the documents are then approved by the Real Estate Leasing Section, the lease documents are then issued. Should the schematic plans, site plans, and outline specifications still not comply with the advertised bid specifications, the bid may be rejected for non-compliance with the advertised bid specifications. The next apparent low bidder can then be considered by following the same procedures.

c. Should all bidders be considered non-responsive or not in compliance with the advertised bid specifications, the bid solicitation is canceled. The bid specifications can be reviewed for possible revisions in order that a new solicitation can be issued.

7. Execution of the Lease. The Real Estate Leasing Section will prepare the lease and extract of lease. The lease and extract of lease and accompanying affidavit are executed, first by the lessor, who must return the signed lease and the affidavit within ten days after receipt. The lease is then executed by the lessee, who is the user agency or department, and then given final approval by the Division of Administration. The affidavit and extract of lease become a part of the lease. All leases shall be executed as four originals and are distributed as follows: two leases to the user agency, two to the lessor, and one retained by the Office of Facility Planning and Control, Real Estate Leasing Section. The lessor shall record an extract of lease or lease in the public records of the parish in which the leased premises are located and provide the Real Estate Leasing Section with a certified copy showing such recordation.

8. Notice to Other Bidders. When the lease documents are mailed to the lowest, responsible bidder for execution, all other bidders are notified via certified mail of the contract award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department in LR 10:902 (November 1984), amended LR 26:1021 (May 2000).

§505. Space Offered

A. A bidder may offer space consisting of any of the following: owned or leased space ready for occupancy, owned or leased space to be renovated for occupancy, owned or leased new construction.

B. Space may not be offered for lease in response to a solicitation if the same space has been offered/bid for another solicitation within the last 60 days and has not been withdrawn for that solicitation.

C. A bidder must control the offered property and parking areas as of the date of the bid opening and throughout the term of the lease and option period. He shall submit an affidavit with his bid indicating how the property and parking areas are controlled. The Real Estate Leasing section shall ask the apparent low bidder to provide schematic plans, outline specifications, and site plans and will evaluate those plans and specifications to determine compliance of the offered space with the advertised bid specifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department in LR 10:902 (November 1984), amended LR 26:1022 (May 2000).

§506. Rejection of Bids and Cancellation of Invitations for Bids or Requests for Proposals

A. The Chief Procurement Officer or designee has the right to reject any or all bids, and to cancel an invitation for bids, a Request for Approval Form RL-2, or other solicitation when it has been deemed to be in the best interest of the State of Louisiana. Such determination must be made in writing.

B. If the solicitation is cancelled prior to bid opening, all bidders of record (those bidders who obtain from the Real Estate Leasing Section a copy of the bid specifications) are notified. If the solicitation is cancelled after the bid opening, all bidders are notified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 26:1022 (May 2000).

§507. Additional Requirements of Lessor Repealed

§508. Correction and Withdrawal of Bids

A. Prior to Bid Opening. Prior to the bid opening, a written request for the withdrawal of a bid will be granted if the request is received prior to the specified time of the bid opening. If a bidder withdraws a bid, all bid documents shall remain the property of the State.

B. After Bid Opening. Patent errors in bids or errors in bids supported by clear and convincing evidence may be corrected, or bids may be withdrawn, if such correction or withdrawal does not prejudice other bidders. Such bid may be corrected or withdrawn after bid opening only with the approval of the Office of Facility Planning and Control, Real Estate Leasing Section. A bidder who wishes to correct or withdraw a bid, must request approval for such action in writing. The request must specify the justification for the proposed correction or withdrawal. If a bidder is allowed to withdraw a bid, he may be required to withdraw all other bids he has submitted for that solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 26:1022 (May 2000).

§509. Determination of Responsibility

A. The Real Estate Leasing Section may request that an apparent low bidder submit suitable evidence that he is a responsible bidder. A responsible bidder shall:

1. have adequate financial resources for performance, or have the ability to obtain such resources as required during performance;

2. have the necessary experience, organization, technical qualifications, skills, and facilities, or have the ability to obtain them (this may include subcontractor arrangements);

3. be able to comply with the proposed or required occupancy date; and

4. not have an unsatisfactory record of contract performance.

B. The Real Estate Leasing Section may request the following information:

1. a letter of credit from a financial institution;

2. financial statement;

3. a letter of commitment from the bank or other institution financing the project and addressed to the Division of Administration, stating the amount and terms of commitment to the Lessor;

4. information from the prospective Lessor, including representations and other data contained in proposals, or other written statements or commitments, such as financial assistance and subcontracting arrangements;

5. other information supportive of financial responsibility, including financial data, and records concerning lessor performance;

6. publications, including credit ratings and trade and financial journals; and

7. information from other sources, including banks, other financial companies, state departments and agencies, and courts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department in LR 10:902 (November 1984), amended LR 26:1022 (May 2000).

§510. Assignment of Proceeds of Lease and Assignment of Lease

Assignments of Lease and Assignments of Proceeds of Lease by a lessor must be approved in advance and in writing by the Office of Facility Planning and Control, Real Estate Leasing Section. Approval of a requested assignment shall not be unreasonably or arbitrarily withheld by either party. However, the approval of any assignment of proceeds of lease may be conditioned upon receipt of reasonable assurances from assignee of his ability and willingness to assume responsibility for performance of the terms of the lease in the event of failure of performance by the assignor. Assignment of Lease forms and Assignment of Proceeds of Lease forms shall be provided by the Office of Facility Planning and Control, Real Estate Leasing Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 26:1022 (May 2000).

§511. Resolution of Controversies

A. Right to Protest. Any prospective lessor who is aggrieved in connection with the solicitation or award of a contract may protest to Facility Planning and Control. Protests with respect to a solicitation shall be submitted in writing no later than 10 days prior to the opening of bids. If a person protests a solicitation, an award cannot be made until said protest is resolved. Protests with respect to the award of a contract shall be submitted in writing within 14 days after contract award. Said protest shall state fully and in particular, the reason for protest if a protest is made with respect to the award of a contract. Work on the contract cannot be commenced until it is resolved administratively.

B. Decision. The assistant director, Facility Planning and Control, must notify the protesting party in writing and the legal counsel of the Division of Administration within 14 days after receipt of said protest whether or not the protest is denied or granted. If the protest with reference to the solicitation is granted, the solicitation will be canceled and reissued. If the protest with reference to the award is granted, then the lease will be voided and the remaining solicitations may be re-evaluated for another selection. If another selection cannot be made or if it appears to be in the best interest of the state, a new solicitation will be issued.

C. Appeal. If an aggrieved party is not satisfied with the rendered decision, then that party may appeal said decision in writing to the commissioner of administration within seven days of the decision. The protesting party should fully explain the basis of his appeal. The commissioner then must render a decision in writing within 14 days of receipt of the appeal. The commissioner's decision is final and an aggrieved party may bring judicial action within two weeks from receipt of said decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control in LR 11:945 (October 1985), amended in LR 22:345 (May 1996), repromulgated LR 26:1023 (May 2000).

§512. Lease Clauses

A. A lease may include clauses providing for equitable adjustments in prices, time for performance, or other contract provisions, as appropriate, covering such subjects as:

1. the unilateral right of the state to order in writing changes in the work within the general scope of the contract in the drawings, designs, or specifications for space to be furnished;
2. the unilateral right of the state to order in writing temporary stopping of the work or delaying of performance; and
3. variations between estimated and actual quantities.

B. A lease may include clauses providing for appropriate remedies covering such subjects as:

1. liquidated damages as appropriate;
2. specified excuses for delay or non-performance;
3. termination of the contract for default; and
4. termination of the contract in whole or in part if sufficient funds have not been appropriated by the Legislature.

C. A lease may also provide that in the event that the lessor fails to fulfill or comply with the terms of any contract, he may be subject to disqualification on future state

projects and the chief procurement officer may award the contract to the next lowest responsible bidder, subject to acceptance by that bidder, and charge the difference in cost to the defaulting lessor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 26:1023 (May 2000).

§513. Emergency Procurement

A. The Office of Facility Planning and Control, Real Estate Leasing Section, may make emergency procurements for acquisition of housing space of 5,000 square feet or more when there exists an imminent threat to the public health, welfare, safety or public property.

B. The declaration of an emergency must be made in writing by the Chief Procurement Officer or his designee, fully documenting the nature of the emergency, the circumstances leading up to the emergency and a description of the threat to public health, welfare, safety or public property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1598.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department in LR 10:902 (November 1984), amended LR 26:1023 (May 2000).

§514. Sole Source Procurements

The Office of Facility Planning and Control, Real Estate Leasing Section may make sole source procurements for acquisition of housing space of 5,000 square feet or more or may amend an existing lease to total in excess of 5,000 square feet or more when the Chief Procurement Officer, or his designee, determines in writing that there is only one source for the required space.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1597.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department, LR 26:1023 (May 2000).

§515. Amendments to Leases

A. Additional Space. Any additional space added is to be only that for which the requirement could not reasonably have been foreseen at the time of execution of the lease or the latest option renewal; the additional space provision is not to be used to circumvent the bid law.

1. Leases for Space of Less than 5,000 Square Feet. Any lease for less than 5,000 square feet may be amended by negotiation between the user agency and the lessor. The square footage of such a lease may be increased up to a total of 4,999 square feet with the approval of the Division of Administration. If the amendment causes the space to measure 5,000 square feet or more, the additional space must be procured in accordance with RS 39:1594 unless it is deemed a sole source or emergency procurement.

2. Leases for Space of 5,000 Square Feet or More. Any lease for space of 5,000 square feet or more, may be amended by negotiations between the user agency and the lessor to include up to 4,999 square feet of additional space. Such amendment must also be approved by the Division of Administration. If the amendment adds 5,000 square feet or more, the additional space must be procured in accordance

with RS 39:1594 unless it is considered a sole source or emergency procurement.

B. Modifications and Alterations. In the event alterations to or modifications of space currently under lease are required to meet changed operating requirements, a lease may be amended. Such lease amendment may, with the approval of the Division of Administration, provide an adjustment in monthly lease payments not to exceed 25 percent of the original annual lease price per square foot, sufficient to reimburse the lessor for paying for the leasehold improvements. Any adjustment in lease payments shall also require the approval of the Joint Legislative Committee on the Budget. The continuance of a rental adjustment in excess of 25 percent of the original rental rate shall be further contingent on the appropriation of funds in the following fiscal years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department in LR 10:902 (November 1984), amended LR 26:1024 (May 2000).

§516. Renegotiation and Renewal of Current Leases

A. Leases of Less than 5,000 Square Feet. If an agency wishes to renew an existing lease of less than 5,000 square feet, it may renegotiate with the present lessor or attempt to obtain proposals from other prospective lessors.

B. Space of 5,000 Square Feet or More. An existing lease for office or warehouse space of 5,000 square feet or more, may be renegotiated with the present lessor, but only after the Division of Administration has entered into a competitive negotiation process involving discussions with at least three offerors who submit written proposals. If less than three written proposals are submitted, the Division of Administration may, nevertheless, hold discussions with those offerors, as well as with the current lessor, but without revealing information gleaned from competing proposals to other offerors. Such proposals shall be solicited by advertising as provided in R.S. 39:1594(C).

C. Evaluation of Proposals. If the Commissioner of Administration, or his designee, determines after evaluation of the proposals and discussions with the current lessor that to renew the present lease would be in the best interest of the State, an existing lease may be renewed. The Commissioner, or his designee, may enter into a lease with one of the other offerors if determined to be in the best interest of the State. In making such a determination, the Commissioner, or his designee, shall take into consideration, over the duration of the lease, rental rates, the amount of funds necessary to relocate, any geographical considerations particular to that state program, the amount of disruption to state business that may be incurred in moving to a new location, and any other relevant factors presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 26:1024 (May 2000).

§517. Revised Statutes and Louisiana Administrative Code

These regulations shall be read and interpreted jointly with Chapter 17 of Title 39 of the Revised Statutes and,

when not in conflict, with the purchasing rules of the *Louisiana Administrative Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department in LR 10:902 (November 1984), amended LR 26:1024 (May 2000).

Roger Magendie
Director

0005#045

RULE

Office of the Governor Division of Administration Office of State Uniform Payroll

Payroll Deduction (LAC 4:III.Chapter 1)

In accordance with R.S. 49:950 et seq., the Office of the Governor, Division of Administration, Office of State Uniform Payroll has adopted the following rule amending the regulations governing payroll deductions. The purpose of the amendment is to further define, clarify, and establish parameters for vendor participation.

Whitman J. Kling
Deputy Undersecretary

Title 4 ADMINISTRATION Part III. Payroll

Chapter 1. Payroll Deductions

§101. Definitions

Administrative Contract contractual agreement entered into by the state with a company or corporation which meets or exceeds the requirements to manage a Flexible Benefits Plan.

Agency Number three digit identifier in the DOA statewide payroll system which serves as a key for processing and reporting. It may represent a single agency or a group of agencies.

Applicant any company, corporation, or organization which has submitted an application to be approved as a vendor for state payroll deduction or a vendor which has submitted an application for approval of an additional product or a change to an existing product.

Application the process through which a vendor requests continued deduction authorization by providing verification of company status, employee participation, remittance reconciliation, designated coordinator, and etc.

Authorized Code a unique identification code assigned by OSUP to each vendor which has been approved in the application process.

Commissioner as referenced herein shall be the Commissioner of Administration, Division of Administration.

Coordinator a vendor designated representative who provides the single authorized contact for communication between the vendor and the Division of Administration, Office of State Uniform Payroll, payroll systems outside of

the DOA statewide payroll system and any administrative contract(or).

Data File the body of information documented by copies of correspondence between OSUP, SEGBP, administrative contractor, departments/agencies, vendors, Department of Insurance, and state employees relative to employee solicitation, participation and service from vendors.

Deduction any voluntary reduction of net pay under written authority of an employee, which is not required by federal or state statute, or by court ordered action.

Department/Agency as referenced herein shall be any one of the 20 major departments of state government or any subdivision thereof.

Division of Administration (DOA) the Louisiana State Agency under the Executive Department which provides centralized administrative and support services to state agencies as a whole by developing, promoting, and implementing executive policies and legislative mandates.

DOA Statewide Payroll System the statewide system administered by the Division of Administration, Office of State Uniform Payroll to provide uniform payroll services to state agencies.

Employee Deduction Code the unique set of characters (representing vendor, product, product eligibility and Flexible Benefits Plan participation) used to record, deduct, remit, and track an employee's selection of available deduction.

Employee Payroll Benefits Committee (EPBC) the group designated in §103 to review current and prospective payroll deduction benefits.

Flexible Benefits Plan the program initiated by the state under which employees may participate in tax reduction benefits offered under IRS Code Section 125.

Flexible Benefits Plan Year the annual period of time designated for participation (e.g., July 1 through June 30).

General Insurance Vendors those insurance companies which market, through payroll deduction, non-tax qualified life and health insurance products.

Governing Board as referenced herein shall mean any one or all of: Board of Regents; Louisiana State University Board of Supervisors; Southern University Board of Supervisors; University of Louisiana Board of Supervisors; and Board of Supervisors of Community and Technical Colleges.

Guidelines for Review (GFR) as referenced herein shall mean the set of criteria established for the annual evaluation process.

Insurable Interest as referenced herein shall be as defined in R.S. 22:613.C.(1) and (2) e.g., an individual related closely by blood or by law, or a lawful and substantial economic interest in having the life, health or bodily safety of the individual insured continue.

IntraAgency Deduction a deduction required by the department/agency for cost effective collection of funds from employees for benefits provided, such as meals, housing, uniforms, and etc.

IntraOffice Deduction a deduction required by a particular office within a department/agency for cost effective collection of funds from employees for benefits provided, such as meals, housing, uniforms, and etc.

IRS as referenced herein shall mean the Internal Revenue Service with emphasis directed to the rules and regulations issued relative to employee taxes and benefits.

Menu Item Provider any vendor that provides a product which is included in the current year Flexible Benefits Plan.

New Application the process through which a new provider submits a request to be approved as a vendor to offer a specific product, or a current vendor requests for authorization to offer an additional product, policy form, or service plan.

Non-Insurance Vendor any vendor that offers a non-insurance product that is not provided under definition of a general insurance vendor.

Office of State Uniform Payroll (OSUP) the section within the Division of Administration primarily responsible for the DOA statewide payroll system and administration of the rules governing state employee payroll deductions.

Organization as referenced herein shall be any charitable group qualified under Federal Code 501 (c) (3), credit unions formed for the primary purpose of serving state (or parish) employees, labor union councils, or other deduction "permitted" by state statute. Permitted deductions are allowed by state statute rather than mandated.

Payroll Reporting Number the number used by the DOA statewide payroll system to identify a payroll reporting entity.

Policy Form referenced herein shall mean any of the written instruments through which a contract of insurance is set forth (i.e. the policy, certificate, rider, endorsement, application, schedule page, etc.) which is submitted to the Department of Insurance and subsequently approved for sale in Louisiana by the Commissioner of Insurance.

Premium Due the amount for which the client/employee would have been billed.

Product referenced herein shall mean the specific insurance or service authorized through the annual application process as defined in §115. This may include multiple policy forms and service plans under the product.

Product Authorization the term used to identify the annual process through which an additional product code is approved for a current vendor.

Product Code the portion of the employee deduction code assigned to specific insurance policy forms or vendor service plans authorized through the new application process.

Provider the individual or organization which renders service, provides goods, or guarantees delivery.

Reconciliation referenced herein refers to the resolution of differences resulting from a monthly match or comparison of vendor accounts receivable/invoice records to the state deduction/remittance records.

Review the process whereby the EPBC evaluates products and requests for product authorization.

Section 125 Status as referenced herein shall mean the eligibility, under Section 125 of the IRS Code, of the product to be included in a Flexible Benefits Plan menu.

SED-2 referenced herein shall be the standard form developed by the Division of Administration, Office of State Uniform Payroll used to process new applications and annual applications for deduction authority.

SED-4 as used herein shall mean the authorized deduction form published in this rule.

Service Plan type of insurance or non-insurance coverage under which benefits rather than monetary reimbursements are provided to the covered individual.

Third Party any agent for or representative of a provider.

Uniform Fee Schedule the fees designated for service(s) provided by state payroll systems for vendors, applicants, and others outside state government established by rule promulgated by the Division of Administration under R.S. 42:458.

University any one of the state higher education facilities which falls under the jurisdiction of appropriate "Governing Board."

Vendor referenced herein shall be any company, corporation, or organization having met the requirements of this rule and participating in payroll deduction.

Vendor Representative as referenced herein shall be any licensed agent or duly appointed representative designated by a vendor to market that vendor's authorized product(s).

Voluntary Deduction any deduction which the employee is free to accept or decline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1026 (May 2000).

§103. Employee Payroll Benefits Committee (EPBC)

A committee comprised of 12 nominated and two ex-officio classified state employee members established by the commissioner prior to July 1, 1996 fulfills the requirement of §107-112 of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000).

§105. EPBC Selection and Tenure

A. Initial members of the EPBC were selected by the UPS Payroll Steering Committee submitting a list of nominees for EPBC membership to the commissioner of administration for appointment of 12 members to serve staggered terms of one, two, and three years. Said list was submitted to the commissioner prior to November 30, 1995 and consisted of the following departmental membership:

1. one member, one-year term DHH-Department of Health and Hospitals;
2. one member, two-year term DOA-Division of Administration;
3. one member, three-year term DOC-Department of Corrections;
4. one member, one-year term DOL-Department of Labor;
5. one member, two-year term DOTD-Department of Transportation;
6. one member, three-year term DPS-Department of Public Safety;
7. one member, one-year term DSS-Department of Social Services;

8. one member, two-year term ED-Education (Schedule 19);

9. one member, three-year term ELEC-Elected Officials;

10. one member, one-year term LHCA-Louisiana Health Care Authority;

11. one member, two-year term OTHER-other departments;

12. one member, three-year term WLF-Department of Wildlife and Fisheries;

13. ex-officio members shall be: director or assistant director of OSUP; and a designee of the Commissioner of Insurance.

B. Successive committee appointments shall be for a period of three years beginning July 1 consisting of the above departmental representation.

C. Prior to April 1, annually, EPBC shall submit, to the commissioner, three nominees for each of the four vacancies which will occur each year maintaining representation indicated in §105.A.

D. The commissioner shall select four of the nominees to fill respective dept/agency vacancies for EPBC membership.

E. The commissioner shall return a list of appointees to OSUP prior to May 1 each year.

F. Any EPBC vacancy which occurs due to termination of employment or retirement of a member, and which creates a vacancy for a period of 12 months or more shall be filled by appointment by the commissioner.

1. Within 30 days of notice of the vacancy, the EPBC shall submit a nominee for replacement to the commissioner.

2. The commissioner shall affirm or reject the nomination within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000).

§107. EPBC Product Evaluation (Requirements)

A. EPBC shall adopt and maintain basic Guidelines for Review (GFR), to follow in the conduct of the annual review of general insurance and non-insurance products.

B. OSUP shall maintain a data file of documentation provided each year by user agencies, employees, vendors, and Flexible Benefits Plan administrator relative to product utilization, services provided, and adherence to department/agency policy and this rule.

1. OSUP shall copy to the data file all correspondence relating to resolution of problems with and between vendors, employees, and departments/agencies.

2. OSUP shall include the basic information from annual application process and from new applications in the data file provided to EPBC.

C. The EPBC shall conduct an annual review of products authorized for deduction and new applications and requests for changes to existing products. The EPBC shall utilize the data file to evaluate user satisfaction with products and providers and the Guidelines for Review to evaluate product quality.

D. The EPBC shall issue an opinion of the annual review of all authorized products and all products and services

requested on new applications, along with recommended actions to the commissioner.

E. OSUP shall provide the commissioner of administration information relative to vendor/product compliance with all other provisions of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000).

§109. EPBC Product Evaluation (Annual Applications)

A. Annual applications shall be submitted to the Division of Administration, Office of State Uniform Payroll by all vendors participating in payroll deduction. Annual application forms and instructions shall be provided to all approved vendors to be submitted prior to January 31 annually.

B. OSUP shall complete the annual application process in compliance with the commissioner's actions from the EPBC annual review.

1. On or before April 1 each year, the Division of Administration, Office of State Uniform Payroll or Governing Board will conduct a compliance review and shall notify vendors whether their annual application has been conditionally approved. See §119.

2. DOA statewide payroll system user agencies and other departments/agencies will be notified by OSUP of authorized deductions by vendor and product name and code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000).

§111. EPBC Product Evaluation (New Applications)

A. New applications shall be submitted annually to the Division of Administration, Office of State Uniform Payroll for any company, corporation, or organization interested in a new payroll deduction for additional products, policy forms, or service plans.

1. Written notice of requests for a new payroll deduction for additional products, policy forms, or service plans should be sent to the Office of State Uniform Payroll prior to April 1, 2000 and December first annually thereafter, in order to receive an application form to submit.

2. On or before April 1, 2000 and January thereafter, OSUP will provide deduction application forms along with instructions for completion to each entity on file.

3. Applications must be completed and submitted to the Office of State Uniform Payroll by April 30, 2000 and January 31 annually thereafter.

B. The EPBC shall conduct an annual review of all products requested in the new application process.

1. OSUP shall provide copies of the current data file information to EPBC for the annual review.

2. EPBC shall utilize the data file to evaluate user need/employee need for products and evaluate products and vendors in accordance with the GFR.

C. EPBC shall issue an opinion of the results of the annual review of products and new applications, along with recommended actions.

D. EPBC shall issue a summary report of opinions resulting from the annual review along with recommended actions to the commissioner on or before October 1 annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000).

§112. Requests for Changes to Existing Products

A. Vendors are allowed to solicit for payroll deduction only those products submitted and approved in the annual renewal or application process. Any change to existing products must be submitted to the Office of State Uniform Payroll for review and approval.

1. Any changes to existing products, including across the board rate increases, co-payment changes, and benefit changes, must be submitted to the Office of State Uniform Payroll by October 1 annually.

2. The Office of State Uniform Payroll and the EPBC will review the request and notify vendor of acceptance or denial by December 1 annually.

a. If accepted, the Office of State Uniform Payroll will notify the vendor by December 1 and provide procedures for implementing the change.

b. If denied, the Office of State Uniform Payroll will notify the vendor and add the vendor to the file of vendors for new applications. (See §111 for new applications). Upon receipt of completed application, the product will be reviewed along with all other applicants in the annual review process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 26:1027 (May 2000).

§113. Product Approval and Notification

A. On or before November 1 annually, the commissioner of administration shall advise OSUP whether EPBC recommendations relative to products and new applications have been accepted or denied.

B. OSUP will complete the new application process for products which have been approved and notify all applicants whether requests were approved or denied. See §119.

C. DOA statewide payroll system user agencies and other departments/agencies will be notified by OSUP of authorized deductions by vendor and product name, DOA statewide payroll system vendor, product name and code and effective date. Deduction authorization for new products will be established on or before January 1 annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000).

§115. Application Process

A. Application shall be made by the company, corporation, or organization which is the provider of the product or recipient of monies and shall be signed by two

officers of the applicant company, corporation or organization.

B. Applications for the purpose of providing deductions for IRA'S, *Annuities*, or *noninsurance investment programs* are not permitted.

C. Any applicant requesting authority to implement a deduction through OSUP, shall submit a completed application form to the Division of Administration, Office of State Uniform Payroll, Post Office Box 94095, Baton Rouge, LA 70804. Companies requesting application for any state University shall submit the application to the Governing Board for that university. The application shall:

1. be submitted on a currently approved application (Form SED-2);

2. include certification (Form SED-3) from the secretary or undersecretary of the requesting department or university chancellor that said applicant has provided evidence that the vendor does meet the requirement of R.S. 42:455; that said deduction will not represent a duplication of a product of comparable value already provided by payroll deduction; that there is a recognized need for same; that a reasonable evaluation of the product was made by the department which substantiates the request; and that the applicant has been advised of the statute and the rule governing payroll deductions. Form SED-3 is submitted only with the completed application form SED-2;

3. indicate whether the request is for participation within a specific department/agency by choice (ability to service or applicability), or for statewide authority limited to certain payroll system(s);

4. include a written request for consideration for statewide authority (if current authority is limited) for next available deduction authorization;

5. designate a "coordinator" to represent the vendor as primary contact for: obtaining solicitation authorization for the vendor; dissemination of information and requirements among representatives presenting the product to state employees; resolution of invoicing, refund, and reconciliation problems; and resolving claims problems for employees;

6. respond to all applicable items (designated in instructions) on the form (SED-2) for new and annual renewal applications;

7. respond to all additional questions as required by EPBC.

D. Intraagency and/or intraoffice deductions for meals, housing, etc., will be permitted, provided the respective department head(s) certifies that collection of funds from employees is required by and is a benefit to the department/agency.

E. All vendors shall file an annual application with the Division of Administration, Office of State Uniform Payroll or Governing Board as scheduled by that office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), amended LR 26:1028 (May 2000).

117. Applicant and Vendor Requirements

A. Any applicant for deduction which is not regulated by the Department of Insurance or federal or state Office of Financial Institutions and not permitted by state statute, except charitable organizations, shall:

1. possess appropriate license or other required certification for providing the particular product or service for a fee;

2. have been doing business in this state for not less than five years providing the product and/or services anticipated to be offered state employees;

3. be in compliance with all requirements of any regulatory and/or supervisory office or board charged with such responsibility by state statute or federal regulations;

4. provide to the commissioner within 30 days of approval an irrevocable Letter of Credit in the amount of \$100,000, or an irrevocable pledge of a Certificate of Deposit in the amount of \$100,000 to protect the state and any officer or employee from loss arising out of participation in the program or plan offered by the vendor;

5. have been recommended for consideration by the Employee Payroll Benefits Committee as an applicant from the annual review of active and prospective deductions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), amended LR 26:1028 (May 2000).

§119. Notification, Implementation, and Transition

A.1. On or before April 1 each year, the Division of Administration, Office of State Uniform Payroll or Governing Board will conduct a compliance review and shall notify vendors whether their annual application has been conditionally approved.

2. The EPBC shall conduct a thorough review of all products and, on or before January 1 each year, the Division of Administration, Office of State Uniform Payroll, shall notify all vendors whether their annual application has been approved.

3. Vendors whose requests have not been approved by the EPBC shall be notified by the Division of Administration, Office of State Uniform Payroll, by December first annually.

4. On or before first of January, each year OSUP shall notify all DOA statewide payroll system agencies and other departments/agencies and university governing boards of any new products which have been approved for deduction; Governing Boards shall notify universities.

5. Payroll systems outside of the DOA statewide payroll system will advise vendors whether the deduction will be established.

B. The vendor shall enroll employees for semi-monthly deduction amounts only. Optional modes may be authorized by OSUP or Governing Board prior to implementation of the deduction. Vendors granted deduction authority on the DOA statewide payroll system must use only semi-monthly deduction amounts. Payroll systems outside of the DOA statewide payroll system which permit monthly deductions may continue same.

C. Any vendor receiving payment through voluntary deductions on the effective date of this rule shall continue to be approved as a vendor until the next annual renewal process under the following conditions:

1. has a currently approved application on file, provided:

a. general insurance vendors have met the rating requirements set forth in R.S. 42:455 or equivalent;

b. noninsurance vendors shall have met the requirements set forth in this rule as required in R.S. 42:455 B;

c. individual product participation shall exceed 1000;

d. proper monthly reconciliation is being accomplished;

e. policy information and detail employee/client participation has been provided in response to requests for same from OSUP;

2. all other permitted deduction vendors have filed application for informational purposes.

D. Vendors currently participating in deductions which do not meet the minimum requirements set forth in R.S. 42:455 A.1) a-e, 2) a-e or are not in compliance with the requirements of this rule by December 31, 2000 will be denied deduction privileges.

E. Vendors will be allowed twelve months after initial approval to meet the minimum product participation requirements.

F. Companies, corporations, or organizations which have been placed on the annual listing of applicants (April 1, 1999-March 31, 2000) for consideration of deduction participation shall not be exempted from compliance with any part of this rule.

1. New applications shall be processed for review by the EPBC in May 2000 and in February annually thereafter.

2. Results of the EPBC review shall be forwarded to the commissioner on or before October 1 annually.

3. The commissioner shall confirm or reject each recommendation and notify OSUP to establish, deny, and/or delete deduction authorization, and notify vendors and non-UPS agencies accordingly by December 30 each year.

4. OSUP shall notify vendors whether application requests have been approved or denied.

5. OSUP shall notify vendors and departments/agencies of products approved for deduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1029 (May 2000).

§121. Deduction Authorization Form

A. Vendors not exempted in §121.F of this rule shall provide and use the standard deduction authorization format (Form SED-4) authorized by the Division of Administration.

1. The form provided by the vendor shall be no less than 8 1/2 inches in width nor 11 inches in length with a top margin (top of page to top of blocked area) of 1 1/8 inches.

2. Within a blocked area as illustrated herein the form shall include:

a. the employee name and Social Security Number;

b. the employer (department/agency) name and payroll reporting number or other appropriate I.D. (identification);

c. vendor name, authorized code (vendor) and product code;

d. product name, Section 125 eligibility, monthly premium amount, and semi-monthly premium amounts;

e. amount of deduction, frequency, and beginning date of the deduction;

f. employee signature and date of signature;

g. authorized agent/vendor representative signature.

3. The form may include additional information provided that such information shall not represent a disclaimer or escape clause(s) in favor of the vendor. The authorization shall not stipulate any "contract" or "term of participation" requirements. However, employees may designate a 'cap' or annual maximum for a charitable organization deduction authorized by R.S. 42:456.

B. The authorization must specify product name, Section 125 status, monthly premium or fee, the amount of deduction to be taken and the frequency of deduction as semi-monthly (24 annually). All "MS _ _ _ _" deductions in the DOA statewide payroll system must be semi-monthly only. Payroll systems outside of the DOA statewide payroll system which currently provide a monthly deduction cycle may continue same.

C. An employee shall have only one deduction authorization (which may cover more than one product) for a single vendor effective at any one time. Total current deduction amount and each component amount that make up that total must be reflected on any successive form(s). The form shall indicate:

1. a total monthly premium or fee amount, the total semi-monthly amount, individual product codes, and premium/fee amounts for each product code;

2. the pay period (date) in which the deduction was calculated to begin.

D. Vendor shall be responsible for completing authorization forms prior to obtaining employee signature and for submitting forms to the appropriate payroll office designated by each employing department/agency.

E. Deduction forms must contain appropriate employer identification number to support monthly Reconciliation process.

F. State Employee Group Benefits, Louisiana Deferred Compensation, United Way, U.S. "EE" Savings Bond, and Flexible Benefits Plan enrollment forms may be used in lieu of standard deduction (Form SED-4).

G. An employee may discontinue any voluntary deduction amount that is not committed for participation in a current Flexible Benefits Plan Year by providing written notification of that intent to his or her payroll office.

H. A deduction authorization shall not be processed for any employee which is intended to provide a benefit for any party for whom the employee has no insurable interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), amended LR 19:318 (March 1993), amended LR 22:22 (January 1996), LR 26:1029 (May 2000).

§123. Solicitation of State Employees

A. Employees may be solicited for deduction only:

1. after notification to the vendor and state department/agencies from the Division of Administration, Office of State Uniform Payroll, or notification from the Governing Board for Universities, that the product has been approved;

2. upon written authorization from employer department and agency administrator; and

3. for participation in products currently authorized for deduction.

B. Solicitation of employees shall be conducted within the guidelines established by the department/agency.

C. The coordinator shall be responsible for obtaining solicitation authorization and department policy from the department/agency secretary or his designee.

D. Vendors may be barred by a department/agency from solicitation within that department/agency. Vendors may be barred from solicitation statewide by OSUP.

E. Any vendor representative who has been barred from state participation by a vendor shall not be allowed to represent any vendor for deduction for a minimum of two years thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1030 (May 2000).

§125. Vendor Responsibility

A. Vendor coordinator shall be responsible for dissemination of information such as the requirements of this rule and department/agency policy and procedures to vendor representatives.

B. Vendor coordinator shall act as liaison for the vendor with any administrative contract(or) and the state relative to Flexible Benefits Plan participation. The coordinator shall also be responsible for dissemination of information to vendor representatives.

C. Vendor shall use invoice/billing identification structure that is compatible with payroll agency control groups to facilitate the monthly reconciliation.

D. Vendors shall be responsible for preparing a reconciliation of monthly payroll deduction/remittances to vendor's monthly premium due.

E. Monthly Reconciliation shall include total monthly premium due amount, each product amount and product code that makes up the total amount of premium due, total remittance amount, and a listing of all exceptions between the premium due and deduction/remittance by employee within billing/payroll reporting groups.

F. Monthly Reconciliation exception listing shall identify the employee by Social Security Number and payroll reporting number and shall be grouped within payroll agency numbers for DOA statewide payroll system agencies and similarly for payroll systems outside of the DOA statewide payroll system.

G. Vendors shall furnish evidence of reconciliation to the Division of Administration, Office of State Uniform Payroll as requested by that office. Like verification may be required by other payroll systems outside of the DOA statewide payroll system.

H. Monthly certification of reconciliation will not be required of vendors that provide participants or members with monthly or quarterly statements of activity and/or balances.

I. Vendors failing to provide accurate and timely reconciliation verification will be barred from active solicitation until satisfactory certification is submitted to the Division of Administration, Office of State Uniform Payroll.

J. Vendors shall not be authorized to submit any deduction form which was obtained from an employee for the purpose of transmitting any part of that deduction to a third party.

K. Vendors must identify each policy form for specific product provided on the SED-2 application form. Vendors must indicate whether the form SED-2 is an annual application (renewal) or a new application for a product or service not previously approved for deduction.

L. Vendors shall not submit deduction forms listing any product or service for which a product code has not been assigned through the new application process. Vendors shall submit deduction forms only for those policy forms or service plans which have been approved.

M. Vendors shall follow procedures established by the Division of Administration, Office of State Uniform Payroll or Governing Board when refunding payroll deducted and remitted premiums to employees, implementing across the board rate increases, or requesting changes to existing products. See §112.

N. Vendors, applicants, and any representatives thereof shall be prohibited from any action intended to influence the opinion or recommendation of any EPBC member.

O. Vendors must reconcile monthly remittances in total and at each product level as of January.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1030 (May 2000).

§127. Department/Agency Responsibility

A. Department secretary/undersecretary or his designee shall:

1. approve or reject requests for solicitation authorization presented only by designated coordinators of approved vendors;

2. confirm with the vendor coordinator (and/or Louisiana Department of Insurance when applicable) the credentials of any vendor agent not represented to the department by the vendor coordinator;

3. provide vendor coordinators a copy of department/agency policy relative to receipt, processing, and cancellation of payroll deduction forms, as well as guidelines prior to permitting access to employees;

4. certify the use of any intraagency deduction to collect funds from employees for meals, housing, etc., is required by and is a benefit to the agency/department;

5. insure that intraoffice deductions such as flower, gift, and coffee funds are not permitted;

6. provide support for participation of selected EPBC members.

B. Departments/agencies shall provide OSUP a written report of acts of noncompliance by any vendor to this rule or to the published guidelines of that department/agency.

C. Payroll personnel of DOA statewide payroll system agencies may process refunds for amounts previously deducted from any vendors which receive consolidated remittance only as directed by OSUP. Payroll systems outside of the DOA statewide payroll system shall establish written policy for remittance and refund of deductions taken.

D. Department/agency payroll/personnel shall:

1. accept only authorization forms which conform to the standard deduction format (Form SED-4) from vendor representatives;

2. verify that the vendor name and the vendor and product codes on any deduction form submitted are in agreement with the current approved list;

3. accept forms for employee deductions which contain no obvious alterations without employee's written acknowledgment of such change;

4. be responsible for verifying that the deduction amount is in agreement with the monthly amount shown on the authorization;

5. be responsible for maintaining compliance with employee flexible benefits plan year contract commitment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000).

§129. Reporting

A. Vendors shall provide written notification within ten days of final approval of any change in the name, address, company status, principal officers, and designated coordinator to OSUP.

B. Vendors shall provide as required by OSUP data disks, mailers, labels, postage, or other supplies necessary to avoid cost to the state in providing deduction information. Like assistance shall be provided to other payroll systems as determined appropriate to control state cost of providing deduction.

C. Annual (renewal) applications shall list specific products/policy forms provided. No new products or services or changes to existing products or services shall be added to SED-4 forms or marketed without prior approval through the annual application process.

D. Departments/agencies shall be responsible for reporting any infractions of this rule and/or department policy committed by any vendor or vendor representative to OSUP and/or appropriate Governing Board or Boards.

E. Vendors shall provide written notification of the dismissal of any representative participating in state deduction to OSUP and/or appropriate Governing Board or Boards.

F. Vendors with deductions "permitted" by statute shall provide annual (renewal) applications (Form SED-2).

G. Each Governing Board shall provide OSUP an annual report relative to vendors currently approved for deductions within each system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996). LR 26:1031 (May 2000).

§131. Fees

A. Data, information, reports, or any other services provided to any vendor or any other party by the DOA statewide payroll system or other state payroll system shall be subject to payment of a fee for the cost of providing said data, information, reports, and/or services in accordance with the Uniform Fee Schedule.

B. Fees assessed shall be satisfied in advance of receipt of the requested data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000).

§133. Termination of Payroll Deduction

A. Unethical conduct or practices of the vendor will result in the termination of payroll deduction authority for that vendor.

B. Unethical or unprofessional conduct of any vendor representative shall result in that individual being barred from participation in state deduction for any vendor.

C. Deduction authority shall be revoked for any vendor that fails to maintain compliance with provisions of R.S. 42:455.

D. Deduction authority may be revoked for any vendor that fails to comply with requirements of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1031 (May 2000).

§135. General

A. Deduction authorization shall not be transferred.

B. Approval of an applicant in no way constitutes endorsement or certification of the applicant/vendor by the state.

C. Group Benefits HMO and other Board Approved third party pass-through deductions and credit union reciprocal agreement payments to other state agency credit unions for transferred employees shall be the only exception to §125.J.

D. Administrative responsibilities of this rule shall preclude the Division of Administration from sponsoring applicants for vendor deduction authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1031 (May 2000).

§137. Appeal Process

A. Any vendor participating in deduction debarred from participating for any reason by a department/agency or

university shall have the right to have that action reviewed by filing a written request for review with the secretary of the department/agency, or the chairman of the respective Governing Board. This request for review shall be filed within 10 days from the notice of debarment.

B. A written decision shall be rendered on any request for review within 14 days of receipt.

C. Any vendor who is not satisfied with this decision has the right to appeal to the commissioner of administration . Any such appeal must be in writing and received by the commissioner within 10 days of receipt by the vendor. The commissioner shall issue a written decision on the matter within 14 days of receipt of the written appeal.

D. The decision of the commissioner shall be the final administrative review.

SED-3 {09/95}

DEPARTMENT REQUEST
FOR
PAYROLL DEDUCTION VENDOR

In accordance with the rule governing payroll deductions, Title 4 (Chapter 1, §115.C.2),

I, _____, _____, on behalf of the
NAME TITLE

employees of _____, hereby request
DEPARTMENT

favorable consideration of a payroll deduction application submitted by:

A.

APPLICANT/VENDOR NAME

ADDRESS

CITY/STATE/ZIP

AGENT/REPRESENTATIVE

PHONE (Area/Number/Extension)

To offer:

B.(PRODUCT/

Section 125 Eligible
Yes [] No []

I further certify that this request does not represent a duplication of a product or service of comparable value currently available in the payroll system; that a review and/or survey conducted by this department has indicated a need for this particular deduction; that the above named company applicant has provided evidence of having met and/or exceeded all requirement of R. S. 42:455; and has knowledge of the requirements of the rule governing payroll deductions.

Department _____
Signature _____
Title _____
Date _____

SED-4 (9/95)

(VENDOR NAME HERE)

State of Louisiana Employee Payroll Deduction Authorization							
Employee Name		Soc.	Sec.	No.	Payroll Reporting No.		
Department/Agency/Section Name			Control No.		Authorized Codes MS@ a-? MS@ m-?		
I hereby authorize my employer to deduct a total of \$ _____, monthly rate, from my salary until further notice and remit same to <u>(VENDOR NAME HERE)</u> . A TOTAL Semi-Monthly Deduction in the amount of \$ _____ represents one half of the total monthly premium required for the coverage(s) detailed below. I, hereby waive on behalf of myself, my heirs, successors, agents, and assigns any and all rights of action against the State of Louisiana, its agents, and assigns, arising out of the deduction, failure to deduct, or any other handling of this request for payroll withholding.							
DEDUCTION DETAIL (Product Codes, Premium Amts., 125 Elig.) MENU ELECTIONS							
PRODUCT NAME	PLAN PART.	CODE	125 ELIG.	MO. PREM.	PAYROLL CODE	INELIGIBLE & NON-PART Semi-Mo.	ELIGIBLE PART Semi-Mo.
PRODUCT ONE ##	P		Y	\$	MS@ P ?		\$
Product one ##		N	Y	\$	MS@ N ?	\$	
PRODUCT TWO ##	P		Y	\$	MS@ P ?		\$
Product two ##		N	Y	\$	MS@ N ?	\$	
PRODUCT THREE ##	P		Y	\$	MS@ P ?		\$
Product three ##		N	Y	\$	MS@ N ?	\$	
SUB TOTALS MS@ Non-Part. - Part.						\$ _____	\$ _____
Other Product 1 ##		N	N	\$	MS@ N ?	\$	
Other Product 2 ##		N	N	\$	MS@ N ?	\$	
Other Product 3 ##		N	N	\$	MS@ N ?	\$	
Begin/Change Date	Total Mo. Prem.		\$ _____				
Date/Authorized	Total Semi-Mo. Ineligible		MS@		\$ _____		
BY: _____	Total Semi-Mo. Non-Part.		MS@		\$ _____		
Employee Signature	Total Semi-Mo		MS@		\$ _____		
	Participating						
TOTAL SEMI-MONTHLY				MS@		\$ _____	
(THIS FORM SUPERSEDES AND REPLACES ALL OTHER AUTHORITY FOR THIS DEDUCTION)							
Presentation and deduction authorization processed by: _____							
MS@ Agent			Phone _____				
Address _____							

(@ = Vendor Code Letter ? = Product Code Letter ## = FBMC Product Type number)

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1033 (May 2000).

Whitman Kling
Deputy Undersecretary

0005#035

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code Commercial Seafood Inspection Program
(Chapter IX)

Chapter IX. Seafood

9:027-1 General Hazard Analysis Critical Control Points (HACCP) Requirements for Dealers

A. Hazard Analysis. Every dealer shall conduct a hazard analysis to determine the food safety hazards that are

reasonably likely to occur for each kind of shellfish product processed by that dealer and to identify the preventive measures that the dealer can apply to control those hazards. Such food safety hazards can be introduced both within and outside the processing plant environment, including food safety hazards that can occur before, during, and after harvest. A food safety hazard that is reasonably likely to occur is one for which a prudent dealer would establish controls because experience, illness data, scientific reports, or other information provide a basis to conclude that there is a reasonable possibility that it will occur in the particular type of shellfish product being processed in the absence of those controls.

B. HACCP Plan. Every dealer shall have and implement a written HACCP plan. A HACCP plan shall be specific to:

1. each location where shellfish products are processed by that dealer; and

2. each kind of shellfish product processed by the dealer. The plan may group kinds of shellfish products together, or group kinds of production methods together, if the food safety hazard, critical control points, critical limits, and procedures required to be identified and performed in §1C. are identical for all shellfish products so grouped or for all production methods so grouped.

C. Contents of the HACCP Plan. The HACCP plan shall, at a minimum:

1. list the food safety hazards that are reasonably likely to occur, as identified in accordance with §1A. and that thus must be controlled for each shellfish product. Consideration should be given to whether any food safety hazards are reasonably likely to occur as a result of the following:

- a. natural toxins;
- b. microbiological contamination;
- c. chemical contamination;
- d. pesticides;
- e. drug residues;
- f. unapproved use of direct or indirect food or color additives; and
- g. physical hazards;

2. list the critical control points for each of the identified food safety hazards, including as appropriate:

a. Critical control points designed to control food safety hazards introduced outside the processing plant environment, including food safety hazards that occur before, during, and after harvest. As an alternative, the dealer may establish other critical control points which the dealer can demonstrate that provides equivalent public health protection. If the dealer can demonstrate through a hazard analysis that the food safety hazard is not reasonably likely to occur, the critical control point is not required with the exception of receiving which shall always be considered as a critical control point.

b. Critical control points designed to control food safety hazards that could be introduced in the processing plant environment. As an alternative, the dealer may establish other critical control points which provide equivalent public health protection. If the dealer can demonstrate to the authority through a hazard analysis that the food safety hazard is not reasonably likely to occur, the critical control point is not required.

3. List the critical limits that must be met at each of the critical control points. As an alternative the dealer may establish other critical limits which the dealer has demonstrated provide equivalent public health protection with the exception of receiving which shall always be considered as a critical control point.

4. List the procedures, and frequency thereof, that will be used to monitor each of the critical control points to ensure compliance with the critical limits.

5. Include any corrective action plans that have been developed in accordance with §1F.(2), to be followed in response to deviations from critical limits at critical control points.

6. Provide for a record keeping system that documents the monitoring of the critical control points. The records shall contain the actual values and observations obtained during monitoring.

7. List the verification procedures, and frequency thereof, that the dealer will use in accordance with §1G.(1).

D. Signing and Dating the HACCP Plan

1. The HACCP plan shall be signed and dated, either by the most responsible individual on site at the processing facility or by a higher level official of the dealer. This signature shall signify that the HACCP plan has been accepted for implementation by the dealer.

2. The HACCP plan shall be signed and dated:

- a. upon initial acceptance;
- b. upon any modification; and
- c. upon verification of the plan in accordance with §1G.(1)(a).

E. Sanitation. Sanitation controls may be included in the HACCP plan. However, to the extent that they are monitored in accordance with §2 they need not be included in the HACCP plan, and vice versa.

F. Corrective Actions

1. Whenever a deviation from a critical limit occurs, a dealer shall take corrective action either by:

- a. following a corrective action plan that is appropriate for the particular deviation; or
- b. following the procedures in §1F.(3).

2. Dealers may develop written corrective action plans, which become part of their HACCP plans in accordance with §1C.(5), by which they predetermine the corrective actions that they will take whenever there is a deviation from a critical limit. A corrective action plan that is appropriate for a particular deviation is one that describes the steps to be taken and assigns responsibility for taking those steps, to ensure that:

- a. no product enters commerce that is either injurious to health or is otherwise adulterated as a result of the deviation; and
- b. the cause of the deviation is corrected.

3. When a deviation from a critical limit occurs and the dealer does not have a corrective action plan that is appropriate for that deviation, the dealer shall:

a. segregate and hold the affected product, at least until the requirements of §1F.(3)(b) and (c) are met;

b. perform or obtain a review to determine the acceptability of the affected product for distribution. The review shall be performed by an individual or individuals who have adequate training or experience to perform such a

review. Adequate training may or may not include training in accordance with §1I.;

c. take corrective action, when necessary, with respect to the affected product to ensure that no product enters commerce that is either injurious to health or is otherwise adulterated as a result of the deviation;

d. take corrective action, when necessary, to correct the cause of the deviation;

e. perform or obtain timely reassessment by an individual or individuals who have been trained in accordance with §1I., to determine whether the HACCP plan needs to be modified to reduce the risk of recurrence of the deviation, and modify the HACCP plan as necessary.

4. All corrective actions taken in accordance with this section shall be fully documented in records that are subject to verification in accordance with §1G and the record keeping requirements of §1H.

G. Verification

1. Every processor shall verify that the HACCP plan is adequate to control food safety hazards that are reasonably likely to occur, and that the plan is being effectively implemented. Verification shall include, at a minimum:

a. a reassessment of the adequacy of the HACCP plan whenever any changes occur that could affect the hazard analysis or alter the HACCP plan in any way or at least annually. These changes may include: Raw materials or source of raw materials, product formulation, processing methods or systems, finished product distribution systems, or the intended use or consumers of the finished product. The reassessment shall be performed by an individual or individuals who have been trained in accordance with §1I. The HACCP plan shall be modified immediately whenever a reassessment reveals that the plan is no longer adequate to fully meet the requirements of §1C.

b. ongoing verification of activities including:

i. a review of any consumer complaints that have been received by the dealer to determine whether they relate to the performance of critical control points or reveal the existence of unidentified critical control points;

ii. the calibration of process-monitoring instruments; and

iii. at the option of the dealer, the performing of periodic end-product or in-process testing.

c. a review, including signing and dating, by an individual who has been trained in accordance with §1I., of the records that document:

i. the monitoring of critical control points. The purpose of this review shall be, at a minimum, to ensure that the records are complete and to verify that they document values that are within the critical limits. This review shall occur within one week of the day that the records are made;

ii. the taking of corrective actions. The purpose of this review shall be, at a minimum, to ensure that the records are complete and to verify that appropriate corrective actions were taken in accordance with §1F. This review shall occur within one week of the day that the records are made;

iii. the calibrating of any process monitoring instruments used at critical control points and the performing of any periodic end-product or in-process testing that is part of the dealer's verification activities. The purpose of these reviews shall be, at a minimum, to ensure that the records are complete, and that these activities occurred in

accordance with the processor's written procedures. These reviews shall occur within a reasonable time after the records are made.

2. Dealers shall immediately follow the procedures in §1F. whenever any verification procedure, including the review of a consumer complaint, reveals the need to take a corrective action.

3. The calibration of process-monitoring instruments, and the performing of any periodic end-product and in-process testing, in accordance with §1G(1)(b)(ii) and (iii) shall be documented in records that are subject to the record keeping requirements of §1H.

H. Records

1. All records required by §1 and §2 shall include:

a. the name and location of the dealer;

b. the date and time of the activity that the record reflects;

c. the signature or initials of the person performing the operation; and

d. where appropriate, the identity of the product and the production code, if any. Processing and other information shall be entered on records at the time that it is observed.

2. All records required by §1 and §2 shall be retained at the processing facility for at least one year after the date they were prepared in the case of refrigerated products and for at least two years after the date they were prepared in the case of frozen products.

3. Records that relate to the general adequacy of equipment or processes being used by a processor, including the results of scientific studies and evaluations, shall be retained at the processing facility for at least two years after their applicability to the product being produced at the facility.

4. If the processing facility is closed for a prolonged period between seasonal operations, or if record storage capacity is limited on a processing vessel or at a remote processing site, the records may be transferred to some other reasonably accessible location at the end of the seasonal operations but shall be immediately returned for official review upon request.

5. All records required by §1 and §2 and HACCP plans required by §1B. and §1C. shall be available for official review and copying at reasonable times.

6. The maintenance of records on computers is acceptable, provided that appropriate controls are implemented to ensure the integrity of the electronic data and electronic signatures.

I. Training.

1. At a minimum, the following functions shall be performed by an individual who has successfully completed training in the application of HACCP principles to shellfish processing at least equivalent to that received under standardized curriculum recognized as adequate by the FDA or who is otherwise qualified through job experience to perform these functions:

a. developing a HACCP plan, which could include adapting a model or generic-type HACCP plan that is appropriate for a specific processor, in order to meet the requirements of §1C.;

b. reassessing and modifying the HACCP plan in accordance with the corrective action procedures specified in

§1F.(3)(e), and the HACCP plan in accordance with the verification activities specified in §1G.(1)(a); and

c. performing the record review required by §1G.(1)(c).

2. Job experience will qualify an individual to perform these functions if it has provided knowledge at least equivalent to that provided through the standardized curriculum.

3. The trained individual need not be an employee of the dealer.

9:027-2 General Sanitation Requirements

A. Sanitation Monitoring. Each dealer shall monitor conditions and practices that are both appropriate to the plant and the food being processed with sufficient frequency. The requirements relate to the following sanitation items:

1. safety of the water that comes into contact with food or food contact surfaces, or is used in the manufacture of ice, hereinafter referred to as Safety of Water for Processing and Ice Production;

2. condition and cleanliness of food contact surfaces, including utensils, gloves, and outer garments, and from raw product to cooked product, hereinafter referred to as: Condition and cleanliness of food contact surfaces;

3. prevention of cross contamination from insanitary objects to food, food packaging materials, and other food contact surfaces, including utensils, gloves, and outer garments, and from raw product to cooked product, hereinafter referred to as Prevention of Cross Contamination;

4. maintenance of hand washing, hand sanitizing, and toilet facilities, hereinafter referred to as: Maintenance of hand washing, hand sanitizing and toilet facilities;

5. protection of food, food packaging material, and food contact surfaces from adulteration with lubricants, fuel, pesticides, cleaning compounds, sanitizing agents, condensate, and other chemical, physical, and biological contaminants, hereinafter referred to as: Protection from adulterants;

6. proper labeling, storage, and use of toxic compounds, hereinafter referred to as: Proper labeling, storage, use of toxic compounds;

7. control of employee health conditions that could result in the microbiological contamination of food, food packaging materials, and food contact surfaces, hereinafter referred to as: Control of employees with adverse health conditions; and

8. exclusion of pests from the food plant, hereinafter referred to as Exclusion of Pests. While monitoring of those specified conditions and practices that are not appropriate to the plant and the food being processed is not required, compliance with such conditions and practices remains mandatory.

B. Sanitation Monitoring Records. Each dealer shall maintain sanitation control records that, at a minimum, document the monitoring and corrections prescribed by §2A. These records are subject to the requirements of §1H.

C. Relationship to HACCP Plan. Sanitation controls may be included in the HACCP plan, required by §1B. However,

to the extent that they are monitored in accordance with §2A. they need not be included in the HACCP plan, and vice versa.

David W. Hood
Secretary

0005#037

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code: Water Supplies (Chapter XII)

Under the authority of R.S. 40:4 and 5.9(A)(4) and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) hereby amends Chapter XII (Water Supplies) of the Louisiana State Sanitary Code. These amendments are deemed necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C.A. §300f, et seq.) primary implementing regulations (40 CFR Part 141). One of the main reasons for these amendments is to implement a rule which will provide the state health officer the authority to use an optional procedure for calculating penalties related to public water systems which serve greater than 10,000 individuals when they fail to comply with a provision of an administrative compliance order issued pursuant to R.S. 40:5.9. Also, the existing definition/term "public water supply" is deleted and reenacted as "public water system" to make it equivalent to the recently revised federal definition. In addition, several other items are also being amended/adopted to ensure that DHH-OPH clearly has state-level requirements equivalent to federal regulations. Sections 12:004-1 and 12:004-2 regarding turbidity monitoring are repealed in their entirety since they are out of date and no longer applicable. Turbidity monitoring is now required under the Louisiana Surface Water Treatment Rule (see LR 17:271, March 20, 1991).

The Louisiana Total Coliform Rule (see LR 17:670, July 20, 1991) which was adopted as an addendum to Chapter XII is now designated as "Appendix C" of Chapter XII. The Louisiana Surface Water Treatment Rule which was adopted in 1991 without notation to its location in the context of the various state regulations is proposed to be incorporated into Chapter XII as "Appendix D".

The revisions relative to the optional penalty calculation method and the new definition/term "public water system"

are specifically necessary due to a federal rule promulgated by USEPA in the Federal Register dated April 28, 1998 (Volume 63, Number 81, pages 23366 through 23368), which is entitled "Revisions to State Primacy Requirements to Implement Safe Drinking Water Act Amendments". This federal rule was promulgated under the authority of the federal Safe Drinking Water Act Amendments of 1996 (Pub.L. 104-182 dated August 6, 1996).

This rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972; however, in accord with R.S. 49:972(B)(6) local governmental units may be affected if they own or operate a public water system serving greater than 10,000 individuals, are issued an administrative compliance order by the state health officer, violate one or more provisions of such order after the compliance deadline(s) specified therein expires, and the state health officer decides to impose a monetary penalty for such non-compliance using the new authority granted by this proposed rule. Local governmental units owning or operating a public water system are already subject to the requirements of the existing Civil Penalty Assessment Rule; therefore, the actual effect of the new rule would amount to potentially higher penalties than may currently be assessed, especially if more than one provision of the order was violated.

Authority and historical footnotes have been added beneath various sections in preparation for the eventual codification of Chapter XII (Water Supplies) in the *Louisiana Administrative Code*. Further work will be needed to be done in future revisions to complete footnoting of other sections in preparation for such codification.

For the reasons set forth above, Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is amended as follows:

Sanitary Code, State of Louisiana

Chapter XII (Water Supplies)

12:001 Definitions

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

Abandoned Well a water well that has been permanently discontinued; has had its pumping equipment permanently removed; is in such a state of disrepair that it cannot be used to supply water and/or has the potential for transmitting surface contaminants into the aquifer; poses potential health or safety hazards or the well is in such a condition that it cannot be placed in service.

Auxiliary Intake any piping connection or other device whereby water may be secured from a source other than that normally used.

Backflow

(1) a flow condition, induced by a differential pressure, that causes the flow of water or other liquid into the distribution pipes of a potable water supply from any source or sources other than its intended source, or

(2) the backing up of water through a conduit or channel in the direction opposite to normal flow.

Backflow Preventer a device for a potable water supply pipe to prevent the backflow of water of questionable quality into the potable water supply system.

Back Siphonage a form of backflow caused by negative or subatmospheric pressure within a water system.

Boil Notice an official order authorized by the State Health Officer to the owner/users of a specific water supply, directing that water from that supply be boiled according to directions, or otherwise disinfected prior to human consumption.

By-Pass any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water supply or treatment facility.

Category a group of parameters for which certification is offered.

Certification Fee the annual charge assessed laboratories requesting certification from the Department of Health and Hospitals to provide the needed chemical (organic, inorganic and radiological) analytical support for the public water systems.

Committee of Certification the committee, created by LSA - R.S. 40:1141 through 1151, responsible for certification of waterworks operators and sewerage works operators.

Community Water Supply a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

Contaminant any physical, chemical, biological, or radiological substance or matter in water.

Cross Connection

(1) a physical connection through which a supply of potable water could be contaminated or polluted, or

(2) a connection between a supervised potable water supply and an unsupervised supply of unknown potability.

Drain any pipe which carries waste water or water-borne waste in a building drainage system.

Drainage System (drainage piping) includes all the piping within public or private premises, which conveys sewage, rain water, or other liquid wastes to a point of disposal, but does not include the mains of a public sewer system or a private or public sewage treatment plant.

Ground Water subsurface water occupying the saturation zone from which wells and springs are fed. In a strict sense the term applies only to water below the water table.

Interconnection a physical connection between two water supply systems.

Laboratory Certification Manual the reference book which contains the Department of Health and Hospitals' regulations governing laboratory certification and standards of performance for laboratories conducting drinking water analyses for public water supplies in the state of Louisiana.

Laboratory Certification Program a program carried out by the Department of Health and Hospitals, Office of Public Health and Office of Licensing and Certification to approve commercially and publicly owned laboratories to perform compliance monitoring of public water supplies in accordance with the National Primary Drinking Water Regulations and Chapter XII of the State Sanitary Code. The cost of the program will be recouped from the laboratories requesting certification.

Laboratory Requesting Certification an uncertified laboratory which has submitted an acceptable application and appropriate fee(s) for the category in which it desires certification.

Louisiana Water Well Rules, Regulations, And Standards the November 1985 Edition, promulgated by the Louisiana Office of Public Works, Department of Transportation and Development, under provisions of State Act 535 of 1972 (R.S. 38:3091 et seq.).

Maximum Contaminant Level (MCL) the highest permissible concentration of a substance allowed in drinking water as established by the U.S. Environmental Protection Agency.

National Primary Drinking Water Regulations regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the July 1, 1997 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141) less and except the following:

i.) Subpart H - Filtration and Disinfection (40 CFR 141.70 through 40 CFR 141.75), and

ii.) Subpart M - Information Collection Requirements (ICR) for Public Water Systems (40 CFR 141.140 through 40 CFR 141.144).

National Secondary Drinking Water Regulations regulations (40 CFR Part 143) promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of P.L. 99-339, the "Safe Drinking Water Act," and as published in the Federal Register of July 19, 1979, pages 42,195 through 42,202 and April 2, 1986, page 11,412.

Noncommunity Water Supply a public water system that does not meet the criteria for a community water supply and serves at least 25 individuals (combination of residents and transients) at least 60 days out of each year. A non-community water supply is either a "transient non-community water supply" or a "non-transient non-community water supply".

Nontransient Noncommunity Water Supply a public water system that is not a community system and regularly serves at least 25 of the same persons (non-residents) over six months per year.

Operator the individual, as determined by the Committee of Certification, in attendance, onsite of a water supply system and whose performance, judgment and direction affects either the safety, sanitary quality or quantity of water treated or delivered.

Permit a written document issued by the State Health Officer through the Office of Public Health which authorizes construction and operation of a new water supply or a modification of any existing supply.

Potable Water water having bacteriological, physical, radiological, and chemical qualities that make it safe and suitable for human drinking, cooking and washing uses.

Potable Water Supply a source of potable water, and the appurtenances that make it available for use.

Private Water Supply a potable water supply that does not meet the criteria for a public water supply.

Public Water Supply "public water system".

Public Water System a system for the provision to the public of water for potable water purposes through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes:

(a) Any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and,

(b) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

A public water system is either a "community water supply" or a "non-community water supply".

Reservoir a natural or artificial lake or impoundment for storage of water (either raw or treated) used or proposed to be used for potable purposes.

Sanitary Well Seal a suitable threaded, flanged, or welded water-tight cap or compression seal installed at the top of the well casing so as to prevent the entrance of contaminated water or other objectionable material into the well.

Service Connection the pipe from the water main and/or water meter, water supply system or other source of water supply to the building or structure served.

Source of Water Supply any well, spring, cistern, infiltration gallery, stream, reservoir, pond, or lake from which, by any means, water is taken either temporarily or continuously for potable use.

Surface Water derived from water sources on the surface of the earth such as streams, ponds, lakes, or reservoirs.

Ten-State Standards the *Recommended Standards for Water Works* (1982 Edition)* or *Recommended Standards for Sewage Works* (1978 Edition)* promulgated by the Great Lakes and Upper Mississippi River Board of State Sanitary Engineers and any modifications and additions to these Standards which the State Health Officer may establish in this Chapter.

* Published by: Health Education Service, P. O. Box 7126, Albany, New York 12224

Transient Non-Community Water Supply a non-community water supply that does not regularly serve at least 25 of the same persons over six months per year.

Treatment Technique Requirement a treatment process/standard which has been established in lieu of a maximum contaminant level when, in the State Health Officer's judgement, it is not economically or technologically feasible to ascertain the level of a contaminant in water intended for potable purposes.

Vacuum Breaker a device for relieving a vacuum or partial vacuum formed in a pipeline, thereby preventing back siphonage.

Water Well (Well) an artificial excavation that derives water from the interstices of the rocks or soil which it penetrates.

12:002-1 General Requirements

Every potable water supply which is hereafter constructed, or reconstructed, or every existing water supply which the State Health Officer determines is unsafe, shall be made to comply with the requirements of the Code.

12:002-2 Permit Requirements

No public water supply shall be hereafter constructed, operated or modified to the extent that the capacity, hydraulic conditions, functioning of treatment processes, or the quality of finished water is affected, without, and except in accordance with, a permit from the State Health Officer. No public water supply shall be constructed or modified to the extent mentioned above except in accordance with the plans and specifications for the installation which have been approved, in advance, as a part of a permit issued by the State Health Officer prior to the start of construction or modification. Detailed plans and specifications for the installation for which a permit is requested shall be submitted by the person having responsible charge of a municipally owned public water supply or by the owner of a privately owned public water supply. The review and approval of plans and specifications submitted for issuance of a permit, will be made in accordance with the "Ten-State Standards" and the *Louisiana Water Well Rules, Regulations, and Standards*, plus any additional requirements of the State Health Officer as set forth in this Chapter.

12:002-3 Permits issued, and approvals of plans and specifications granted prior to the effective date of this Code shall remain in effect as they pertain to the design of the supply unless the revision of such is determined necessary by the State Health Officer.

12:002-4 Water supplied for potable purposes shall be:

- (a) obtained from a source free from pollution; or
- (b) obtained from a source adequately protected by natural agencies from the effects of pollution; or
- (c) adequately protected by artificial treatment.

12:002-5 Water Quality Standards

Each public water supply shall comply with the maximum contaminant levels or treatment technique requirements prescribed in the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Appendix C), and the Louisiana Surface Water Treatment Rule (Appendix D). The State Health Officer, upon determining that a risk to human health may exist, reserves the right to limit exposure to any other contaminant. Further, each public water supply should comply with the National Secondary Drinking Water Regulations. Treatment to remove questionable characteristics shall be approved by the State Health Officer.

Each public water supply shall comply with the monitoring and analytical requirements specified in the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Appendix C), and the Louisiana Surface Water Treatment Rule (Appendix D), as applicable. A laboratory certification program has been established to approve commercially and publicly owned laboratories to perform chemistry compliance monitoring for public water supplies. Laboratories seeking certification in any chemistry category for which certification is offered must adhere to the rules and regulations governing laboratory certifications as contained in the Department of Health and Hospitals' Laboratory Certification Manual dated September 1989. An annual certification fee will be assessed laboratories seeking certification from the Department of Health and Hospitals.

12:002-6 Upon determination that a public water supply is not in compliance with the maximum contaminant levels or treatment technique requirements of the National Primary Drinking Water Regulations, variances and/or exemptions

may be issued by the State Health Officer in accord with Sections 1415 and 1416 of the Safe Drinking Water Act, P.L. 99-339. Upon receipt of a variance and/or exemption, the owners of the public water supply shall appraise their supply and submit within one hundred eighty (180) days compliance and implementation schedules to correct the noncompliance for which the variance and/or exemption was issued. Such compliance and implementation schedule when approved by the State Health Officer shall be executed in accord therewith.

12:002-7 [Blank].

12:003-1 Responsibility of Owner

It shall be the duty of the Mayor, or the person having responsible charge of a municipally owned water supply, or the legal or natural person owning a public water supply, to take all measures and precautions which are necessary to secure and ensure compliance with this Chapter of the Code, and such persons shall be held primarily responsible for the execution and compliance with regulations of this Code. A printed copy of this Chapter of the Code shall be kept permanently posted in the office used by the authority owning or having charge of a public water supply.

12:003-2 Plant Supervision and Control

All public water supplies shall be under the supervision and control of a competent operator. The operator of public water supplies serving more than 500 persons shall be certified as per requirements of the State Operator Certification Act, Act 538 of 1972, as amended (LSA - R. S. 40:1141-1151).

12:003-3 Records

Complete daily records of the operation of water treatment plants, including reports of laboratory control tests, shall be kept for a period of two years on forms approved by the State Health Officer. Copies of these records shall be provided to the office designated by the State Health Officer within ten (10) days following the end of each calendar month.

12:003-4 Public Notification

If a public water system fails to comply with an applicable maximum contaminant level, treatment technique requirement, or analytical requirement as prescribed by this Code or fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, or fails to perform any monitoring required by this Code, the supplier of water shall notify persons served by the system of the failure in a manner prescribed by the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Appendix C), or the Louisiana Surface Water Treatment Rule (Appendix D), as applicable. In addition, if a public water system fails to report required analytical data to the appropriate office designated by the State Health Officer within the applicable time limit(s) stipulated by the National Primary Drinking Water Regulations or the Louisiana Surface Water Treatment Rule (Appendix D) and such data (e.g., turbidity measurements, corrosion control chemical concentrations, etc.) is required to determine a maximum contaminant level or treatment technique requirement prescribed by this Code, the public water system shall be assessed a monitoring violation and must give appropriate public notification. The water supply, within ten days subsequent to the completion of each public notification shall submit to the State Health Officer a representative copy

of each type of notice distributed, published, posted and/or made available to the persons served by the supply and/or to the news media.

12:003-5 Security

All public water supply wells, treatment units, tanks, etc., shall be located inside a fenced area that is capable of being locked; said areas shall be locked when unattended. The fence shall be resistant to climbing and at least six (6') feet high.

12:004-1 [Blank].

12:004-2 [Blank].

12:005 Reporting Changes in Public Water Supplies

No person owning, or having by law the management control of any public water supply, shall take or cause to be taken for use for potable purposes, water from any auxiliary source other than a source or sources of water approved by the State Health Officer, or shall make any change whatsoever which may affect the sanitary quality of such water supply, without first having notified the State Health Officer. Also, any violation of the National Primary Drinking Water Regulations shall be reported to the State Health Officer within 48 hours after learning of any violation.

12:006 Filtration

All potable water derived from surface waters shall be filtered before distribution. Pressure filters shall not be used in the filtration of surface waters.

12:007 Treatment Chemicals

Chemicals used in the treatment of water to be used for potable purposes shall either meet the standards of the American Water Works Association or meet the guidelines for potable water applications established by the U. S. Environmental Protection Agency.

12:008-1 Ground Water Supplies

All potable ground water supplies shall comply with the following requirements:

12:008-2 Exclusion of Surface Water From Site

The ground surface within a safe horizontal distance of the source in all directions shall not be subject to flooding (as defined in footnote 4 of 12:008-3) and shall be so graded and drained as to facilitate the rapid removal of surface water. This horizontal distance shall in no case be less than fifty (50') feet for potable water supplies.

12:008-3 Distances to Sources of Contamination

Every potable water well, and the immediate appurtenances thereto that comprise the well, shall be located at a safe distance from all possible sources of contamination, including but not limited to, privies, cesspools, septic tanks, subsurface tile systems, sewers, drains, barnyards and pits below the ground surface. The horizontal distance from any such possible source of pollution shall be as great as possible, but in no case less than the following minimum distances, except as otherwise approved by the State Health Officer:

Source	Distance in Feet
Septic tanks	50
Storm or sanitary sewer	50 ¹
Cesspools, outdoor privies, oxidation ponds, subsurface absorption fields, pits, mechanical sewage treatment plants, etc.	100 ²

Another water-well	25 ³
Sanitary landfills, feed lots, manure piles, solid waste dumps and similar installations	100
Drainage canal, ditch or stream	50 ⁴

¹ This distance may be reduced to thirty (30') feet if the sewer is of cast iron with leaded joints or Schedule 40 plastic pipe with water-tight joints.

² For a private water well this distance may be reduced to fifty (50') feet.

³ This minimum distance requirement does not take into consideration the effects of interference from pumping nearby wells in the same aquifer.

⁴ Horizontally measured from the water's edge to the well at the highest water level which may have occurred in a ten-year period.

12:008-4 Leakage From Toilets And Sewers

No toilet, sewer, soil pipe or drain shall be located above or where leakage therefrom can reach any water storage basin, reservoir or source of water supply.

12:008-5 Pits Near Water Supply

There shall be no unauthorized pits or unfilled spaces below level of ground surface, any part of which is within fifty feet of such water supply, except properly constructed well, pump, or valve pits as covered under Section 12:009-5 of this Chapter.

12:008-6 Satisfactory Earth Formation Above The Water Bearing Stratum

The earth formations above the water-bearing stratum shall be of such character and depth as to exclude contamination of the source of supply by seepage from the surface of the ground.

12:008-7 Minimum Depth of Casings and Curbing

All well and spring basin casings or curbing shall extend a safe distance below the ground surface. The minimum depth of casings or curbing shall not be less than fifty (50) feet in the case of public water supplies and not less than ten (10) feet in the case of private water supplies.

12:008-8 Height of Casings and Curbing

In wells with pipe casings, the casings shall project at least twelve inches above ground level or the top of the cover or floor, and the cover or floor shall slope away from the well casing or suction pipe in all directions. Dug well linings shall extend at least twelve inches above the ground surface and cover installed thereon. The cover shall be watertight, and its edges shall overlap and extend downward at least two inches over the walls or curbing of such wells. In flood-prone areas the top of the casing shall be at least two (2') feet above the highest flood level which may have occurred in a ten (10) year period, but in no case less than two (2') feet above the ground surface.

12:008-9 Grouting

The annular space between the well casing and the bore hole shall be sealed with cement-bentonite slurry or neat cement. Community public supply wells shall be cemented to their full depth from the top of the producing aquifer to the ground surface; noncommunity public supply wells shall be cemented from a minimum depth of fifty (50') feet to the ground surface; and private supply wells shall be cemented from a minimum depth of ten (10') feet to the ground surface.

12:008-10 Cover or Floors

Every dug well, spring, or other structure used as a source of potable water, or for the storage of potable water, shall be provided with a watertight cover. Covers and every pump room floor shall be constructed of concrete or similar impervious material, and shall be elevated above the adjacent ground level and sloped to facilitate the rapid removal of water so as to provide drainage from the cover or floor and prevent contamination of the water supply. Such cover or floor shall be constructed so that there are no copings, parapets, or other features which may prevent proper drainage, or by which water can be held on the cover. Concrete floors or cover slabs shall be of such thickness and so reinforced as to carry the load which may be imposed upon it, but in no case less than four (4) inches thick.

12:008-11 Potable Water Well Seals and Covers

Every potable water well shall be provided with a watertight sanitary well seal at the top of the casing or pipe sleeve. For wells with solid pedestal foundations, the well casing shall project at least one (1") inch above the level of the foundation, and a seal between the well casing and the opening in the pump base plate shall be used to effectively seal the base plate to the well casing.

12:008-12 Potable Water Well Casing Vents

All potable water well casings shall be vented to atmosphere as provided in Section 12:008-13 of this Code, with the exception that no vent will be required when single-pipe jet pumps are used.

12:008-13 Potable Water Well Vents

All potable water well vents shall be so constructed and installed as to prevent the entrance of contamination. All vent openings shall be piped water tight to a point not less than twenty-four (24") inches above the highest flood level which may have occurred in a ten year period, but in no case less than twenty-four (24") inches above the ground surface. Such vent openings and extensions thereof shall be not less than one-half (1/2") inch in diameter, with extension pipe firmly attached thereto. The openings of the vent pipes shall face downward and shall be screened to prevent the entrance of foreign matter.

12:008-14 Manholes

Manholes may be provided on dug wells, reservoirs, tanks, and other similar water supply structures. Every such manhole shall be fitted with a watertight collar or frame having edges which project at least two inches above the level of the surrounding surface, and shall be provided with a solid watertight cover having edges which overlap and project downward at least two inches around the outside of the frame. The cover shall be kept locked at all times, except when it is necessary to open the manhole.

12:008-15 Well Construction Standards

All wells constructed to serve a potable water supply shall be constructed in accordance with *Louisiana Water Well Rules, Regulations, and Standards*. Drillers of wells to serve a potable water supply will comply with the requirements for licensing of water well drillers under State Act No. 715 of 1980 (R.S. 38:2226, 38:3098-3098.8) which is administered by the Louisiana Office of Public Works.

12:008-16 Sampling Tap

All potable water supply wells shall be provided with a readily accessible faucet or tap on the well discharge line at the well for the collection of water samples. The faucet or

tap shall be of the smooth nozzle type, shall be upstream of the well discharge line check valve and shall terminate in a downward direction.

12:008-17 Disinfection of Wells

All new wells or existing wells on which repair work has been done shall be disinfected before being put into use as prescribed in Section 12:020-2 of this Chapter.

12:009-1 Construction and Installation of Pumps

All water pumps shall be so constructed and installed as to prevent contamination of the water supply.

12:009-2 Hand Pump Head and Base

Every hand-operated pump shall have the pump head closed by a stuffing box or other suitable device to exclude contamination from the water chamber. The pump base shall be of solid one-piece recessed type of sufficient diameter and depth to admit the well casing as hereinafter provided. The top of the casing or sleeve of every well, equipped with such a pump, shall project into the base of the pump at least one inch above the bottom thereof and shall extend twelve (12") inches above the level of the platform, well cover, or pump room floor on which the pump rests. The pump shall be fastened to the casing or sleeve. The pumps shall be of the self-priming type.

12:009-3 Power Pump

Where pumps or pump motors are placed directly over the well, the pump or motor shall be supported on a base provided therefor. The well casing shall not be used to support pump or motor. This requirement shall not apply to submersible pumps/motors and single-pipe jet pumps/motors. The pump or motor housing shall have a solid watertight metal base without openings to form a cover for the well, recessed to admit the well casing or pump suction. The well casing or pump suction shall project into the base at least one inch above the bottom thereof, and at least one inch above the level of the foundation on which the pump rests. The well casing shall project at least twelve (12") inches above ground level or the top of the floor.

12:009-4 Where power pumps are not placed directly over the well, the well casing shall extend at least twelve inches above the floor of the pump house. In flood-prone areas the top of the casing shall extend at least two (2') feet above the highest flood level which may have occurred in a ten (10) year period, but in no case less than two (2') feet above the ground surface. The annular space between the well casing and the suction pipe shall be closed by a sanitary well seal to prevent the entrance of contamination.

12:009-5 Well, Pump, Valve, and Pipe Pits

No well head, well casing, pump, or pumping machinery shall be located in any pit, room, or space extending below ground level, or in any room or space above the ground which is walled in or otherwise enclosed so that it does not have drainage by gravity to the surface of the ground, except in accordance with design approved by the State Health Officer, provided, that this shall not apply to a dug well properly constructed as herein prescribed.

12:009-6 Pump House

All pump houses shall be properly constructed to prevent flooding, and shall be provided with floor drainage.

12:009-7 Lubrication of Pump Bearings

Well pump bearings shall be lubricated with oil of a safe, sanitary quality or potable water.

12:009-8 Priming of Power Pumps

Power pumps requiring priming shall be primed only with potable water.

12:009-9 Priming of Hand Pumps

Hand-operated pumps shall have cylinders submerged so that priming shall not be necessary. No pail and rope, bailer, or chain-bucket systems shall be used.

12:009-10 Airlift Systems

The air compressor and appurtenances for any airlift system or mechanical aerating apparatus used in connection with a potable ground water supply, shall be installed and operated in accordance with plans and specifications that have been approved as part of a permit issued by the State Health Officer.

12:010 Well Abandonment

Abandoned water wells and well holes shall be plugged in accordance with the *Louisiana Water Well Rules, Regulations, and Standards*.

12:011-1 Reservoir Sanitation

The State Health Officer may designate any water body, or a part of any water body, as a reservoir, where, in its use as a water source for public water supply, the control of other uses of the water body, or designated part of the water body, and its watershed, is necessary to protect public health.

12:011-2 No cesspool, privy or other place for the deposit or storage of human excrement shall be located within 50 feet of the high water mark of any reservoir, stream, brook, or other watercourse flowing into any reservoir, and no place of this character shall be located within 250 feet of the high water mark of any reservoir or watercourse as above mentioned, unless such receptacle is so constructed that no portion of the contents can escape or be washed into the reservoir or watercourse.

12:011-3 No stable, pigpen, chicken house or other structure where the excrement of animals or fowls is allowed to accumulate, shall be located within 50 feet of the high water mark of any reservoir or watercourse as above mentioned, and no structure of this character shall be located within 250 feet of the high water mark of such waters unless provision is made for preventing manure or other polluting materials from flowing or being washed into such waters.

12:011-4 Boating, fishing, water skiing and swimming on any reservoir or watercourse as above mentioned shall be prohibited, or otherwise restricted by the State Health Officer, when it has been determined that the public served by the public water supply using the reservoir as a water source is exposed to a health hazard, and that such prohibitions or restrictions are therefore necessary. In any case, the aforementioned activities shall be prohibited within one hundred feet of the water intake point of the public water supply.

12:011-5 Industrial Wastes

No industrial waste which may cause objectionable changes in the quality of water used as a source of a public water supply shall be discharged into any lake, pond, reservoir, stream, underground water stratum, or into any place from which the waste may flow, or be carried into a source of public water supply. (Note: This was formerly numbered 12:024).

12:012-1 Distribution

All potable water distribution systems shall be designed, constructed, and maintained so as to prevent leakage of

water due to defective materials, improper jointing, corrosion, settling, impacts, freezing, or other causes. Valves and blow-offs shall be provided so that necessary repairs can be made with a minimum interruption of service.

12:012-2 All installations of, or repairs to, public water systems or residential and nonresidential plumbing facilities that provide drinking water and which are connected to a public water supply shall be made using lead free piping, solder and flux. The only exception to this general requirement is that leaded joints necessary for the repair of cast iron pipes may be allowed. For these purposes, lead free, when used with respect to solder and flux, refers to solder and flux containing not more than 0.2 per cent lead. Additionally, when used with respect to pipes and fittings, lead free refers to pipes and fittings containing not more than 8.0 per cent lead.

12:012-3 Where pumps are used to draw water from a water supply distribution system or are placed in a system to increase the line pressure, provision must be made to limit the pressure on the suction side of the pump to not less than fifteen (15) pounds per square inch gauge. Where the use of automatic pressure cut-offs is not possible, such pumps must draw water from a tank, supplied with water from a water distribution system through an air gap as per Chapter XIV of this Code.

12:012-4 All public water supplies shall be operated and maintained to provide a minimum positive pressure of fifteen (15) pounds per square inch gauge at all service connections at all times.

12:013-1 Storage

All cisterns and storage tanks shall be of watertight construction and made of concrete, steel or other materials approved for this purpose by the State Health Officer. When located wholly or partly below ground, such storage basins shall be of corrosion resistant materials.

12:013-2 Cisterns used for potable water shall be provided with a rain water cut-off, suitable to deflect the first washings of the roof and prevent contamination of the water. Cisterns shall be tightly covered, and screened with 18-mesh wire screen.

12:013-3 Vent Openings

Any vent, overflow, or water level control gauge provided on tanks or other structures containing water for any potable water supply shall be constructed so as to prevent the entrance of birds, insects, dust or other contaminating material. Openings or vents shall face downward and shall be not less than two (2') feet above the floor of a pump room, the roof or cover of a tank, the ground surface or the surface of other water supply structures.

12:013-4 Coatings

Paints or other materials used in the coating of the interior of cisterns, tanks or other containers in which potable water is processed or stored shall be nontoxic to humans and shall be of such composition that the palatability of the water stored or processed shall not be adversely affected. The "Standard for Painting Steel Water Storage Tanks" (AWWA D102-78) published by the American Water Works Association shall be complied with. Determination of acceptability of coatings for potable water applications by the U.S. Environmental Protection Agency may be considered evidence of compliance with this Section. (The AWWA Standard can be obtained from the American Water

Works Association, 6666 W. Quincy Ave., Denver, Colo. 80235.)

12:014-1 Protection of Suction Pipes

All subsurface suction piping, such as that leading from detached wells or reservoirs, shall be protected against the entrance of contamination.

12:014-2 Valve boxes shall be provided for valves on buried suction lines. Every such valve box shall project at least six (6") inches above the floor if in a room or building, and at least twelve (12") inches above the ground if not enclosed in a building. The top of the box shall be provided with a cover with overlapping edges.

12:015 Separation of Water Mains and Sewer Mains

Sewer and water mains shall be laid in separate trenches not less than six (6') feet apart horizontally, when installed in parallel. Crossing water and sewer mains shall have a minimum vertical separation of eighteen (18") inches. In cases where it is not possible to maintain a six foot horizontal separation, the State Health Officer may allow a waiver of this requirement on a case by case basis if supported by data from the design engineer.

12:016-1 Cross Connections

There shall be no physical connection between a public water supply and any other water supply which is not of equal sanitary quality and under an equal degree of official supervision; and there shall be no connection or arrangement by which unsafe water may enter a public water supply system.

12:016-2 Water from any potable water supply complying with these requirements may be supplied to any other system containing water of questionable quality only by means of an independent line discharging not less than a distance equal to two (2) times the pipe diameter or two (2) inches, whichever is greater, above the overflow level of storage units open to atmospheric pressure or by other methods approved by the State Health Officer.

12:017 Connection With Unsafe Water Sources Forbidden

There shall be no cross-connection, auxiliary intake, bypass, inter-connection or other arrangement, including overhead leakage, whereby water from a source that does not comply with these regulations may be discharged or drawn into any potable water supply which does comply with these requirements. The use of valves, including check or back pressure valves, is not considered protection against return flow, or back-siphonage, or for the prevention of flow of water from an unapproved source into an approved system.

12:018 Connections to Public Water Supply

All inhabited premises and buildings located within 300 feet of an approved public water supply shall be connected with such supply, provided that the property owner is legally entitled to make such a connection. The State Health Officer may grant permission to use water from some other source.

12:019 Protection During Construction

All potable water supplies which are hereafter constructed, reconstructed, or extensively altered shall be protected to prevent contamination of the source during construction.

12:020-1 Disinfection of Potable Water Supply Systems

Pipes, pumps, and other parts of water supply systems shall be disinfected when deemed necessary by the State Health Officer.

12:020-2 Disinfection of New Water Supplies

Pumps, pipes, wells, tanks and other parts of new systems shall be thoroughly disinfected by the use of chlorine or chlorine compounds before being placed in use. The rate of application of chlorine shall be in such proportion to the rate of water entering the pipe or other appurtenances that the chlorine dose applied to the water shall be at least 50 mg/l. Chlorinated water shall be retained long enough to destroy non-spore-forming bacteria. The period shall be at least three hours and preferably longer, as may be directed. After the chlorine treated water has been retained for the required time, the chlorine residual at pipe extremities and at other representative points shall be at least 5 mg/l. If the residual is less than 5 mg/l, the disinfection procedure shall be repeated until a 5 mg/l residual is obtained, as required above.

12:020-3 Large storage tanks may be disinfected by washing down the interior of the tank with a chlorine solution having at least 200 mg/l available chlorine and then washing the interior of the tank with potable water and wasting the wash water.

12:020-4 Water from new systems, or from new parts of existing systems, shall not be furnished for consumer's use until tests performed by a laboratory which is certified by the State Health Officer have shown the new system or new part of the system to be free from contamination by coliform bacteria (following EPA approved procedures prescribed in Standard Methods for the Examination of Water and Wastewater, Fourteenth Edition). Samples shall not be collected from the new facilities until such new facilities have been disinfected as prescribed in Section 12:020-2 above, and the chlorinated water thoroughly flushed from the system.

12:021-1 Mandatory Disinfection

Routine, continuous disinfection is required of all public water systems other than those under Section 12:021-4 of these regulations. Where continuous chlorination methods are used, the following minimum concentration of free chlorine residual shall be provided leaving the plant:

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

This table does not apply to systems using chloramines.

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

Systems which use surface water or ground water which is under the influence of surface water shall meet the requirements of applicable sections of the Louisiana Surface Water Treatment Rule as it pertains to CT and *Giardia* and virus requirements for disinfection.

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

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

12:021-2 Minimum Disinfection Residuals

A minimum disinfectant residual of detectable amount of total chlorine shall be maintained at all points throughout the distribution system at all times for chlorination methods other than chloramines. For very small water systems a residual of 0.2 mg/l free chlorine is generally required to maintain said systems.

12:021-3 Other Methods of Disinfection

Where chlorination is not used as the primary disinfectant, chlorine or chloramines shall be used as the secondary disinfectant to provide the residuals required in 12:021-2. Other methods shall be evaluated on a case-by-case basis by the state health officer.

12:021-4 Variances to Mandatory Disinfection

A variance may be granted by the state health officer to a public water system, provided the system meets one of the following criteria:

(a) If the public water system has not had a bacteriological maximum contaminant level (MCL) violation for the past three years;

(b) If the public water system, both existing and future installations, can prove that disinfection would create trihalomethane (THM) levels of 0.10 milligrams per liter or greater. The public water supply should explore alternate means of disinfection prior to requesting a variance. A variance can be granted for such systems, provided the system has the required equipment to verify that a detectable amount of chlorine residual is maintained at all times. For systems under 10,000 population served, said systems shall have 90 days after a TTHM (Total Trihalomethane) exceedance of 0.100 milligrams per liter is determined to request said variance;

(c) A variance shall be granted to a public water supply owned by and/or operated by, and/or created as a political subdivision in accordance with Article 6 Section 14 of the Constitution of the State of Louisiana;

(d) In reference to (a), (b), and (c) above, on a case-by-case basis, when a bacteriological MCL occurs and an administrative order shall be or has been issued to that particular water system, the said water system shall be subject to the orders of the state health officer to take whatever remedial actions that are deemed necessary to comply with all applicable rules, regulations, standards, and the Louisiana Sanitary Code, including, but not limited to, the Louisiana Total Coliform Rule.

12:021-4.1 Variances must be requested in writing and must be approved prior to the effective date of the mandatory disinfection requirement as prescribed in Section 12:021-1 except the new conditions that arise in 12:021-4(b).

12:021-5 Revocation of Variance

A variance from mandatory disinfection shall be revoked when a public water system has a bacteriological MCL

violation. When a variance is revoked, the system must install mandatory continuous disinfection as stated in Section 12:021-2 within the times specified in a compliance schedule submitted to and approved by state health officer. Such schedule shall be submitted within 10 days of receipt of notice of revocation. For systems affected under 12:021-4(b), revocations because of a bacteriological MCL shall be evaluated on a case-by-case basis by the state health officer.

12:021-6 Batch Disinfection

State health officer may allow batch disinfection for emergency purposes. Batch disinfection shall not be considered a method of continuous disinfection.

12:021-7 Records

Daily records of chlorine residual measurements shall be kept. These records shall be maintained on forms approved by the state health officer and shall be retained for a period of two years.

12:022-1 Water Shall Be Provided

It shall be the duty of the owner or manager of any premises occupied as a residence, hotel, lodging house, tenement house, office building, shop, factory, or waiting room or depot of a railroad or other common carrier to provide a safe supply of potable water for human consumption and for sanitary purposes.

12:022-2 In all cases where the owner or owners of the property or premises referred to in this Code shall not reside in the place where the property is situated, or when such property shall belong to an estate, succession or corporation, it shall be the duty of the agent, or representative of the owners thereof, or the persons who shall have charge of said property for the owners thereof, or who shall collect the rent of such premises, if the same is rented, to provide and furnish such premises with a safe and adequate potable water supply. In case such person shall fail or neglect to supply the same to such premises, within fifteen (15) days after due notice, he shall be in violation of the provisions of this Chapter.

12:022-3 Each public, parochial and private school shall be provided with a potable water supply which is approved as to source, location, and distribution by the State Health Officer.

12:022-4 It shall be the duty of all employers to supply an adequate, safe, potable water supply for all employees.

12:022-5 Wherever a public water supply is available, no other supply shall be furnished for potable purposes to employees in any factory or industrial plant, or other place of business, unless such other supply is approved by the State Health Officer. If no public water supply is available, the water for potable purposes shall be of safe, sanitary quality approved by the State Health Officer. If the water supply for industrial or fire protection purposes is obtained entirely or in part from a source not approved for potable purposes, this supply shall be distributed through an independent piping system having no connection with the system carrying potable water. All faucets or other outlets furnishing water which is not safe for potable purposes shall be conspicuously so marked.

12:023-1 Public Drinking Fountains

All public drinking fountains shall be designed and constructed in accordance with the provisions of Chapter XIV of this Code. Drinking fountains and coolers shall be

constructed of lead free materials as specified in section 12:012-2.

12:023-2 Water fountains and coolers shall be so constructed that the ice or other refrigerant used for cooling cannot come in contact with the water.

12:023-3 Where water coolers or supply tanks used for drinking water are not directly connected to the source of supply, arrangements for filling the containers shall be such as to prevent contamination of the water.

12:023-4 The use of a common drinking cup is prohibited.

12:024 Potable Water Loading Stations

Portable hoses used for filling water containers shall be provided with a metal disk at the nozzle to prevent contact of nozzle with ground or floors. When not in use, the portable hoses shall be protected from dirt and contamination by storage in a tightly enclosed cabinet and shall have a cap to cover the nozzle

12:025 Issuance Of Emergency Boil Notices

An Emergency Boil Notice, when it is deemed necessary to protect public health, shall be authorized only by the State Health Officer. Once implemented, said notice may be rescinded or cancelled only by the State Health Officer.

12:026 Adoption By Reference

The National Primary Drinking Water Regulations, as defined in Section 12:001, are hereby incorporated by reference into this Chapter of the Sanitary Code and shall have the same force and effect of State law as any other section of this Chapter just as if they had been fully published herein. Every public water system shall comply with the National Primary Drinking Water Regulations as defined herein. When the National Primary Drinking Water Regulations as defined herein and the State's own rules and/or regulations applicable to public water systems conflict, the State's own rules and/or regulations shall govern [e.g., the Louisiana Total Coliform Rule (Appendix C) provisions shall govern when any of the federal Total Coliform Rule provisions are found to conflict].

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Appendix A

Civil Penalty Assessment Rule

I. Statement of Purpose

1.1 This rule is intended to be a mechanism to secure rapid and full compliance with the requirements of the State Sanitary Code and other applicable laws and regulations relative to public water systems providing safe drinking water. It is not intended as a revenue gathering mechanism, and the Safe Drinking Water Program is not dependent upon any level of penalty revenue to balance its budget. It is based on the principle of reasonable enforcement guidelines to be vigorously implemented. As defined by LSA - R.S. 40:5.9, penalties may be assessed only on the basis of non-compliance with corrective orders, rather than on the basis of the mere existence of a violation.

II. General Provisions

2.1 Nothing herein shall be construed to prohibit the state health officer from modifying the contents of an administrative order if changes are warranted to ensure compliance with applicable laws and regulations or to allow for the practical ability to comply with the items so ordered. It is incumbent upon the person to whom the administrative order was issued to submit a written request for order modifications when, for instance, it is realized that compliance cannot be achieved within the time constraints specified in the order due to unforeseen problems or delays such as inclement weather conditions. Such requests shall be considered if the request is received by the state health officer not later than five (5) days before the compliance deadline expires. In order to show proof and date of service, the person requesting any order modifications shall do so by at least one of the following methods:

A. Use of the United States Postal Service via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested.

B. Transmission by facsimile machine will also be accepted; however, the state health officer shall be deemed not to have officially received a facsimile transmission until such time as the requester has received a written acknowledgement, via facsimile or mail, of receipt from the Office of Public Health. Said acknowledgement of receipt shall state the date when the Office of Public Health actually received the transmission and this date, regardless the sender's transmission date, shall be used in the determination of whether or not the time limit stated above was met. It is the responsibility of the sender to ask the Office of Public Health for a written acknowledgement of receipt of any facsimile transmissions which may be sent to the state health officer.

C. Use of a private shipping service, such as United Parcel Service, Federal Express, etc. when such a service can provide a written receipt to the sender stating the date of delivery to the state health officer.

2.2 Additionally, nothing herein shall be construed to mandate that the state health officer is required to assess penalties in the event of noncompliance with a provision of an administrative compliance order issued pursuant to LSA - R.S. 40:5.9; however, this rule is intended to delineate the procedure for calculating the monetary amount of the civil penalty assessment after the state health officer has decided to assess and impose penalties for noncompliance.

2.3 When reference is made to a public water system herein, such reference is limited to an individual public water system uniquely identified by its own Public Water System Identification Number (PWS ID No.).

III. Calculation of Daily Penalties

3.1 LSA - R.S. 40:5.9(A) authorizes the state health officer to assess a civil penalty up to \$3,000 a day for each day of violation and for each act of violation of a provision of an administrative compliance order.

3.2 For purposes of implementation of LSA - R.S. 40:5.9, violation of one or more provisions of an administrative compliance order shall be handled as follows:

A. All violations for a given public water system shall be handled as a package (i.e., the statutory maximum daily penalty of \$3000 per day per violation will be handled as a maximum daily penalty of \$3000 per day per public water system regardless of the number of individual violations). The daily penalty assessment amount shall be based upon the most serious uncorrected violation. As the level of seriousness classification or the level of culpability associated with the most serious uncorrected violation in the package changes, the daily penalty assessment amount will be recalculated accordingly from that time forward and added to any previously calculated assessment amounts.

B. In lieu of the requirements of Section 3.2(A) above, the state health officer, at his sole discretion, is authorized to impose a penalty of no less than \$1000 per day per violation for those public water systems serving more than 10,000 individuals [see Fed. Reg.: April 28, 1999 (Volume 63, Number 81, page 23,367)].

3.3 The maximum daily penalty applicable to a particular public water system in violation of one or more of the provisions of an administrative compliance order shall be determined as follows:

A. When a penalty is calculated pursuant to Section 3.2(A) above, the maximum daily penalty shall be set at \$1 dollar per service connection per day based upon the number of service connections listed on Office of Public Health records on the day the administrative order was first issued, but within the following limitations and restrictions:

1. The maximum daily penalty for public water systems having more than 3,000 service connections shall be \$3,000 per day.

2. The maximum daily penalty for public water systems having less than 30 service connections shall be \$30 per day.

B. When a penalty is calculated pursuant to Section 3.2(B) above, the maximum daily penalty shall be set at \$1 dollar per service connection per day per violation based upon the number of service connections listed on Office of

Public Health records on the day the administrative order was first issued, but within the following limitations and restrictions:

1. The maximum daily penalty for public water systems having more than 3,000 service connections shall be \$3,000 per day per violation.

2. The maximum daily penalty for public water systems having 2500 service connections (i.e., equivalent to 10,000 individuals served) shall be \$2500 per day per violation.

3.4 Pursuant to Sections 3.2 and 3.3 above, the exact level of the daily penalty shall be based on the seriousness of the violation and culpability of the owner and/or operator as follows:

A. Using the maximum daily penalty specified in Section 3.3 above as the basis for calculation, 50 percent of the maximum daily penalty amount shall be judged on the seriousness of the violation and the other 50 percent shall be judged on the culpability of the owner and/or operator.

B. The decision regarding the exact penalty assessment amounts for the seriousness of the violation(s) and the accompanying culpability of the owner and/or operator shall be made by the state health officer after considering a staff recommendation based upon the "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Appendix B).

C. When the state health officer utilizes Section 3.2(B) as the basis for penalty calculation, the minimum daily penalty assessment amount shall in no case be less than \$1000 per day per violation after the provisions of Sections 3.4(A) and 3.4(B) are applied [see Fed. Reg.: April 28, 1999 (Volume 63, Number 81, page 23,367)].

3.5 The duration of non-compliance with a provision of the administrative compliance order shall be determined as follows:

A. Once an administrative order has become final and not subject to further administrative review, the state health officer shall direct staff to conduct an initial investigation for the purpose of determining compliance/non-compliance with the provision(s) of the administrative order. The initial investigation shall be conducted within five working days after the time limit granted for compliance within the administrative order ends. If upon agency investigation it is found that non-compliance still exists, staff will immediately provide a copy of the investigatory report to the person on-site in responsible charge of the public water system which will serve to notify the person to whom the administrative order was issued that the agency has determined that non-compliance still exists and that daily penalty assessments shall begin to accrue immediately from this date forward until such time as the agency has been notified by the public water system that compliance has been achieved. If a representative of the public water system is not present or reasonably available at the time of the agency's investigation, staff shall, on the same day as the investigation, attempt to contact via telephone or facsimile machine the person to whom the administrative order was issued or such other responsible person in the employ of the public water system in order to provide speedy notification of results which are deemed by agency staff to cause the continuance of daily penalty assessments. In the latter case involving only verbal or electronic communication, agency staff shall, as soon as possible thereafter, transmit a copy of

the investigatory report to the person to whom the administrative order was issued by one of the methods of mailing stated in Section 2.1(A) above.

B. After the agency has conducted the initial investigation, determined that non-compliance with a provision of the administrative order still exists, and has provided a copy of the investigatory report as stated in Section 3.5(A) above, it then becomes incumbent upon the person to whom the administrative order was issued to notify the agency when compliance has been achieved. In order to show proof and date of service, such notice advising the agency of compliance shall be transmitted to the agency in the same manner as described in Section 2.1(A), (B), or (C) above. Until such time as the agency has been properly notified of correction, the agency will consider the duration to begin on the date of the initial investigation and will presume that such violation is continuing on a daily basis until such time as the agency has received notification of correction. Once the agency is notified of correction, agency staff shall conduct a follow-up investigation in order to confirm compliance. Such follow-up investigation shall be conducted within 10 working days of agency receipt of the public water system's notice of compliance. If upon agency's follow-up investigation it is found that non-compliance still exists, staff will so advise the public water system in the same manner as done for initial investigations with the exception that the public water system will be advised that previously running daily penalty assessments have and will continue to accrue pending yet additional notification of compliance by the public water system to the agency. When the results of the follow-up investigation confirm that compliance has in fact been achieved, then the date that the agency received notification of compliance from the public water system for the particular provision of the administrative order in question shall be considered the last day of non-compliance for purposes of calculating the duration for non-compliance with this particular provision.

C. The steps described in Section 3.5(A) or (B) above may continue for an indefinite period of time but shall end once compliance has been confirmed by agency staff unless such violation is found to reoccur while the administrative order is still in effect.

IV. Payment of Penalty/Ability to Request Mitigation of Penalty and/or Adjudicatory Hearing

4.1 At the discretion of the state health officer, notice(s) imposing penalty assessments may be issued from time to time subsequent to either initial non-compliance with any provision of the administrative compliance order or subsequent to any continuance or reoccurrence of non-compliance while the administrative compliance order remains effective. Notices of imposition of penalties shall be served by one of the forms of service described in Section 2.1(A) above or hand-delivered. Within the notice imposing the penalty assessment, the state health officer will inform the owner and/or operator of the public water system of the ability to apply for mitigation of the penalties imposed and for the opportunity for an adjudicatory hearing on the record relative to contesting the imposition of the penalty assessment. Penalties shall not be imposed upon any person without notice and opportunity for hearing.

4.2 Once a penalty assessment is imposed, it shall become due and payable 35 days after receipt of notice imposing the penalty unless a written application for mitigation or a written request for an adjudicatory hearing on the record relative to contesting the imposition of the penalty assessment is received by the state health officer within 20 days after said notice is served. In order to show proof and date of service, the person applying for mitigation or an adjudicatory hearing shall transmit the written application for mitigation or written request for hearing to the agency in the same manner as described in Section 2.1(A), (B), or (C) above.

4.3 Upon receipt of a written application for mitigation of such penalty, the state health officer may mitigate the penalty, i.e., upon proof that all of the stipulations in the administrative order have now been complied with or upon agreement to and compliance with a Stipulation and Agreed Order setting out the conditions which will mitigate the penalty. The accompanying guidelines referenced in section 3.4(B) above shall also contain guidance for the state health officer when considering the amount of mitigation of the imposed penalty. When the amount of the penalty imposed is from \$1,000 up to \$5,000, the state health officer shall not mitigate the penalty below \$500. When the amount of the penalty imposed is less than \$1000, the state health officer shall not mitigate the penalty below one-half of the imposed penalty amount. The penalty shall become due and payable 35 days after mailing of notice setting forth the final disposition of the application for mitigation, unless

(i) an application for an adjudicatory hearing to contest the disposition is received within 20 days after the date of mailing the disposition notice, or

(ii) the state health officer specifies a different payment schedule within the disposition notice.

4.4 Upon the timely receipt of a written application requesting an adjudicatory hearing, a hearing on the record relative to contesting the imposition of the penalty assessment may be scheduled by the agency. If after consideration of the record it is found that the issuance of the notice imposing the penalty assessment was not proper as supported by and in accordance with the evidence, the administrative law judge shall have the authority to recommend adjustment of the penalty to comply with any items found to be in error or, if justified, withdrawal of the entire penalty. The penalty shall become due and payable 35 days after mailing of notice of the final decision by the agency, unless the final decision by the agency specifies a different payment schedule within the final decision.

4.5 When a Stipulation and Agreed Order has been proposed by the agency or the administrative law judge, a fixed number of days will be given for response. If the Stipulation and Agreed Order is not signed and returned by the date fixed or if no response is received by the date fixed, this shall result in both the reimposition of the penalty originally imposed as well as the addition of daily penalties not previously counted from the time the order was first violated. Alternatively, failure of a public water system to comply with the conditions of a Stipulation and Agreed Order shall result in both the reimposition of the penalty originally imposed as well as the addition of daily penalties not previously counted from the time the order was first violated.

V. Court Appeals

5.1 A person who is aggrieved by a final decision of the agency relative to penalty imposition may petition for judicial review according to the provisions of LSA - R.S. 49:964 of the Administrative Procedure Act. Proceedings for review may be instituted by filing a petition in the Nineteenth Judicial District Court, Parish of East Baton Rouge, within 30 days after mailing of notice of the final decision by the agency. Copies of the petition shall be served upon the agency and all parties of record.

Accompanying Guidelines to the Civil Penalty Assessment Rule

I. Statement of Purpose

1.1 The purpose of these "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Appendix B) are as follows:

A. This rule is intended to provide guidance for Safe Drinking Water Program staff in making recommendations to the state health officer regarding the exact penalty assessment amounts for the seriousness of the violation(s) and the culpability of the owner and/or operator when it has been determined that a public water system has failed to comply with the directives of an administrative order.

B. Additionally, guidance relative to determining mitigated penalty amounts are also contained herein. Such mitigation guidance is applicable irrespective of the method used in the calculation of penalties, *i.e.*, irrespective of whether 3.2 (A) or 3.2 (B) of the "Civil Penalty Assessment Rule" (Appendix A) was used.

II. Seriousness of Violation

2.1 Pursuant to Sections 3.2 and 3.4 of the "Civil Penalty Assessment Rule" (Appendix A), the following penalty assessment levels shall apply towards the seriousness of the violation (public health risk) for the various classifications of violations described in Subpart 4 of the "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Appendix B):

A. Imminent threat (high risk) type violations shall be assessed at 100 percent of one-half of the maximum daily penalty amount.

B. Priority threat (moderate risk) type violations shall be assessed at 65 percent of one-half of the maximum daily penalty amount.

C. Non-imminent threat (low risk) type violations shall be assessed at 35 percent of one-half of the maximum daily penalty amount.

III. Culpability of the Owner and/or Operator

3.1 Pursuant to Sections 3.2 and 3.4 of the "Civil Penalty Assessment Rule" (Appendix A), the following penalty assessment levels shall apply towards the culpability (the level of blame for the occurrence and/or continuance of a violation including factors such as attitude as well as the nature and extent of the efforts to comply) of the owner and/or operator for the particular violation for which a seriousness penalty is assessed:

A. Culpability determined to be deliberate or intentional (a willful action or lack of action) shall be assessed at 100 percent of one-half of the maximum daily penalty amount.

B. Culpability determined to be recklessness (wanton disregard of the consequences but proceeded with risk in mind) shall be assessed at 65 percent of one-half of the maximum daily penalty amount.

C. Culpability determined to be negligence (failure to prevent the violation due to indifference, lack of reasonable care, lack of diligence, etc.) shall be assessed at 35 percent of one-half of the maximum daily penalty amount.

D. Culpability determined to be non-existent (those cases where the operator and/or owner has acted reasonably, but the violation occurred anyway) shall be assessed at zero percent of one-half of the maximum daily penalty amount, *i.e.*, \$ 0.

IV. Classification of Violations

4.1 The various types of violations which can occur are classified into three levels of seriousness based upon their public health risk. The three levels of seriousness are defined as follows:

A. *Imminent threat* type violations are defined as those violations considered to be of an acute risk to public health requiring an immediate action or response by the owner and/or operator of a public water system. Imminent threat type violations include, but are not limited to, the following:

1. exceeding maximum contaminant levels for nitrate.
2. exceeding the maximum contaminant level for total coliform when fecal coliform or *E. coli* is present in the water distribution system.
3. occurrence of a water-borne disease outbreak in an unfiltered surface water system or an unfiltered ground water system which is under the direct influence of surface water.
4. any violation specified by the State Health Officer as posing an acute risk to human health.
5. failure to comply with any remedial action(s) ordered in the context of an emergency order issued by the state health officer, such as but not limited to *Boil Notices*.
6. failure to give public notification of an acute violation (Tier 1 - Acute) within the time frames allowed by law or duly adopted rule.

B. *Priority threat* type violations are defined as those violations considered to be of a moderate risk to public health but which could result in an acute risk and therefore require an immediate action or response by the owner and/or operator. Priority threat violations include, but are not limited to, the following:

1. exceeding the maximum contaminant level for total coliform.
2. failure to comply with a treatment technique requirement.
3. failure to comply with a variance or exemption schedule.
4. exceeding the maximum contaminant level for a physical, radiological, or chemical (other than nitrate) contaminant. For the purpose of clarification, a physical contaminant is defined as turbidity, temperature, conductivity, color, taste, or odor.
5. failure to perform compliance monitoring as required for any bacteriological, physical, radiological, or chemical contaminant.
6. failure to utilize either a laboratory certified by the Office of Public Health or an Office of Public Health laboratory which has been certified by EPA for compliance monitoring determination of any bacteriological, physical, radiological, or chemical contaminant in drinking water when such contaminant determination is required by law or

duly adopted rule to be analyzed by an EPA or State-certified laboratory.

7. failure to perform proper testing procedures for turbidity, disinfectant residual, temperature, pH, conductivity, alkalinity, calcium, silica, orthophosphate, or any other parameter which is not required to be analyzed in an EPA or State-certified laboratory but the results of which are required to be reported to the State for compliance monitoring determinations.

8. failure to report the results of any test measurement or analysis to the State within the time frame allowed by law or duly adopted rule.

9. failure to comply with any remedial action(s) ordered in the context of a non-emergency order issued by the state health officer.

10. failure to give public notification of a non-acute (Tier 1 - Non-Acute) violation within the time frames allowed by law or duly adopted rule.

C. *Non-imminent* threat violations are defined as those violations considered to be of a low risk to public health which do not require an immediate response by the owner and/or operator. These include operational deficiencies, facility deficiencies, and administrative deficiencies. Non-imminent threat type violations include, but are not limited to, the following:

1. failure to give public notification of a monitoring violation, testing procedure violation, variance grant or existence, or exemption grant or existence (Tier 2) within the time frames allowed by law or duly adopted rule.

2. failure to comply with an operational or maintenance requirement.

3. failure to comply with design and construction standards as required by law or duly adopted rule.

4. failure to submit plans and specifications as required by law or duly adopted rule.

5. failure to comply with an operator certification requirement.

6. failure to submit to the State, within the time frames allowed by law or duly adopted rule, a representative copy of each type of public notice distributed, published, posted, and/or made available to the persons served by the system and/or to the news media.

7. failure to maintain records as prescribed by law or duly adopted rule, such as but not limited to, bacteriological and chemical analyses.

V. Mitigation Guidance

5.1 Section 4.3 of the "Civil Penalty Assessment Rule" (Appendix A) allows the state health officer to mitigate penalties that have been imposed generally either upon proof that all of the provisions in the administrative compliance order have now been complied with or upon compliance with terms of a Stipulation and Agreed Order. The following guidance will be used by the state health officer upon such mitigation proceedings:

A. When considering mitigation of the imposed penalty upon receipt of written application requesting such mitigation, the state health officer shall have the discretion to reduce the imposed penalty beginning at a reduction rate of zero percent up to no more than 90 percent. The ordinarily expected mitigation reduction rate shall be 50 percent of the assessed penalty for the first 60 days of assessed penalty and an 80 percent reduction rate for penalties assessed beyond

day 60. Using this procedure, if the end result of the calculated mitigated penalty amount is less than the minimum mitigation limits specified in Section 4.3 of the "Civil Penalty Assessment Rule" (Appendix A), the minimum mitigation limits specified therein shall apply.

Appendix C

Louisiana Total Coliform Rule

The State of Louisiana Department of Health and Hospitals (DHH) Office of Public Health (OPH) adopts the United States Environmental Protection Agency (EPA) Federal Total Coliform Regulations as published in the Federal Register, Volume 54, Number 124 Thursday, June 29, 1989. The Louisiana Total Coliform Rule is to be published as an addendum to Chapter XII of the State Sanitary Code. In order to clarify the State's discretionary decisions allowed by the Federal requirements, the following is offered.

Coliform Routine Compliance Monitoring

Each public water supply must be monitored in accordance with a written sampling plan prepared by the public water supply (PWS) personnel in conjunction with the parish sanitarian. The sampling plan must be reviewed and approved by OPH District/Regional engineering staff. The sampling plan should include a map or sketch of the system with the points of collection (POC) identified along with the street address and/or sufficient information for an unfamiliar person to find the sampling site. The water supply must provide suitable taps which draw water directly from the mains or the service lines. Such taps provide for samples which are most representative of the quality of water provided without "interference" which may be caused by plumbing problems within residences or other structures. Use of such taps decreases the chance of "bad samples" resulting in a coliform maximum contaminant level (MCL) violation which requires public notification by the public water supply and an administrative enforcement action by the EPA/DHH against the public water supply. Community systems must be routinely monitored in accordance with Table 1.

Table 1			
Total Coliform Sampling Requirements According to Population Served			
Population served	Minimum number of routine samples per month	Population served	Minimum number of routine samples per month
25 to 1,000	1	59,001 to 70,000	70
1,001 to 2,500	2	70,001 to 83,000	80
2,501 to 3,300	3	83,001 to 96,000	90
3,301 to 4,100	4	96,001 to 130,000	100
4,101 to 4,900	5	130,001 to 220,000	120
4,901 to 5,800	6	220,001 to 320,000	150
5,801 to 6,700	7	320,001 to 450,000	180
6,701 to 7,600	8	450,001 to 600,000	210
7,601 to 8,500	9	600,001 to 780,000	240
8,501 to 12,900	10	780,001 to 970,000	270
12,901 to 17,200	15	970,001 to 1,230,000	300
17,201 to 21,500	20	1,230,001 to 1,520,000	330
21,501 to 25,000	25	1,520,001 to 1,850,000	360
25,001 to 33,000	30	1,850,001 to 2,270,000	390
33,001 to 41,000	40	2,270,001 to 3,020,000	420

41,001 to 50,000	50	3,020,001 to 3,960,000	450
50,001 to 59,000	60	3,960,001 or more	480

Non-Community systems using ground water must routinely monitor once in each calendar quarter during which the system provides water to 1000 or less persons. A non-community system using ground water and serving more than 1000 persons must monitor monthly in accordance with Table 1. Any non-community using any surface water, or using ground water under the direct influence of surface water must monitor in accordance with Table 1.

The public water supply must collect samples at regular time intervals throughout the month unless the state staff specifies otherwise or state staff collect the samples.

Special purpose samples (investigative samples) shall not be used to determine compliance with the total coliform MCL.

Coliform Repeat Monitoring

If a routine sample is total coliform positive and the public water supply has their own certified laboratory, repeat samples must be collected by the public water supply within 24 hours of being notified of the positive result. If the state collects and analyzes the samples, repeat samples will be collected by parish health unit staff within 24 hours of official notification. The number of repeat samples collected shall be in accordance with Table 2.

Table 2 Monitoring and Repeat Sample Frequency After a Total Coliform Positive Routine Sample		
No. routine samples/month	No. repeat samples/positive	No. routine samples next month
1/month or fewer	4	5/month
2/month	3	5/month
3/month	3	5/month
4/month	3	5/month
5/month or greater	3	Table 1

At least one repeat sample must be collected from the sampling tap where the original total coliform positive sample was taken and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sampling site. The fourth sample must come from a tap within five service connections upstream or within five service connections downstream. The fourth sample may not come from the original sampling site. If a total coliform-positive sample is at the end of the distribution system, or one away from the end of the distribution system the requirement to collect at least one repeat sample upstream or downstream of the original sampling site is waived.

The repeat samples must be collected on the same day. In a system with a single service connection, four 100ml repeat samples must be collected. Three 100ml samples must be collected in a system if more than one routine sample per month is collected.

If coliforms are detected in any repeat sample, the system must collect another set of repeat samples from the same location unless the MCL has already been violated and the State is aware of violation. If short term corrective actions

are not successful, the public water supply must install continuous disinfection and implement a routine flushing program as directed by OPH.

Whenever a system that normally collects less than 5 routine distribution system samples each month receives a positive coliform analysis, it must collect at least 5 routine distribution system samples the next month regardless of the results of repeat sampling.

If a routine or repeat sample result is positive for total coliform, the sample must also be analyzed for fecal coliform or *E. coli* immediately.

Invalidation of Total Coliform Results

Analysis results may be invalidated under specified conditions, including:

1. The OPH acknowledges improper analysis occurred or background bacteriological interference was present.
2. The OPH determines the contamination is from an internal plumbing problem, not the distribution system.
3. The OPH concludes, and states in writing, that the result is due to some condition not related to water quality. This written conclusion must be signed by an OPH representative and made available to the public and EPA.

Total Coliform MCL

1. The maximum contaminant level (MCL) is based on the presence or absence of total coliform rather than on coliform density.
2. If 40 or more distribution system samples are collected per month, no more than 5 percent of the monthly samples may be total coliform positive.
3. If less than 40 distribution system samples are collected per month, no more than one sample per month may be total coliform positive.

NOTE: If collecting less than 40 samples per month, the second positive coliform analysis in any month will result in an MCL violation. If collecting more than 40 samples per month, occasional positives may be tolerated, as long as the number each month does not exceed 5 percent of the total samples.

4. A violation is considered acute and is subject to more stringent public notification requirements when:
 - a. A coliform-positive original sample that is also positive for fecal coliform (or *E. coli*) is followed by a positive coliform repeat sample, or
 - b. a coliform-positive original sample followed by a coliform-positive repeat sample is also positive for fecal coliform (or *E. coli*).

Public Notification

Public notification requirements remain unchanged from the 1989 revisions as specified.

If the MCL is exceeded, the supplier of water is required to provide public notice in a daily or weekly newspaper within 14 days. Where newspaper notice is not feasible for a non-community public water supply, continuous posting may be substituted. In addition to newspaper notice, a notice must also be provided to the consumers by direct mail or hand delivery within 45 days. For an acute MCL violation, a notice shall also be furnished by community systems only to radio and television stations serving the area within 72 hours.

In larger systems, an MCL violation and public notice may be confined to a portion of the distribution system.

In addition, public notification is required within 3 months if a supplier of water fails to comply with a monitoring and/or reporting requirement.

If a replacement sample can not be analyzed and give a readable result, the public water supply will be assessed a monitoring violation and must give appropriate public notification.

Appendix D

Surface Water Treatment Rule

Section 1: General Requirements and Definitions

1.01. General Requirements

A. For public water systems using surface water or groundwater under the direct influence of surface water, this chapter establishes treatment techniques in lieu of maximum contaminant levels for the following microbial contaminants: *Giardia lamblia* (cysts), viruses, heterotrophic plate count bacteria, *Legionella*, and turbidity.

B. Each supplier using an approved surface water or groundwater under the direct influence of surface water shall provide multibarrier treatment necessary to reliably protect users from the adverse health effects of microbiological contaminants and to comply with the requirements and performance standards prescribed in this chapter.

C. Within 90 days from the date of notification by the Department of Health and Hospitals, hereinafter referred to as DHH, that the supplier has a treatment plant and/or a surface water supply that does not meet the requirements of this chapter, the supplier shall submit for DHH approval a plan and schedule to bring its system into compliance as soon as feasible.

D. If the supplier disagrees with the DHH's notification, then the supplier shall submit reasons and evidence for its disagreement within 30 days from the receipt of the notification unless an extension of time to meet this requirement is requested and granted by the DHH.

1.02. Definitions

A. Approved Surface Water. "Approved surface water" means a surface water or groundwater under the direct influence of surface water that has received permit approval from the DHH.

B. Best Available Technology. "Best available technology" for filtration of surface water means conventional treatment which conforms with all of the requirements of this chapter.

C. Certified Operator. "Certified operator" is defined as the individual, as examined by the Committee of Certification as approved by the State Health Officer, meeting all requirements of State Law and regulation and found competent to operate a water supply or sewerage system.

D. Coagulation. "Coagulation" means a process using coagulant chemicals and rapid mixing by which colloidal and suspended material are destabilized and agglomerated into settleable and/or filterable flocs.

E. Conventional Filtration Treatment. "Conventional filtration treatment" means a series of treatment processes which includes coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

F. Diatomaceous Earth Filtration. "Diatomaceous Earth Filtration" means a process resulting in particulate removal in which a precoat cake of graded diatomaceous earth filter media is deposited on a support membrane (septum) and, while the water is being filtered by passing through the cake on the septum, additional filter media known as body feed is

continuously added to the feed water to maintain the permeability of the filter cake.

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

H. Direct Filtration Treatment. "Direct filtration treatment" means a series of processes including coagulation, flocculation, and filtration but excluding sedimentation.

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

J. Disinfection. "Disinfection" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

K. Engineering Report. "Engineering report" means a water treatment technical report prepared by a qualified engineer.

L. Filtration. "Filtration" means a process for removing particulate matter from water by passage through porous media.

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

N. Groundwater Under the Direct Influence of Surface Water. "Groundwater under the direct influence of surface water" means any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae or large diameter pathogens such as *Giardia lamblia*, or significant and relatively rapid shifts in site specific water characteristics such as turbidity, temperature, conductivity or pH which closely correlate to climatological or surface water conditions. The DHH determination of direct influence may be based on an evaluation of site specific measurements of water quality and/or well characteristics and geology with field evaluation.

O. Heterotrophic Plate Count. "HPC" means heterotrophic plate count analysis (#907) using instrumentation and methods as described in the 16th edition of Standard Methods for the Examination of Water and Wastewater.

P. Legionella. "*Legionella*" means a genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires disease.

Q. Multibarrier Treatment. "Multibarrier Treatment" means a series of water treatment processes that provide for both removal and inactivation of waterborne pathogens.

R. NTU (Nephelometric Turbidity Unit). "Nephelometric Turbidity Unit (NTU)" means a measurement of the turbidity of water as determined by the ratio of the intensity of light scattered by the sample to the intensity of incident light, using instrumentation and

methods described in the 16th edition of Standard Methods for the Examination of Water and Wastewater.

S. Operator. "Operator" is defined as the individual, as determined by the Committee of Certification, in attendance on site of a water supply or sewerage system and whose performance, judgement and direction affects either safety, sanitary quality, or quantity of water distributed or treated, or sewage collected or treated.

T. Pressure Filter. "Pressure filter" means a pressurized vessel containing properly sized and graded granular media.

U. Qualified Engineer. "Qualified engineer" shall mean any engineer who has been registered under the provisions of the State of Louisiana, Act 568 or 1980 and who holds a current certificate issued by the Louisiana State Board of Registration for Professional Engineers and Land Surveyors, and who has knowledge and experience in water treatment plant design, construction, operation, and watershed evaluations.

V. Residual Disinfectant Concentration. "Residual disinfectant concentration" means the concentration of the disinfectant in milligrams per liter (mg/l) in a representative sample of water.

W. Sedimentation. "Sedimentation" means a process for removal of settleable solids before filtration by gravity or separation.

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

Y. Supplier. "Supplier", for the purpose of this chapter, means the owner or operator of a water system for the provision to the public of piped water for human consumption, provided such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.

Z. Surface Water. "Surface water" means all water open to the atmosphere and subject to surface runoff.

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

BB. Virus. "Virus" means a virus which is infectious to humans by waterborne transmissions.

Section 2. Treatment Requirements and Performance Standards

2.01. Treatment Requirements

A. Each supplier using surface water or groundwater under the direct influence of surface water shall provide multibarrier treatment that meets the requirements of this chapter and reliably ensures at least:

1. A total of 99.9 percent (3 Log) reduction of *Giardia* cysts through filtration and disinfection.
2. A total of 99.99 percent (4 Log) reduction of viruses through filtration and disinfection.
3. The total reductions to be required by the DHH may be higher and are subject to the source water concentration of *Giardia lamblia* and viruses.

B. Suppliers meeting the requirements of Sections 2.02 and 2.04 shall be deemed to be in compliance with the

minimum reduction requirements specified in Section 2.01(A).

C. Section 2.03 presents requirements for non-filtering systems. All suppliers which use surface water as a source must provide filtration. On a case by case basis, systems using groundwater under the direct influence of surface water may not be required to filter.

2.02. Filtration

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

1. Conventional filtration treatment
2. Direct filtration treatment
3. Slow sand filtration
4. Diatomaceous earth filtration

B. Conventional filtration treatment shall be deemed to be capable of achieving at least 99.7 percent (2.5 Log) removal of *Giardia* cysts and 99 percent (2 Log) removal of viruses when in compliance with operation criteria (Section 4) and performance standards (Sections 2.02 and 2.04). Direct filtration treatment, and diatomaceous earth filtration and shall be deemed to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* cysts and 90 (1 Log) percent removal of viruses when in compliance with operation criteria (Section 4) and performance standard (Section 2.02 and 2.04). Slow sand filtration shall be deemed *Giardia* to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* and 99 (2 Log) percent removal of viruses when in compliance with operation criteria and performance standards.

Filtration Method	Expected Minimum Log Removals		Remaining Minimum Disinfection Log Inactivation	
	<i>Giardia</i>	Viruses	<i>Giardia</i>	Viruses
Conventional	2.5	2.0	0.5	2.0
Direct	2.0	1.0	1.0	3.0
Slow Sand	2.0	2.0	1.0	2.0
Diatomaceous Earth	2.0	1.0	1.0	3.0

Additional treatment removal credit for conventional or direct filtration may be allowed at state discretion to a maximum of 3 Log removal of *Giardia* cysts and 3 Log removal of viruses considering:

1. Demonstration that the total treatment train achieves
 - a. At least 99 percent turbidity removal or filtered water turbidities are consistently less than 0.5 NTU or
 - b. A 99.9 percent removal of particles in the size range of 5 to 15 µm.
2. HPC count in finished water is consistently less than 10/ml.
3. Demonstration of removal/inactivation of *Giardia* and viruses
4. Process steps elevating process water above pH 9.0 (not necessarily finished water)
5. Filter bed depth in excess of 48 inches
6. Oxidant effect of chemicals feed for alternate purposes (i.e. taste and odor)

If DHH allows additional removal credit for the treatment process, minimum disinfection shall still not be less than reported in the above table. Expected minimum removal credits are listed in Table 1, Section 2.02 B with the corresponding remaining disinfection required.

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

1. The turbidity level of the filtered water shall be equal to or less than 0.5 NTU in 95 percent of the measurements taken each month.

2. For conventional treatment a higher filtered water turbidity, to a maximum of 1.0 NTU in 95 percent of the measurements taken each month, may be allowed at DHH discretion provided the system is achieving previously identified minimum removal and/or inactivation of *Giardia* cysts at the higher turbidity level.

Such a determination may be based upon an analysis of existing design and operating conditions and/or performance relative to certain water quality characteristics. The design and operating conditions to be reviewed include:

- a. the adequacy of treatment prior to filtration.
- b. the percent turbidity removal across the treatment train, and
- c. level of disinfection.

Water quality analysis which may also be used to evaluate the treatment effectiveness include particle size counting before and after the filter. Pilot plant challenge studies simulating full scale operation may also be used to demonstrate effective treatment. Depending on the source water quality and system size, DHH will determine the extent of the analysis and whether a pilot plant demonstration is needed. For this demonstration, systems are allowed to include disinfection in the determination of the overall performance by the system.

3. Filtered water turbidity may not exceed 5 NTU at any time.

D. Slow Sand Filtration shall comply with the following performance standards for each treatment plant:

1. The turbidity level of the filtered water shall be less than or equal to 1.0 NTU in 95 percent of the measurements taken each month. However, filtered water from the treatment plant may exceed 1.0 NTU, provided the filter effluent prior to disinfection does not exceed the maximum contaminant level for total coliforms.

2. The turbidity level of the filtered water does not exceed 5.0 NTU at any time.

E. Diatomaceous earth filtration shall comply with the following performance standards for each treatment plant:

1. The filtered water turbidity must be less than or equal to 1.0 NTU in 95 percent of the measurements each month.

2. The turbidity level of representative samples of filtered water must at not time exceed 5 NTU.

F. An alternative to the filtration technologies specified in Section 2.02(A) may be used provided the supplier demonstrates to the DHH that the alternative technology, 1) provides a minimum of 99 percent *Giardia* cyst removal and 99 percent virus removal and 2) meets the turbidity performance standards established in Section 2.02(C). The demonstration shall be based on the results from a prior equivalency demonstration or a testing of a full scale

installation that is treating a water with similar characteristics and is exposed to similar hazards as the water proposed for treatment. A pilot plant test of the water to be treated may also be used for this demonstration if conducted with the approval of the DHH. The demonstration shall be presented in an engineering report prepared by a qualified engineer. Additional reporting for the first full year of operation of a new alternative filtration treatment process approved by the DHH, may be required at DHH discretion. The report would include results of all water quality tests performed and would evaluate compliance with established performance standards under actual operating conditions. It would also include an assessment of problems experienced, corrective actions needed, and a schedule for providing needed improvements.

2.03. Non-Filtering Systems

A. General. On a case-by-case basis, DHH may waive filtration requirements for suppliers using groundwater under the direct influence of surface water. To be considered, non-filtering systems must conform to the criteria of this section. All suppliers using surface water must employ filtration.

B. Source Water Quality to Avoid Filtration

1. To avoid filtration, a system must demonstrate that either the fecal coliform concentration is less than 20/100 ml and/or the total coliform concentration is less than 100/100 ml in the water prior to the point of disinfectant application in 90 percent of the samples taken during the six previous months. Samples shall be taken prior to blending, if employed.

a. If both fecal and total coliform analysis is performed, only the fecal coliform limit must be met, under this condition, both fecal and total coliform results must be reported.

b. Sample analyses methods may be multiple tube fermentation method or membrane filter test as described in the 16th edition of Standard Methods.

c. Minimum sampling frequencies:

Population	Samples/Week
=500	1
501-3300	2
3301-10,000	3
10,000-25,000	4
>25,000	5

Also, one coliform sample must be taken and analyzed each day the turbidity exceeds 1 NTU prior to disinfection.

2. To avoid filtration, the turbidity of the water prior to disinfection cannot exceed 5 NTU based on grab samples collected every four hours (or more frequently) that the system is in operation. Continuous turbidity measurement is allowed provided the instrument is validated at least weekly.

C. Disinfection Criteria to Avoid Filtration

1. To avoid filtration, a system must demonstrate that it maintains disinfection conditions which inactivate 99.9 percent (3 Log) of *Giardia* cysts and 99.99 percent (4 Log) of viruses everyday of operation except any one day each month. To demonstrate adequate inactivations, the system must monitor and record the disinfectant used, disinfectant residual, disinfectant contact time, pH, and water

temperature, and use these data to determine if it is meeting the minimum total inactivation requirements of this rule.

a. A system must demonstrate compliance with the inactivation requirements based on conditions occurring during peak hourly flow. Residual measurements shall be taken hourly. Continuous monitors are acceptable in place of hourly samples.

b. pH and Temperature must be determined daily for each disinfection sequence prior to the first customer.

2. To avoid filtration, the system must maintain a minimum residual of 0.2 mg/L entering the distribution system and maintain a detectable residual throughout the distribution system. Performance standards shall be as presented in Section 2.04 B and C.

3. To avoid filtration, the disinfection system must be capable of assuring that the water delivered to the distribution system is continuously disinfected. This requires:

a. Redundant disinfection equipment with auxiliary power and automatic start up and alarm; or

b. An automatic shut off of delivery of water to the distribution system when the disinfectant residual level drops below 0.2 mg/l.

D. Site Specific Conditions To Avoid Filtration. In addition to the requirement for source water quality and disinfection, systems must meet the following criteria to avoid filtration:

C maintain a watershed control program

C conduct a yearly on-site inspection

C determine that no waterborne disease outbreaks have occurred

C comply with the revised annual total coliform MCL

C comply with TTHM Regulations

1. A watershed control program for systems using groundwater under the influence of surface water shall include as a minimum, the requirements of the Wellhead Protection Program, delineated as follows:

a. Specify the duties of State agencies, local governmental entities and public water supply systems with respect to the development and implementation of The Program;

b. Determine the wellhead protection area (WHPA) for each wellhead as defined in subsection 1428(e) based on all reasonably available hydrogeologic information, groundwater flow, recharge and discharge and other information the State deems necessary to adequately determine the WHPA;

c. Identify within each WHPA all potential anthropogenic sources of contaminants which may have any adverse effect on the health of persons;

d. Describe a program that contains, as appropriate, technical assistance, financial assistance, implementation of control measures, education, training and demonstration projects to protect the water supply within WHPAs from such contaminants.

e. Present contingency plans for locating and providing alternate drinking water supplies for each public water system in the event of well or wellfield contamination by such contaminants;

f. Consider all potential sources of such contaminants within the expected wellhead area of a new water well which serves a public water supply system; and

g. Provide for public participation.

2. On-Site Inspection. An annual on-site inspection is required to evaluate the watershed control program and disinfection facilities. The system shall be reviewed by a qualified engineer for the systems adequacy for producing safe drinking water. The annual on-site inspection shall include as a minimum:

a. Review the effectiveness of the watershed control program.

b. Review the physical condition and protection of the source intake.

c. Review the maintenance program to insure that all disinfection equipment is appropriate and has received regular maintenance and repair to assure a high operating reliability.

d. Review improvements and/or additions made to disinfection processes during the previous year to correct deficiencies detected in earlier surveys.

e. Review the condition of disinfection equipment.

f. Review operating procedures.

g. Review data records to assure that all required tests are being conducted and recorded and disinfection is effectively practiced.

h. Identify any needed improvements in the equipment, system maintenance and operation, or data collection.

3. Sanitary Survey. In addition to the above requirements, a sanitary survey shall be performed every 5 years by the utility which uses groundwater under the influence of surface water without filtration. The sanitary survey shall include:

a. Review the condition of finished water storage facilities.

b. Determine that the distribution system has sufficient pressure throughout the year.

c. Verify that distribution system equipment has received regular maintenance.

d. Review cross connection prevention program, including annual testing of backflow prevention devices.

e. Review routine flushing program for effectiveness.

f. Evaluate the corrosion control program and its impact on distribution water quality.

g. Review the adequacy of the program for periodic storage reservoir flushing.

h. Review practices in repairing water main breaks to assure they include disinfection.

i. Review additions, improvements incorporated during the year to correct deficiencies detected in the initial inspection.

j. Review the operations to assure that any difficulties experienced during the year have been adequately addressed.

k. Review staffing to assure adequate numbers of properly trained and/or certified personnel are available.

l. Verify that a regular maintenance schedule is followed.

m. Audit systems records to verify that they are adequately maintained.

n. Review bacteriological data from the distribution system for coliform occurrence, repeat samples and action response.

4. No Disease Outbreaks. To avoid filtration, a system using groundwater under the influence of surface water must not have been identified as a source of waterborne disease. If such an outbreak has occurred and (in the opinion of DHH) was attributed to a treatment deficiency, the system must install filtration unless the system has upgraded, its treatment to remedy the deficiency to the satisfaction of DHH.

5. Coliform MCL. To avoid filtration, a system must comply with the MCL for Total Coliforms, established in the Total Coliform Rule, for at least 11 out of 12 of the previous month unless DHH determines the failure to meet this requirement was not caused by a deficiency in treatment.

6. Total Trihalomethane (TTHM) Regulations. For a system using groundwater under the influence of surface water to continue using disinfection as the only treatment, the system must comply with current and (eventually) pending TTHM Regulations.

2.04 Disinfection

A. All surface water or groundwater under the direct influence of surface water utilized by a supplier shall be provided with continuous disinfection treatment sufficient to ensure that the total treatment process provides inactivation of *Giardia* cysts and viruses, in conjunction with the removals obtained through filtration, to meet the reduction requirements specified in Section 2.01.

B. Disinfection treatment shall comply with the following performance standards:

1. Water delivered to the distribution system shall contain a disinfectant residual of not less than 0.2 mg/l for more than four hours in any 24 hour period.

2. The residual disinfectant concentrations of samples collected from the distribution system shall be detectable in at least 95 percent of the samples each month, taken during any two consecutive months. At any sample point in the distribution system, the presence of heterotrophic plate count (HPC) at concentrations less than 500 colony forming units per milliliter shall be considered equivalent to a detectable disinfectant residual.

C. Determination of Inactivation by Disinfection. Minimum disinfection requirements shall be determined by DHH on a case by case basis but shall not be less than those reported in Section 2.02(B). The desired level of inactivation shall be determined by the calculation of CT values; residual disinfectant concentration (C) times the contact times (T) when the basin is in operation. Disinfectant contact time must be determined by tracer studies.

1. The T10 value will be used as the detention time for calculating CTs. T10 is the detention time at which 90 percent of the flow passing through the vessel is retained within the vessel. Systems conducting tracer studies shall submit a plan to DHH for review and approval prior to the study being conducted. The plan must identify how the study will be conducted, the tracer used, flow rates, etc. The plan must also identify who will actually conduct the study. Tracer studies are to be conducted according to protocol found in standard engineering texts (such as Levenspiel), or the methodology in the EPA SWTR Guidance Manual.

2. On a case-by-case basis, alternate empirical methods of calculating T10 as outlined in the Guidance Manual may be accepted for vessels with geometry and baffling conditions analogous to basins on which tracer

studies have been conducted and results have been published in the Guidance Manual or the literature.

3. Additional tracer studies may be required by DHH whenever modifications are made which could impact flow distribution, contact time, or disinfectant distribution.

4. CT values utilized in this evaluation shall be those reported in the EPA SWTR Guidance Manual.

2.05. Design Standards

A. All new treatment and disinfection facilities shall be designed and constructed to meet the existing State Sanitary Code as modified by the requirements contained herein.

Section 3: Monitoring Requirements

3.01. Filtration

A. Each supplier using a surface water or groundwater under the direct influence of surface water source shall monitor the turbidity level of the raw water supply by the taking and analyzing of a daily grab sample. Continuous monitoring may be substituted providing the accuracy of the measurements are validated weekly.

B. To determine compliance with the performance standards specified in Section 2.02, each supplier shall determine the turbidity level of representative samples of the combined filter effluent, prior to clearwell storage, at least once every four hours that the system is in operation.

C. For finished water turbidity, continuous turbidity measurements may be substituted for grab sample monitoring provided the supplier validates the accuracy of the measurements on a weekly basis.

D. Suppliers using slow sand filtration or serving fewer than 500 people may reduce turbidity monitoring to one grab sample per day if DHH determines that less frequent monitoring is sufficient to indicate effective filtration performance.

3.02. Disinfection

A. To determine compliance with disinfection inactivation requirements specified in Section 2.02, each supplier shall develop and conduct a monitoring program to measure those parameters that affect the performance of the disinfection process. This shall include but not be limited to:

- 1) temperature of the disinfected water,
- 2) pH(s) of the disinfected water if chlorine is used as a disinfectant,
- 3) the disinfectant contact time(s), and
- 4) the residual disinfectant concentrations before or at the first customer.

B. To determine compliance with the performance standards specified in Section 2.02 or 2.04, the disinfectant residual concentrations of the water being delivered to the distribution system shall be measured and recorded continuously. If there is a failure of continuous disinfectant residual monitoring equipment, grab sampling every four hours may be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. The residual disinfectant concentrations must be measured at least at the same points in the distribution system and at the same time that total coliforms are sampled.

C. Suppliers serving fewer than 3300 people may collect and analyze grab samples of disinfectant residual each day in lieu of the continuous monitoring, in accordance with Table 2, provided that any time the residual disinfectant falls below 0.2 mg/l, the supplier shall take a grab sample every

four hours until the residual concentrations is equal to or greater than 0.2 mg/l.

Table 2	
Disinfectant Residual Sampling	
System Population	Samples/Day
≤500	1
501-1,000	2
1,001-2,500	3
2,501-3,300	4

Section 4: Operation

4.01. Operating Criteria

A. All treatment plants utilizing surface water or groundwater under the direct influence of surface water shall be operated by operators certified by DHH.

B. Filtration facilities shall be operated in accordance with the following requirements:

1. Conventional and direct filtration plants shall be operated at flow rates not to exceed three gallons per minute per square foot (gpm/sq ft) for gravity filters. For pressure filters, if approved by DHH, filtration rates shall not exceed two gpm/sq ft.

2. Slow sand filters shall be operated at filtration rates not to exceed 0.10 gallons per minute per square foot. The filter bed shall not be dewatered except for cleaning and maintenance purposes.

3. Diatomaceous earth filters shall be operated at filtration rates not to exceed 1.0 gallon per minute per square foot.

4. In order to obtain approval for higher filtration rates than those specified in this section, a water supplier shall demonstrate to the Department that the filters can achieve an equal degree of performance.

5. Filtration rates shall be increased gradually when placing filters back into service following backwashing or any other interruption in the operation of the filter.

6. Pressure filters shall be physically inspected and evaluated annually for such factors as media condition, mudball formation, and short circuiting. A written record of the inspection shall be maintained at the treatment plant.

C. Disinfection facilities shall be operated in accordance with the following requirements:

1. A supply of chemicals necessary to provide continuous operation of disinfection facilities shall be maintained as a reserve or demonstrated to be available under all conditions and circumstances.

2. An emergency plan shall be developed prior to and implemented in the event of disinfection failure to prevent delivery to the distribution system of any undisinfected or inadequately disinfected water. The plan shall be posted in the treatment plant or other place readily accessible to the plant operator.

3. System redundancy and changeover systems shall be maintained and kept operational at all times to ensure no interruption in disinfection.

Section 5: Reporting

5.01. DHH Notification

The supplier shall notify DHH within 24 hours by telephone or other equally rapid means whenever:

A. The turbidity of the combined filter effluent as monitored exceeds 5.0 NTU at any time.

B. More than two consecutive turbidity samples of the combined filter effluent taken every four hours exceed 1.0 NTU.

C. There is a failure to maintain a minimum disinfectant residual of 0.2 mg/l in the water being delivered to the distribution system and whether or not the disinfectant residual was restored to at least 0.2 mg/l within four hours.

D. An event occurs which may affect the ability of the treatment plant to produce a safe, potable water including but not limited to spills of hazardous materials in the watershed and unit treatment process failures.

5.02. Monthly Report

A. Each supplier with a surface water or groundwater under the direct influence of surface water treatment facility shall submit a monthly report on the operation of each facility to the DHH by the 10th day of the following month.

B. The report shall include the following results of turbidity monitoring of the combined filter effluent:

1. All turbidity measurements taken during the month.

2. The number and percent of turbidity measurements taken during the month which are less than or equal to the performance standard specified for each filtration technology in Section 2.02, or as required for an alternative treatment process. The report shall also include the date and value of any turbidity measurements that exceed performance levels specified in Section 2.02.

3. The average daily turbidity level.

C. The report shall include the following disinfection monitoring results.

1. The date and duration of each instance when the disinfectant residual in water supplied to the distribution system is less than 0.2 mg/l and when the DHH was notified of the occurrence.

2. The following information on samples taken from the distribution system:

a. The number of samples where the disinfectant residual is measured.

b. The number of samples where only the heterotrophic plate count (HPC) is measured.

c. The number of measurements with no detectable disinfectant residual and no HPC is measured.

d. The number of measurements with no detectable disinfectant residual and HPC is greater than 500 colony forming units per milliliter.

e. The number of measurements where only HPC is measured and is greater than 500 colony forming units per milliliter.

D. The report shall include a written explanation of the cause of any violation of performance standards specified in Section 2.02, 2.03 or 2.04 and operating criteria specified in Section 4.

Section 6: Public Notification

6.01. Consumer Notification

1. The supplier shall notify persons served by the system whenever there is a failure to comply with the treatment technique requirements specified in Section 2.01 or performance standards specified in Sections 2.02, 2.03 and 2.04. The notification shall be give in a manner approved by the DHH, and shall include the following mandatory language:

"The La. Department of Health and Hospitals (DHH) sets drinking water standards and has determined that the presence of microbiological contaminants are a health concern at certain levels of exposure. If water is inadequately treated, microbiological contaminants in that water may cause disease. Disease symptoms may include diarrhea, cramps, nausea, and possibly jaundice, and any associated headaches and fatigue. These symptoms, however are not just associated with disease-causing organisms in drinking water, but also may be caused by a number of factors other than your drinking water. DHH has set enforceable requirements for treating drinking water to reduce the risk of these adverse health effects. Treatment such as filtering and disinfecting the water removes or destroys microbiological contaminants. Drinking water which is treated to meet DHH requirements is associated with little to none of this risk and should be considered safe."

2. The supplier shall notify persons served by the system whenever there is a failure to comply with monitoring requirements specified in Section 3, the notification shall be given in the manner approved by DHH.

The Department of Health and Hospitals will conduct a public hearing at 10:00 a.m. on Tuesday, March 28, 2000, in Room 118 of the Blanche Appleby Computer Complex Bldg., (on the Jimmy Swaggert Ministry Campus), 6867 Bluebonnet Blvd., Baton Rouge. All interested persons are invited to attend and present data, views, comments, or arguments, orally and in writing.

In addition, all interested persons are invited to submit written comments on the proposed rule. Such comments must be received no later than Friday, March 31, 2000 at COB, 4:30 p.m., and should be submitted to R. Douglas Vincent, Chief Engineer, Office of Public Health, 6867 Bluebonnet Blvd. - Box 3, Baton Rouge, LA 70810 or faxed to (225) 765-5040.

David W. Hood
Secretary

0005#039

RULE

Department of Health and Hospitals Office of the Secretary

Employee Drug Testing Policy (LAC 48:I.Chapter 39)

The Department of Health and Hospitals, Office of the Secretary, is adopting the following rule in accordance with R.S. 49:1015.

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

The State of Louisiana has a long-standing commitment to working toward a drug-free workplace. In order to curb the use of illegal drugs by employees of the state of Louisiana,

the Louisiana legislature enacted laws (R.S. 49:1015) which provide for the creation and implementation of drug testing programs for public employees. Further, the Governor of the state of Louisiana issued Executive Order MJF 98-38 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to Louisiana Revised Statute 49:1001 et seq.

The Department of Health and Hospitals (DHH) fully supports these efforts and is committed to a drug-free workplace.

Title 48

HEALTH AND HOSPITALS

Part I. General Administration

Subpart 1. General

Chapter 39. Controlled Dangerous Substances

§3991. Applicability

A. To assure maintenance of a drug-free workforce, it shall be the policy of DHH to implement a program of drug testing, in accordance with Executive Order No. MJF 98-38, R.S. 49:1001, et seq., and all other applicable federal and state laws, as set forth below. This policy shall apply to all employees of DHH including appointees and all other persons having an employment relationship with this agency. Each prospective employee shall be required to submit to drug screening. Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration for employment.

B. Drug testing pursuant to this policy shall be conducted for the presence of cannabinoids (marijuana metabolites), cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines in accordance with the provisions of R.S. 49:1001, et seq. DHH reserves the right to test its employees for the presence of any other illegal drug or controlled substance when there is reasonable suspicion to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of the Secretary, LR 26:1058 (May 2000).

§3993. Definitions

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

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

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

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

Reasonable Suspicion belief based upon reliable, objective and articulable facts derived from direct observation of specific physical, behavioral, odorous

presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this policy.

Safety-Sensitive or Security-Sensitive Position a position determined by the Appointing Authority to contain duties of such nature that the compelling State interest to keep the incumbent drug-free outweighs the employee's privacy interests. A list of such positions within DHH is maintained by the DHH Human Resource Director. The list was determined with consideration of statutory law, jurisprudence, the practices of this agency and the examples of safety-sensitive and security-sensitive positions provided in the model policy document issued by the Division of Administration.

Under the Influence for the purposes of this policy, a drug, chemical substance, or the combination of a drug, chemical substance that affects an employee in any detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A determination of influence can be established by a professional opinion or a scientifically valid test.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of the Secretary, LR 26:1059 (May 2000).

§3995. Policy Provisions

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

B. Conditions Requiring Drug Tests

1. DHH shall require drug testing under the following conditions. The Human Resource Director shall be involved in any determination that one of the above-named conditions requiring drug-testing exists.

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

b. Post-accident. Each employee involved in an accident that occurs during the course and scope of employment shall be required to submit to a drug test if the accident:

i. involves circumstances leading to a reasonable suspicion of the employee's drug use;

ii. results in a fatality; or

iii. results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).

c. Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or who has a rehabilitation agreement with the agency following an incident involving substance abuse shall be required to submit to random drug testing.

d. Pre-employment. Each prospective employee shall be required to submit to drug screening at the time and place designated by the DHH Security Coordinator, (the person within DHH responsible for administering the drug testing program) following a job offer contingent upon a negative drug-testing result. Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration for employment.

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

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

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

D. Responsibility. The Secretary is responsible for the overall compliance with this policy and shall submit to the Office of the Governor, through the Commissioner of Administration, a report on this policy and drug testing program, describing progress, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by November 1 of each year.

E. Violations. Violation of this policy, including refusal to submit to drug testing when properly ordered to do so, may result in disciplinary actions up to and including

termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of the Secretary, LR 26:1059 (May 2000).

David W. Hood
Secretary

0005#042

RULE

Department of Natural Resources Office of Mineral Resources

Geophysical and Geological Surveys; Operating
Agreements; and Fees and Other Charges
(LAC 43:V.Chapters 1-3)

The Office of Mineral Resources, Department of Natural Resources, pursuant to R.S. 49:950, et seq., amends LAC 43, Part V. The rule change adds additional fees and charges to the fee schedule of the Office of Mineral Resources which historically have been and presently are being collected and recognized by the Legislative Fiscal Office as self-generated funds for said Office. Said fees and charges will add no new fees or charges to be collected from industry or the public, but the addition to the fee schedule merely recognizes said fees and charges which have been and are being presently collected from industry and the public as self-generated: a view historically held by the Legislative Fiscal office.

The addition of fees and charges to the schedule represent fees and charges already being collected and recognized by the Legislative Fiscal Office as self-generated funds.

In accordance with R.S. 49:950 et seq., the Department of Natural Resources, Office of Mineral Resources, has amended LAC 43:I, Part V, Chapter I as follows.

Title 43

NATURAL RESOURCES

Part V. Office of Mineral Resources

Chapter 1. Geophysical and Geological Surveys

§101. Geophysical and Geological Surveys

A. Permits for geophysical and geological surveys under Title 30, Chapter 3, Sections 211 through 216 of the Louisiana Revised Statutes of 1950 shall be obtained from the State Mineral Board through the Office of Mineral Resources. Applications for a permit for such exploration must be filed in quadruplicate with one copy addressed to the Secretary of the Department of Natural Resources and three copies addressed to the Deputy Assistant Secretary of the Office of Mineral Resources at least ten (10) days before the requested effective date of the permit and each such copy must be accompanied by supporting documents as follows.

1. If the permittee is a shooting company, i.e., a company whose primary business enterprise is the physical, "on-ground" acquisition of seismic and geophysical data and the transfer of said acquired data, in either raw or processed form, exclusively to one or more cost underwriting parties or by sale or licensing agreements on

the open market, it shall give the name of the client(s) for whom the seismic is being shot under the permit or, if a speculative shoot, a statement to that effect. If permittee is not a shooting company, it shall give the name of the shooting company which will do the physical, "on-ground" acquisition of the seismic or geophysical data under the permit, including current mailing address and telephone number.

2. A statement of the type of work planned, such as gravity meter, magnetometer, reflection, refraction, 2-D, 3-D and/or any other recognized methods of acquiring seismic, geophysical or geological data. It is required that the official permit application available on request from the Office of Mineral Resources be used.

B. No permit issued hereunder shall cover, nor shall any project for which the permit is secured include, acreage covered by a valid state mineral lease in full force and effect at the time the permit is secured. However, if the permit applicant secures the appropriate consent from the state mineral Lessee to conduct the type of seismic operations contemplated under the permit application over the state mineral lease acreage included within the prospective project area, the permittee shall have the right under the applied for permit to conduct the type of seismic operations set forth in the permit application over the state mineral lease acreage without the necessity of securing an addendum thereto or an additional permit. Upon the expiration, lapse, or termination of any state mineral leases, the acreage of which falls within a project area delineated in a seismic permit issued hereunder, during the term in which the said seismic permit is in full force and effect, the respective permit for the project area which includes the expired, lapsed, or terminated state mineral lease acreage shall be deemed to cover, and the project area to include, said acreage without the necessity of any further permission from the State Mineral Board, and the seismic operations contemplated under the said permit may be conducted upon such acreage, but only for such time as the permit term remains in force and effect, and no longer. Permits are limited to a period of one year from date of issuance, unless revoked for cause.

C. In order to accommodate proper administration of seismic permits issued hereunder and orderly operations conducted under said permits, the applicant shall submit to the Office of Mineral Resources ("OMR") notice of the date of commencement of any seismic operations authorized by the permit, a plat acceptable to the Staff of the OMR reasonably identifying and locating each particular grid area in which operations are to be conducted and, after completion of field operations under the permit, a supplemental plat showing details of any work done in addition to that set forth in the permit application; which plat shall reflect the locations of the lines or grids shot, all shot point and/or geophone locations, and the date of completion of said additional work. The permittee, may, but shall not be required to, voluntarily agree to make available to OMR, at permittee's or OMR's office at permittee's option, the fully migrated and processed data derived from the seismic project under the issued permit. All such plats and data secured by OMR shall be deemed confidential and not subject to the public records doctrine; but shall be for the use of OMR staff only. For purposes of this section, date of commencement of operations is defined as the date upon

which surveying crews and equipment are moved into the area to be worked for purposes of preliminary line placement surveying prior to the beginning of acquisition of data.

D. A permit to conduct seismic, geophysical and/or geological surveying of any kind upon State of Louisiana lands or water bottoms over which the State Mineral Board through OMR has jurisdiction shall be subject to the following terms:

1. the permit shall be valid for a period of one year from date of issuance;

2. the permit shall be valid for the entire State of Louisiana, but the exercise of operations under the permit shall be limited only to the project area set forth in the application;

3. any and all rights exercised under a valid seismic permit issued hereunder shall be exclusive only to the named permittee or, if the permittee is not a shooting company, the shooting company named in the permit application as the entity to actually do the physical, "on ground" seismic project;

4. no permit issued hereunder shall be transferable and shall be specific as to the party securing the permit, the party for whom the permitted work is being done, the project-including location plat, written description, and total acreage of state owned land and/or water bottom in the project area-covered by the permit, and the date of commencement of the permitted activity;

5. the permittee shall pay to OMR at the time of application for the seismic permit-by official bank check, certified funds, bank money order, or other certifiable funding method made payable to "Office of Mineral Resources"- an amount of money equal to \$200 per mile for 2-D lines, \$2 per acre multiplied by the total number of state owned lands and/or water bottoms located within the seismic project area as set forth in the application for other than 2-D or \$1,000, whichever is greater. The OMR staff reserves the right to verify the total length to the nearest mile of the proposed 2-D seismic lines or the total amount of state owned lands and/or water bottoms within the project area and, if necessary, require additional funds from the permittee if the verified length or acreage exceeds the length or acreage set forth in the application.

E. Violation by the permittee of any of the terms specified in this schedule as promulgated, or which may be written on the permit form, shall be deemed to be a permit violation by OMR which may, at the sole discretion of OMR, subject permittee to the cancellation of his permit and forfeiture of his permit fee.

F. Pursuant to R.S. 30:124 any and all rights exercised by any permittee pursuant to a permit issued hereunder shall be in compliance with any and all applicable rules and regulations which have been promulgated, and which may be further promulgated from time to time, by the Department of Wildlife and Fisheries governing the conduct of seismic exploration on land and/or water for the protection of oysters, fish, and wildlife. Further, all wildlife and waterfowl refuges, game and fish preserves, or oyster seed ground reservations, the mineral rights over which the Department of Wildlife and Fisheries exercises direct control, shall not be included in any project area covered by any permit issued hereunder unless written permission is secured from said agency.

G. The approval of the State Mineral Board, through its duly authorized officer, of any permit, is granted subject to any future rules which may be adopted by the State Mineral Board from time to time. The Board hereby declares that in the event any changes in the rules are effected, 30 days written notice shall be given to all permittees whose permits are still in effect.

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session, 1988, R.S. 30:136(A)(2) and 30:142(A), as amended by Acts 1017 and 1018 of 1990, R.S. 30:209 and 209.1, as amended by acts 530 and 531 of 1997, and R.S. 30:211 through 216.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 26:1061 (May 2000).

§103. Exclusive Geophysical Agreements

A. Exclusive geophysical agreements authorized under Title 30, Chapter 3, Section 208 through 209.1 of the Louisiana Revised Statutes of 1950 may be obtained from the State Mineral Board, through the Office of Mineral Resources.

B. There are three types of exclusive geophysical agreements which may be secured from the Office of Mineral Resources, namely: Exclusive Geophysical Agreement Type I, Exclusive Geophysical Agreement Type II, and Exclusive Geophysical Agreement Type III. The following shall apply to all exclusive geophysical agreements secured hereunder.

1. The area to be covered by the exclusive geophysical agreement shall be nominated just as a lease with the description set forth in X/Y Lambert coordinates.

2. The exclusive geophysical agreements are to be awarded by public bid, just as leases are, at the monthly Mineral Lease Sale.

3. The OMR staff will determine the minimum per acre seismic fee which must be bid to be acceptable to the State Mineral Board for the awarding of the exclusive geophysical agreement.

4. The nominated acreage will then be advertised on the same delay basis and in the same manner as lease nominations; which advertisement will state a property description of the geographical area over which the exclusive geophysical agreement is to be awarded, the type of exclusive geophysical agreement sought and the minimum per acre seismic fee acceptable to the State Mineral Board as a bid, and the day, date, time, place of the next State Mineral Lease Sale at which bids will be accepted.

5. The term of the exclusive geophysical agreement shall be 18 months with an option for an additional 6 months, which option period shall be granted only upon written request by the bid winner made prior to the end of the original 18 month term and upon payment to the Office of Mineral Resources in the manner set forth as acceptable herein above of a sum of money equal to one-half of the original total fee bid and paid for the seismic agreement.

6. The exclusive geophysical agreement awarded shall be subject to, and shall not supersede, any existing seismic permits, leases, or other agreements of any kind with the State of Louisiana in the nominated area at the time awarded.

7. The Office of Mineral Resources will get copies (hard copies and digital tapes) of all fully processed and migrated 3-D seismic data and any other geophysical and geological data, including, but not limited to, 2-D seismic, gravity (air or surface), and magnetic (air or surface) acquired under the exclusive geophysical agreement. The Staff of the Office of Mineral Resources will be provided access to the seismic data, both processed and interpreted, at the facilities of the entity conducting the seismic operations under the exclusive geophysical agreement awarded during all phases of the seismic operations with interpreted data to be accessed no later than one year following the end of the primary term of the exclusive geophysical agreement, or the option term if activated.

8. The exclusive geophysical agreement shall be available for the primary purpose of conducting 3-D seismic operations only, although other types of geophysical data may be acquired in addition to 3-D seismic, unless otherwise agreed upon by the Office of Mineral Resources and the nominating party.

C. In addition to §103.B above, the following shall apply to the Exclusive Geophysical Agreement Type I:

1. The State Mineral Board shall not grant any new seismic agreements or permits in the nominated area during the initial term of the exclusive geophysical agreement, or the option term if activated, but does reserve the right to accept nominations for and grant new mineral leases within the nominated area of the exclusive geophysical agreement. Any new mineral leases granted within the nominated area of the exclusive geophysical agreement during its primary term, or option term if activated, shall be subject to the rights granted under the exclusive geophysical agreement and the grantee shall not be required to deal with the state mineral Lessee in order to conduct seismic operations over the new lease acreage.

D. In addition to §103.B above, the following shall apply to the Exclusive Geophysical Agreement Type II.

1. The State Mineral Board shall not grant any new seismic agreements or permits, or any new leases in the exclusive geophysical agreement area from the time it is nominated, during the initial term of the exclusive geophysical agreement, or the option term if activated. However, a buffer zone of one-half (1/2) mile will be established around existing leases within the area of the exclusive geophysical agreement and only the lessee of the existing lease or the successful exclusive geophysical agreement grantee shall have the right to nominate acreage for a state mineral lease within that buffer zone during the initial term of the exclusive geophysical agreement, or the option term if activated, which will then go up for public bid and the regular monthly state mineral lease sale.

2. The exclusive geophysical agreement grantee only shall have the right to nominate acreage within the exclusive geophysical agreement area for a state mineral lease during the primary term of the exclusive geophysical agreement, or the option term if activated, except as to the buffer zone around existing leases as provided for in 9. above, which lease nominations shall not exceed 1500 acres each and shall not in aggregate amount exceed one-third of the entire acreage of the exclusive geophysical agreement.

E. In addition to §103.B and D above, the following shall apply to the Exclusive Geophysical Agreement Type III.

1. The Staff of the Office of Mineral Resources shall, after examination of the area nominated for the Exclusive Geophysical Agreement Type III, set a minimum royalty and bonus price per acre which would be acceptable by the State Mineral Board for a state mineral lease granted within that nominated area, which minimums shall be advertised within the advertisement for the nominated area.

2. The exclusive geophysical agreement grantee only shall have the right, within the initial term of the exclusive geophysical agreement, or the option term if activated, to select for mineral leases tracts within the exclusive geophysical agreement area, not to exceed 1500 acres each or one-third in the aggregate of the entire acreage of the exclusive geophysical agreement area, and, upon payment to the Office of Mineral Resources of the amount of the per acre bonus as advertised and bid during the acquisition of the exclusive geophysical agreement type III multiplied times the acreage for each tract selected, plus an additional 10 percent administration fee, and have a state mineral lease issued by the Office of Mineral Resources on each selected tract which shall carry the royalty burden advertised and bid during the acquisition of the exclusive geophysical agreement.

F. The State Mineral Board, through the Office of Mineral Resources, agrees to hold all information, maps, data of any and all kinds provided to the state under R.S. 30:213 or as a result of the terms of the exclusive geophysical agreements confidential and same shall not be available for view or use except by certain members of the staff of the Office of Mineral Resources in connection with the administration of state owned lands and water bottoms, and the state mineral leases thereon unless ordered by a court of proper jurisdiction to do so. Said information shall be kept under lock and key, except during the course of actual examination by the staff of the Office of Mineral Resources. Any violation of these requirements is hereby declared cause for peremptory removal from office or discharge from employment in addition to the penalties provided under R. S. 30:216.

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session, 1988, R.S. 30:136(A)(2) and 30:142(A), as amended by Acts 1017 and 1018 of 1990, R.S. 30:209 and 209.1, as amended by acts 530 and 531 of 1997, and R.S. 30:211 through 216.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 26:1062 (May 2000).

Chapter 2. Operating Agreements Upon Relating to State-Owned Lands and Water Bottoms

§201. Operating Agreements

A. Operating agreements under Title 30, Chapter 3, Sections 208 through 209.1 of the Louisiana Revised Statutes of 1950 may be obtained from the State Mineral Board through the Office of Mineral Resources.

B. An operating agreement, as that term is used herein, shall refer to the contractual agreement by and between the State of Louisiana and an operator, under limited conditions and circumstances, and in lieu of a state mineral lease, to reestablish or attempt to establish production of liquid or gaseous hydrocarbons from an existing well, or wells,

located on state owned lands or water bottoms previously leased, but on which the lease has terminated, by reworking, deepening, sidetracking, or plugging back of said well(s) when it has been determined by the State Mineral Board that, due to equity, economics, and other factors, it is in the best interest of the State to assume a portion of the risk of establishing production in said existing wells by contracting with the operator to attempt said establishing of production on behalf of the State whereby the State shall be entitled to receive a graduated share of production, or its value, based on recoupment of the risked cost as monitored by the Office of Mineral Resources in administering the operating agreement.

C. Operating agreements shall only be granted by the State Mineral Board in those limited situations set forth and illustrated by R.S. 30:209 (4)(a)(i-iv) when it has been determined that the best interest of the State of Louisiana will not be served by the granting of a regular state mineral lease.

D. Pursuant to R.S. 30:124 all permits will be issued subject to strict compliance by the permittee with all applicable rules governing the conduct of seismic exploration in water areas as such rules may from time to time be promulgated by the Department of Wildlife and Fisheries for the protection of oysters, fish, and wildlife. Further all wildlife and waterfowl refuges, game and fish preserves, or oyster see ground reservations or any part thereof, shall not be deemed to be included in the area covered by any permit unless written permission from the agency in charge of such refuge, preserve, or reservation is also secured.

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session, 1988, R.S. 30:136(A)(2) and 30:142(A), as amended by Acts 1017 and 1018 of 1990, R.S. 30:209 and 209.1, as amended by acts 530 and 531 of 1997, and R.S. 30:211 through 216.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 26:1063 (May 2000).

Chapter 3. Fees and Other Charges

§301. Fees and Other Charges

A. The Department of Natural Resources, pursuant to the authority of Act 13 of the 1988 First Extraordinary Session of the Louisiana Legislature authorizing fees and other charges as self-generated funds, has adopted the following fees and charges commensurate with costs incurred in the application for and administration of state oil, gas or mineral leases, geophysical and geological permits and agreements, and operating agreements on state-owned lands and water bottoms. Fees are as follows:

1. Fee for new mineral leases equal to 10 percent of cash payment to be submitted no later than 10 days after acceptance of bid and awarding of lease.
2. Fee of \$100 for processing docketed items, such as assignments, not including advertised docketed items.
3. Fee of \$500 for processing advertised docketed items, such as unitization agreements.
4. \$200 per mile for 2-D lines, \$2 per acre times the total number of state owned acres included in the seismic project for other than 2-D seismic, or \$1000, whichever is greater, for the issuance of a seismic permit.
5. Fee of the price per acre bid times the total number of state owned acres included in the seismic project for the

granting and cost of administering an exclusive geophysical agreement.

6. Fee covering the cost of administering operating agreements authorized by statute on a cost risk basis which would equal to 25 percent of the value (as determined by the sale of said production) of that portion of production returned to the State under the said operating agreements.

7. A fee of \$35 per hour for the number of staff hours required to process and verify requests from payers of royalties seeking reimbursements of overpayments of royalties.

8. Fee of \$1 per page for all items faxed by the Office of Mineral Resources upon request by the public to cover actual cost of faxing the material.

9. Fee of twenty-five cents per page copied or printed by the Office of Mineral Resources upon request by the public to cover the actual cost of copying the material.

10. Fee of \$120 per subscription for a person or entity, upon request, to receive, in advance of the sale, the monthly mineral notice book of tracts coming up each month for lease sale for a period of one year which covers the cost of compiling, binding and postage incurred by the Office of Mineral Resources.

11. Fee of \$1 per page for certification that document copies requested by and furnished to the public are true and correct copies of the original documents located at the Office of Mineral Resources.

12. Fee for the administration of an in-kind royalty program, authorized by statute, although not collected last year due to the absence of an in-kind royalty program, which could amount to more than \$1,000,000 if the program were implemented.

13. A base non-refundable fee of \$200 per nomination to cover the cost of advertising; which fee shall be increased by the actual cost of advertisement per nomination, if any, and said increase levied and collected from the nominating party prior to the lease sale at which the tract appears for bid.

14. Fee for copies of G5 maps which amount to \$10 for copies pertaining to area north of the thirty-first parallel (Township 1 North and above) and \$20 for copies pertaining to area south of the thirty-first parallel (Township 1 South and below).

15. Fee of \$20 charged for furnishing upon request a proof of publication for tracts advertised for lease sale.

16. Fee of \$5 each for furnishing upon request proofs of execution of leases, no conflict or overlap of tracts and that tract is within the three mile line.

B. Other Charges:

1. Penalty charge of \$100 per day up to a maximum of \$1000 as statutorily imposed for assignments filed with the Office of Mineral Resources beyond a statutorily established time from the execution of the assignment to cover the cost of tracking, notifying assignor of and collecting said penalty.

2. For incorrectly filling out any form required by the Department of Natural Resources or the Office of Mineral Resources which accompanies the payment of any sum of money due the state, other than lease bonus, rental, or shut-in payments, unless the incorrectly filled out portion is corrected before the due date of the payment, a statutory penalty charge of 5 percent of the sum due, up to a maximum of \$500 to cover the cost of having the corrections made after the fact.

RULE

**Board of New Orleans and Baton Rouge
Steamship Pilot Commission**

Steamship Pilots (LAC 46:LXXVI.Chapter 1)

3. For late payment of any sums due, other than bonus, rental, or shut-in payments, a statutory penalty charge of 10 percent of the sum due up to a maximum of \$1000 to cover the cost of collecting the correct amount

4. Penalty charge of \$100 per day for every day beyond 90 days from lease termination until a release of the terminated lease is recorded in all parishes in which the original lease was recorded.

5. Any liquidated damages specified as such in any contract by and between the State of Louisiana, through the staff of the State Mineral Board, the Office of Mineral Resources, including, but not limited to, leases, operating agreements, and unit agreements, and any person or business entity, the purpose of which is to facilitate the exploration and drilling for, and the establishment of production of any mineral from state owned land and water bottoms which shall, between the contracting parties, reflect the agreed upon amount of damage, including cost of recovery, incurred by the State for violation of the agreement.

6. Charge for production of gaseous or liquid hydrocarbons from unleased state acreage in the nature of damages for trespass, amounting to payment to the state of all revenue from sale of production allocated to the state acreage less the state's actual, reasonable allocated share of costs for drilling and production, as reimbursement for the cost of finding, tracking, compiling and collecting said damages.

7. Kinds and anticipated amounts of costs are:

Personal services	\$3,413,308
Operating expenses	\$613,155
Professional services	\$1,020,000
Other charges	\$7,672,888
Equipment	\$4,889
Total	\$12,724,240

8. This schedule of fees and charges, as amended, shall be re-promulgated, and the provisions hereof shall be in full force and effect, as of January 1, 2000 and shall continue in force until canceled by the Office of Mineral Resources, any other order by a duly authorized person or entity, or by order of a court of law of proper venue and authority.

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session, 1988, R.S. 30:136(A)(2) and 30:142(A), as amended by Acts 1017 and 1018 of 1990, R.S. 30:209 and 209.1, as amended by acts 530 and 531 of 1997, and R.S. 30:211 through 216.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 26:1064 (May 2000).

Robert D. Harper
Undersecretary

0005#006

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River hereby repeals the prior rules enacted in Louisiana Register, Vol. 14, number 5, May 20, 1988 and hereinafter promulgate re-enactment of those previous rules and/or promulgate rules as to definitions, appointments of commissioners, rules and records of meetings, examination of pilots, ability to form an association, report of incompetency and removal of pilots, together with rules of minimum requirements, applicants, examination, and appointments relative to the commission of steamship pilots.

As per state law, in order to further enhance the safety and well being of the citizens of Louisiana, as well as prevent any possible imminent peril to public health, safety, and welfare, the Board of New Orleans-Baton Rouge Steamship Pilot Commissioners for the Mississippi River from the Port of New Orleans to and including the Port of Baton Rouge and intermediate ports adopts the following actions pertaining to the rules and regulations:

1. Abolish the existing rules in order to clarify the purpose, authority and procedures of the Commission. This is accomplished via constructing new rules in lieu of the amendment process.

2. The new rules are formulated using existing Louisiana Statutes, the intent and procedural precedents of the prior rules as a foundation for effecting a cleaner and more efficient system for oversight of the pilotage under the commission's jurisdiction.

In substance, the new rules differ from the old in that they clarify the method and guidelines for making recommendations to the governor, selecting new commissioners, as well as defining the commission's authority and funding. The new document updates the criteria for rulemaking and application, record keeping, notices and meetings. Further, the new regulations provide for higher standards and qualifications for applicants and associations, and clearly defines the commission's legal authority and duty in the investigative and disciplinary process.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LXXVI. Steamship Pilots**

**Chapter 1. New Orleans and Baton Rouge Port Pilots
§101. Definitions**

Association shall mean pilot members of the New Orleans-Baton Rouge Steamship Pilot Association.

Board of Commissioners (hereinafter used interchangeably as Board, Commission, or Examiners) shall mean the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River, as designated in R.S. 34:1042.

Examiner shall mean those individuals appointed as per law.

Master License shall mean the license issued by the United States Coast Guard.

Pilot shall mean a New Orleans and Baton Rouge Steamship Pilot, as designated in R.S. 34: 1043.

Service Time shall mean the applicant's service time on the Mississippi River.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1064 (May 2000).

§103. Board of Steamship Pilot Commissioner

A. When there is a need for new commissioners, the Board of Commissioners shall make the recommendations to the governor in accordance with the law and in compliance with the commission rules.

B. When this need arises, the commissioners shall take into consideration the following in making their recommendations:

1. ability to serve;
2. qualifications;
3. length of service as a commissioned pilot.

C. Commissioners in the performance of their statutory duties have the exclusive and complete authority to determine their work schedule. Further, commissioners shall not suffer any loss of benefits or compensation while they are performing their duties.

D. All ordinary and necessary operating and administrative costs and expenses, including, but not limited to, the cost of administrative offices, furniture and fixtures, communications, transportation, office supplies and equipment, publications, travel, pilot commissioners' compensation, attorney fees, expert fees, costs, expenses of litigation or any other expenses whatsoever incurred by the commission while performing their/ its duties shall be provided by the pilots and paid through their pilot association.

E. The Commissioners shall maintain an office and conduct business as is necessary to fulfill its legislative mandate and/or as may be required by the rules herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1065 (May 2000).

§105. Rules, Records, Meetings, Application

A. All commission rules must be adopted by a majority of the commissioners, further, they must be submitted for legal approval before they are submitted for final approval and adoption. The Board of Commissioners shall maintain records in accordance with R.S. 49:950 et seq., and any other state laws. The Board of Commissioners shall file an annual report of investigations, findings, actions and accident data in accordance with state laws. The Board of Commissioner shall conduct its meeting in accordance with R.S. 49:950 et seq., and any other state laws.

B. The commissioners shall hold quarterly meetings on the call of the president. The president has the prerogative of calling additional meetings as needed to conduct business on giving said notice as per law.

C. These rules shall apply to all New Orleans and Baton Rouge Steamship Pilots engaged in his/her calling within the operation territory defined in R.S. 34:1043.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1065 (May 2000).

§107. Minimum Requirements, Applicants, Examination, Appointments

A. All applications for commissions to serve as a New Orleans and Baton Rouge Steamship Pilot must be in writing, must be signed by the applicant, and presented to the President of the Board for commissioner. All applications must be accompanied by satisfactory evidence of compliance with the following prerequisites:

1. applicant must hold a First Class Pilot's License of "any" gross tons, (the word "any" as interpreted by the United States Coast Guard) for the Mississippi River from Chalmette, Louisiana, to Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana issued to him or her by the United States Coast Guard, and

2. also be licensed as:

a. Master of Rivers or Inland Steam or Motor vessels; or

b. licensed as Master or Mate of Ocean Steam or Motor vessels; or

c. have acquired a college degree or an associates degree granted by a college or university accredited by the American Association of Colleges and Secondary Schools; and

3. must have completed a Ship Handling Simulator course and a Bridge Resource Management course or any other industry related course that the Board of Examiners may deem as relevant and necessary.

B. As of January 1, 2005, all applicants for commission to serve as New Orleans and Baton Rouge Steamship Pilots, in addition to Section A (1)(2) and (3) hereinabove:

1. must be licensed as Master of Rivers or Inland Steam or Motor vessels; or

2. must be licensed as Master or Mate of Ocean Steam or Motor vessels, and must have one year service on his or her license; or

3. must have successfully acquired an associates degree or have achieved an equivalent of sixty hours of credit from an accredited college or university, and must have six month service on his or her license; or

4. must have achieved a college degree from an accredited college or university and must have one year service on his or her license.

C. As of January 1, 2010, all applicants for commission to serve as New Orleans and Baton Rouge Steamship Pilots must, in addition to Section A(1)(2) and (3) hereinabove:

1. must be licensed as Master of Rivers or Inland Steam or Motor vessels of 1600 gross tons; or

2. must be licensed as Master or Mate of Ocean Steam or Motor vessels of 1600 gross tons and have two years service on his or her license; or

3. must have successfully acquired an associates degree, or have achieved an equivalent sixty hours of credit from an accredited college or university, and have one year service on his or her license; or

4. must have successfully acquired a college degree from an accredited college or university;

5. applicant shall not have reached his or her forty-fifth birthday before being commissioned;

6. applicant must submit evidence of possessing a high school diploma or G.E.D.;

7. applicant must be a registered voter of the State of Louisiana for a minimum of one year;

8. applicant must submit evidence of good moral character;

9. applicant must submit to the Board of Examiners, a certificate that applicant is in good health and physical condition and such examination shall meet approved maritime standards;

10. applicant must submit to and pass a drug screen test that is dated within 30 days of the application submission;

11. applicant must sign an obligation to abide by the Charter, By-Laws, Rules and Regulations of the New Orleans and Baton Rouge Steamship Pilots Association and the Board of Commissioners;

12. applicant must have been duly elected an apprentice in the New Orleans Baton Rouge Steamship Pilots Association as per such Association Rules in effect as of such application;

13. applicant must serve an orientation period over the route, as an apprentice ship pilot, for not less than 12 months, which may be extended up to one additional year as may be determined by the Board of Pilot Commissioners. If after the one year extension apprenticeship period the applicant fails to meet the criteria and standards of the Board, then said applicant shall be released from the apprenticeship program. The criteria and standards of the Board include but are not limited to:

a. an applicant's recklessness and display of lack of judgment;

b. disregard of state rules, laws, and regulations;

c. disregard of Coast Guard rules and regulations;

d. unfit for the position and job of a river pilot;

e. lack of moral integrity, veracity, ability, capability, and any other such issues, complaints, or questions brought by any responsible party to the attention of the Board.

D. Examination by the Board of Commissioners

1. All applicants must successfully complete an oral and/or written examination to be conducted by the Board of Commissioners.

2. Those applicants who have complied with all of the provisions herein shall be examined by the Examiners as to the applicant's knowledge of pilotage and demonstrate the applicant's proficiency and capability to serve as commissioned pilot. This examination shall be given in such a manner and shall take such form as the Board, in its sole discretion, from time to time as the Board shall determine.

E. Restrictive Job Assignments

1. Those applicants who satisfactorily complete the examination given by the Board shall be certified to the governor as per law. Such certifications may be restrictive in

job assignments, including but not limited to, vessel size and/or draft for new appointees for a specified period of time.

2. Restrictive job assignment period shall be 24 months in duration; this period shall be in 3 periods of 8 months each during which the pilot will be assigned vessels of a restricted size to be determined and set by the Commission; after each 8 month period the applicant may graduate to a larger size vessel, all to be determined by the Commission; the vessel size limitation for these restricted periods shall be established exclusively by the Commission; such limitations shall be at the unilateral discretion of the Commission at all times material hereto; limitations established by the Commission shall be based, but not exclusively, on a ratio of the most recent Association determination of the average size vessel piloted on the Commission route.

F. Commissioned pilots shall comply with all requirements to maintain their state commission and such other certifications as determined by the Board of Pilot Commissioners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1066 (May 2000).

§109. Association of Pilots

A. The pilots may form themselves into an association or associations, as to they may seem fit, not in conflict with the rules and regulations of the Board of Commissioners.

B. The formation of any association incorporated or non-incorporated which is for the purpose of providing pilotage service under the law, including but not limited to R.S. 34:1047, must be submitted to the Commission for approval. Such applications must meet all legal requirements, provide for a stable pilotage system, serve the best interest of the majority of pilots and protect the life and property of the region.

C. The Board of Commissioners hereby recognizes the fact that the New Orleans and Baton Rouge pilots have formed themselves into a legal registered corporation known as the New Orleans and Baton Rouge Steamship Pilots Association; further, let it be recognized by the Commission that the said pilot Association has operated and is now operating within all state laws and is not known to be in conflict with the rules and regulations of the Board of Commissioners.

D. No pilot association, incorporated or non-incorporated, has any authority to impose or legislate any rules, bylaws or charter provisions affecting the Commission; further, any attempt to exercise any authority over or affecting the commission is a violation of the rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1066 (May 2000).

§111. Report of Incompetency, Carelessness of Pilots, Removal, Suspension

A. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, said Commission shall conduct a preliminary investigation into

the casualty to determine if there are any violations of the law or commission rules.

B. When probable cause is found, said commission shall report its findings to the governor. The governor shall, thereupon, refer the case to the Board of Commissioners for formal investigation. The Board shall investigate and report its findings with recommendations to the governor, whereupon, the governor may take action in his discretion.

C. All formal investigations shall be conducted in accordance with R.S. 49:950 et seq.

D. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, said pilot shall report such casualties as follows:

1. report the casualty by whatever means available to the Board of Commissioners as soon as practical;

2. be available for interview by the commission and furnish complete details of the casualty;

3. make a written report to the Board of Commissioners as soon as practical.

E. Interviews and written reports to the board, which may thereupon, with or without complaint being made against said pilot, investigate the matter reported on.

F. Any pilot who shall, neglect, or refuse to make a verbal or written report to the Board as required by these rules, shall be reported to the Governor for action pursuant to law.

G. Any pilot requested or summoned to testify before the Board shall appear in accordance with said request or summons and shall make answers under oath to any questions put to him/her related to or in any way connected with the pilot's service or the pilot's territory over which he/she is licensed to pilot.

H. In any case, where the commission finds or suspects a violation of the law, or in a violation of its rules, they may charge the pilot with misconduct and remove him from duty, however, this rule shall not abrogate any of his/her rights pursuant to all applicable laws.

I. When an investigation uncovers dangerous and/or unsafe condition and/or conditions that may jeopardized the interests, safety, health, or welfare of the pilots, vessels, cargo, property or individuals, the Commission may make recommendations for the corrective measures.

J. A pilot shall not under any circumstances make any statement to anyone until such pilot or pilots have has legal counsel when he/she is involved in a casualty, or any other complaint.

L. Any commissioner who with probable cause and/or has reason to believe, suspect, and/or knows that a pilot is or has been or may be under the influence of drugs, alcohol, or any other stimulant or depressant that may affect the performance of that pilot, or has been charged with misconduct, while subject to commission rules and/or state pilotage laws, that Commissioner in his/her discretion may immediately relieve that pilot without the necessity of formal notice and hearing from pilotage duty, in order to protect the interest, safety, health or welfare of fellow pilots, vessels, cargo, property or individuals. Further, at the earliest practical time, the Commission must request permission from the Governor, per law, to conduct the appropriate formal hearing or hearings which satisfies and protects the

due process and equal protection requirements as afforded that pilot by the state and federal constitutions.

M. No person shall engage in any activities concerning the members of the New Orleans and Baton Rouge steamship pilots unless said person has been elected or appointed to do so by one of the governing boards.

N. No member of the Board of Pilot Commissioners, in the discharge of his/her duty or responsibility of his/her office will vote on a matter in which he/she is a party to or has a conflict of interest. In such cases, he/she shall automatically be recused from participating in or voting on such matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1067 (May 2000).

§113. Severability

It is understood that any provision and/or requirement herein that is deemed invalid and unenforceable for any reason whatsoever, that it may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1067 (May 2000).

Martin W. Gould, Sr.
President

0005#073

RULE

Department of Public Safety and Corrections Board of Private Security Examiners

Definitions, Organization, Board Membership; Company Licensure; Registration; Training; Criminal Background Checks; Disciplinary Action; Insignias; Markings; Restrictions; Licensee Suitability, Records, Investigations, and Registrant Violations; Administrative Penalties (LAC 46:LIX.101-107, 201, 301, 401-409, 501, 601, 603, 701, 801-813, 901-907)

Under the authority of the Private Security Regulatory and Licensing Law, R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Private Security Examiners hereby adopts the following Louisiana State Board of Private Security Examiners Regulations, LAC 46:LIX:101-107, 201, 301, 401-409, 501, 601, 603, 701, 801-813, 901-907, as follows.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIX. Private Security Examiners

Chapter 1. Definitions, Organization, Board Membership and General Provisions

§101. Definitions

Date of Hire date applicant begins performing the functions and duties of a security officer.

Dog Handler an individual who is accompanied by a trained protection dog while performing the duties of a security officer as defined in R.S. 37:3272. He shall be considered unarmed unless he falls under the definition of an armed security officer.

Emergency Assignment any unplanned or unexpected event not covered by a prior contractual agreement.

Weapon any firearm or baton approved by the board.

In addition to the above definitions, terms outlined in these rules shall be found in R.S. 37:3272.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:846 (October 1989), LR 18:189 (February 1992), LR 23:587 (May 1997), LR 26:1067 (May 2000).

§103. Organization, Board Membership and General Provisions

A. The private security regulatory and licensing law (R.S. 37:3270, et seq.) shall be administered by the Board of Private Security Examiners, hereinafter referred to as the "board."

B. The official seal of the board consists of the Louisiana state seal with a pelican in the middle.

C. The board shall consist of nine members appointed by the governor for a term concurrent with the term of office of the appointing governor. No member of the board shall be employed by a person or company who employs any other member of the board.

D. The chairperson shall exercise general supervision of the board's affairs, shall preside at all meetings when present, shall appoint members to committees as needed to fulfill the duties of the board, and shall perform all other duties pertaining to the office as deemed necessary and appropriate.

E. The vice-chairperson shall perform the duties of the chairperson in his absence or other duties assigned by the chairperson.

F. Standing committees of the board are:

1. general committee-duties to include special projects as authorized by the chairperson;

2. finance committee-duties to include periodic review of the budget, recommendations regarding the establishment of fees charged by the board, and recommendations to the board regarding all expenditures requested by the executive secretary in excess of \$500; and

3. ethics committee-duties to include review of allegations and recommendations to the board regarding any alleged misconduct, incompetence or neglect of duty by board members.

G. Each board member shall have one vote on all motions. Proxy voting is not allowed.

H. The board shall appoint an executive secretary to serve as the chief administrative officer of the board. The executive secretary serves at the pleasure of the board and is a full-time employee of the board. He shall:

1. act as the board's recording and corresponding secretary and shall have custody of the records of the board;

2. cause written minutes of every meeting to be kept and open to inspection to the public;

3. keep the board's seal and affix it to such instruments and matters that require attest and approval of the board;

4. act as treasurer and receive and deposit all funds;

5. attest all itemized vouchers for payment of expenses of the board;

6. make such reports to the governor and legislature as provided for by law or as requested by same;

7. keep the records and books of account of the board's financial affairs;

8. give at least 15 calendar days prior notice to all persons who are to appear before the board;

9. sign off on Cease and Desist Orders; and

10. any other duties as directed by the board.

I. The executive secretary may spend up to \$500 for board purchases without prior approval by the board or chairperson, and in accordance with the Division of Administration's rules governing purchases.

J. Meetings shall be announced and held in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.), and the Open Meetings Law (R.S. 42:4.2 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270, et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:11 (January 1989), LR 15:846 (October 1989), LR 19:189 (February 1992), LR 23:587 (May 1997), LR 26:1068 (May 2000).

§105. Consumer Information

A. Minutes of all board meetings shall be made available to the public upon written request to the board. A monetary fee may be assessed in accordance with Division of Administration rules and regulations.

B. Complaints to the board shall be in writing, signed by the individual making the complaint, and include a means by which to contact the individual for investigative purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270, et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:190 (February 1992), LR 26:1068 (May 2000).

Chapter 2. Company Licensure

§201. Qualifications and Requirements for Company Licensure

A. Licensing information packages may be obtained from the board by submitting, in writing, a request for such package. Request shall include the name, address, and phone number of the person requesting this information.

B. An applicant for licensure shall meet all of the qualifications and requirements specified in R.S. 37:3276 in addition to the rules herein.

C. Applicant must possess a high school diploma, GED, or equivalent work experience.

D. Applicant shall fill out and file with the board a notarized application form provided and approved by the board. If the applicant is a corporation, it shall be subscribed and sworn to by at least two principal corporate officers.

E. In addition to the completed application, the following documentation shall be submitted to the board:

1. one set of classifiable fingerprints of the applicant or qualifying agent and/or of each officer, partner or shareholder who owns a 25 percent or greater interest;

2. letters attesting to good moral character from three reputable individuals, not related by blood or marriage, who have known the applicant or qualifying agent for at least five years;

3. copy of applicant's or qualifying agent's DD-214 military discharge papers showing type of discharge, if applicable;

4. copy of company's badge and insignia;

5. copy of occupational license from each city or parish in which that company or branch has security operations, if applicable;

6. a certificate of general public liability insurance in an amount as required by law with the state of Louisiana named as an additional insured;

7. articles of incorporation, if incorporated, and certificate of authority from the Louisiana secretary of state; and

8. \$200 licensing fee, \$20 application fee, \$50 examination fee and \$10 fingerprint processing fee.

F. It shall be unlawful for any individual to make an application to the board as qualifying agent unless that person intends to maintain and continues to maintain that supervisory position on a regular, full-time basis.

G. All material changes of fact affecting a company licensee must be communicated to the board, in writing, within 10 calendar days. These changes of facts include the following:

1. change in any of the principal corporate officers or noncorporate owners who hold a 25 percent or greater interest in the company, or qualifying agent, or any partner in a partnership;

2. change of business name, address or telephone number; and

3. change of ownership if the business is a sole proprietorship.

H. Any change of the current listed principal officers in a corporation that is a licensee must be accompanied with a copy of the minutes electing the new officers and verification that these changes have been recorded with the secretary of state's office.

I. Branch Office. A branch office of a board licensed company may voluntarily register with the board by submitting the following documentation:

1. a letter from the licensee authorizing the board to register the branch office under the licensee. Letter shall also include the name of the designated branch manager, branch office address and phone number;

2. a current list of active security officers, and their social security numbers, who are to be registered with the designated branch officer; and

3. \$100 annual licensing fee to cover administrative costs.

The board shall issue a license certificate to the branch office with an identifying branch office number.

J. Examination

1. All applicants who apply to the board for licensure are required to successfully pass a written examination administered by the board. The examination tests the applicant's knowledge of R.S. 37:3270 et seq., the board's rules and regulations and the security profession.

2. Applicants required to take the examination are those:

a. applying for an initial company license;

b. reinstating an expired license; and

c. applying as a new qualifying agent for an approved, licensed company.

3. The passing grade of the examination shall be 70 percent.

4. An applicant who does not successfully pass the examination may reapply to take the examination twice within a six-month period. If the applicant does not successfully pass the examination as required, the application shall be referred to the board for action.

K. Insurance Renewal. On or before the expiration date of the required general liability insurance policy, licensee shall submit to the board a new certificate of insurance in an amount as required by law showing that insurance has been renewed and there has not been any lapse in coverage.

L. License Renewal

1. A company license shall expire annually on the date of issuance. Date of issuance means the date application was submitted to the board.

2. To renew a company license, licensee must submit a \$200 annual renewal fee to the board 30 days prior to the expiration date of license. If there have been any changes in the status of the company, then a new company application must also be submitted, along with a \$20 application fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:752 (December 1987), amended LR 15:847 (October 1989), LR 18:190 (February 1992), LR 23:588 (May 1997), LR 26:1069 (May 2000).

§203. Application Procedure

A. Application must be made to the board on application forms obtained from the board. If the applicant is an individual, the application shall be subscribed and sworn to by such person. If the applicant is a partnership, the application shall be subscribed and sworn to by each partner. If the applicant is a corporation, it shall be subscribed and sworn to by at least two principal corporate officers. The application shall include the following information:

1. full name and business address of applicant; and if the applicant is a partnership, the name and address of each partner, or if a corporation, the name and address of the qualifying agent;

2. name under which the business is to operate;

3. address of the principal place of business and all branch offices of the applicant within this state, and the corporate headquarters of the business, if outside this state;

4. if the applicant is a corporation, the correct legal name, the state of incorporation, date of incorporation, date qualified to do business in Louisiana, along with a copy of the certificate of good standing, and the names of the two principal officers of the corporation, other than the qualifying agent, and the business address, residence address, and the office or position held by each within the company; further, if the qualifying agent is not a resident of Louisiana, the application shall also include the name and the address of the applicant's agent for service of process designated as required by law;

5. statement as to the general nature of the business;
 6. if the applicant is to operate as a sole proprietor, he must furnish a copy of his occupational license with the application;
 7. as to each individual applicant; or if the applicant is a partnership, as to each partner, or if the applicant is a corporation, as to the qualifying agent and two principal corporate officers, the following information:
 - a. full name;
 - b. age;
 - c. date and place of birth;
 - d. all residences during the immediate past five years;
 - e. all employment or occupations engaged in during the immediate past five years;
 - f. one set of classifiable fingerprints;
 - g. one recent photograph no larger than 2" x 2";
 - h. a general physical description;
 - i. letters attesting to good moral character from three reputable individuals, not related by blood or marriage, who have known the applicant(s) or qualifying agent for at least five years;
 - j. a list of all convictions and/or pending criminal charges in any jurisdiction for any felony, crime involving moral turpitude, or illegal use of a dangerous weapon, for which a full pardon or similar relief has not been granted;
 8. one classifiable set of prints of the applicant, or of the manager, of each officer, partner or shareholder who owns a 25 percent or greater interest;
 9. copy of DD-214 form, if applicable, showing type of discharge;
 10. a certificate of general public liability insurance in an amount as required by law with the state of Louisiana named as an additional insured;
 11. copy of company's badge and insignia;
 12. copy of occupational license from parish where company or branch has operations.
- B. Verification of required experience shall be in the form of affidavits from clients, employers, copy of DD-214, and other types of information the board may reasonably deem sufficient.
- C. An administrative fee of \$25 made payable to the board will be assessed on all checks returned from the bank and deemed non-sufficient funds.
- D. An administrative fee of \$25 made payable to the board will be assessed on all fingerprint cards repeatedly rejected by the Department of Public Safety.
- E. Company applications must be notarized; however, individual security officer applications need not be.
- F. Out-of-State Company
1. Companies wishing to do business in Louisiana must either incorporate here or be duly qualified to do business within this state with a valid certificate of authority issued by the secretary of state, and shall have an agent for service of process designated as required by law.
 2. Out-of-state companies wishing to do business in Louisiana, who satisfied all the licensing requirements outlined in the law, may do so without examination if the state under which it holds a valid license has comparable licensing requirements. Verification of satisfactory completion of such other state's examination must be submitted to the board. If the out-of-state company is

licensed by a state that does not have licensing requirements comparable to those of Louisiana, then the company must satisfy all the licensing requirements outlined in R.S. 37:3270 et seq.

3. Fees for out-of-state companies are the same as for instate companies except that an out-of-state company shall be required to pay the board of the cost of transportation, lodging, and meals at the state rate when an examination of records is performed if those records are kept outside of the state.

G. It shall be unlawful for any individual to make an application to the board as qualifying agent unless that person intends to maintain and maintains that supervisory position on a regular, full-time basis.

H. Licenses issued by the board shall be valid for a one year period beginning from the date application was submitted to the board.

I. Renewal Provisions

1. A \$200 annual renewal fee must be submitted to the board 30 days prior to the expiration date of license. If there have been any changes in the status of the company, then a new company application must also be submitted, along with a \$20 application fee.

J. All material changes of facts affecting the licensee must be communicated to the board, in writing, within 10 calendar days. These changes of facts include the following:

1. change in any of the principal corporate officers or qualifying agent of a corporation, any partner in a partnership, or individual, noncorporate owners of a 25 percent or greater interest in the applicant;
2. termination of a branch manager;
3. change of business name;
4. change of business address;
5. change of business telephone number;
6. change of ownership if the business is a sole proprietorship.

K. Any change of the current listed principal officers in a corporation that is a licensee must be accompanied with a copy of the minutes electing the new officers and verification that these changes have been recorded with the secretary of states office.

L. A branch office of a board licensed company which desires to register with the board may do so on a voluntary basis at a fee of \$100 per year. A letter requesting to register a branch office, along with a current list of active security officers, including social security numbers, should be submitted to the board along with a \$100 check or money order made payable to the Louisiana State Board of Private Security Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:752 (December 1987), amended LR 15:12 (January 1989), LR 15:847 (October 1989), LR 26:1070 (May 2000).

Chapter 3. Security Officer Registration

§301. Qualifications and Requirements for Security Officer Registration

A. An applicant for security officer registration shall meet all of the qualifications and requirements specified in R.S. 37:3283 in addition to the rules herein.

B. An applicant for security officer registration shall meet all of the qualifications of a licensee as defined in R.S. 37:3276, except:

1. the applicant may be a resident alien;
2. the applicant must be at least 18 years of age if registered unarmed, or if registered to carry a baton;
3. the applicant must be at least 21 years of age if registered armed.

C. Any person who performs the functions and duties of a security officer shall fill out and file with the board an application form provided and approved by the board. The application must be either postmarked or received in the board office within 20 calendar days of the applicant's date of hire.

D. In addition to the completed application, the following documentation on the applicant shall be submitted to the board:

1. one set of classifiable fingerprints;
2. copy of DD-214 military discharge papers showing type of discharge, if applicable;
3. non-refundable application fee and fingerprint processing fee; and
4. if applicant has worked less than 20 calendar days, documentation must nevertheless be submitted, but without the required fees if a termination form is included showing the dates worked.

E. Applicant must sign the application to certify that the information he is providing the board is correct.

F. Licensee shall review the application to insure that it has been properly completed and signed by the applicant. Licensee shall sign the application to certify that the applicant will be given the required training.

G. Licensee shall cut off the portion of the application identified as "temporary registration card," have the applicant complete required information, and instruct applicant to carry temporary registration card at all times while on duty. Temporary registration card is valid until applicant receives a permanent registration card from the board.

H. An applicant who will be registered to carry a weapon must be trained in that weapon prior to carrying such weapon on a job site and verification of training must be submitted by the licensee to the board at the time application is made. If the applicant has not been trained, then the licensee shall register the applicant as unarmed until such time as required training has been received and proof of training submitted to the board. If the applicant receives the required weapons training within 15 days from his date of hire, and submits proof of such training on a board training verification form, then the board will change the status of the applicant from unarmed and no fee will be required. If the training is received after 30 days, then a \$10 status change fee must be submitted in accordance with the rule for status changes.

I. Licensee shall notify the board, in writing, within 10 calendar days of any change in an applicant's status, eligibility, address, or phone number.

J. Dual Registration

1. A security officer who works for more than one licensed security company must register with the board for each individual company.

2. Each company a security officer is employed with shall submit an application marked "dual registration" with the required application fee. The application must be either postmarked or received in the board office within 20 calendar days of the applicant's date of hire.

3. Each company that a security officer is employed with is responsible for insuring that officer is trained in accordance with R.S. 37:3284 and the rules herein.

K. Registration Card

1. A registration card will not be issued until an investigation determines that the applicant meets the requirements to become registered and verification of training has been received by the board that the applicant has successfully completed required training.

2. A registration card is valid for two years based on date of hire. It shall be in the form of a pocket card and shall be issued to the registrant through the licensee with whom he is employed. Registrant must sign the back of the card immediately upon receipt.

3. A registration card is the property of the Louisiana State Board of Private Security Examiners and must be surrendered to the board upon request.

4. Registration card classifications are as follows:

- a. revolver;
- b. straight baton;
- c. revolver and shotgun;
- d. 9MM and shotgun;
- e. revolver and baton;
- f. shotgun;
- g. shotgun and PR-24 baton;
- h. shotgun and baton;
- i. PR-24 baton;
- j. revolver and PR-24 baton;
- k. 9MM semiautomatic;
- l. 9MM and baton;
- m. unarmed;
- n. unarmed only;
- o. 9MM and PR-24 baton;
- p. 40 caliber semiautomatic; and
- q. 40 caliber semiautomatic and baton.

5. If a registration card is lost or mutilated, registrant is responsible. A \$10 fee will be assessed to issue a replacement card and registrant shall submit, in writing, to the board his name, social security number, registration card number, and circumstances surrounding loss or mutilation of card.

6. Prior to or after issuance of any registration card, the board may require documented evidence verifying the applicant meets, or continues to meet, all requirements to be registered with the board.

L. Reinstatement

1. A registrant who terminates employment from a licensee and is rehired within 30 calendar days by the same licensee may be reinstated by licensee submitting, in writing, a request to have registrant reinstated, accompanied by a \$10 reinstatement fee.

2. Written request must provide the security officer's name, social security number, date of termination, and date of reinstatement.

M. Renewal

1. The board will notify the licensee 60 days prior to the expiration date of the registration card of each registrant in their employ.

2. A renewal application and required renewal fee must be submitted to the board not less than 30 days prior to the expiration date of the registration card.

N. Emergency Assignment

1. Unarmed security officers may work emergency assignments a maximum of 20 calendar days within a six month consecutive period.

2. Registration requirements set forth in §301.D.4 apply.

3. Armed security officers must be registered with the board and have received all firearms training prior to working an armed post.

O. Status Change

1. A registrant's status may be changed from unarmed to armed, or vice versa, by submitting a letter to the board requesting a status change with a \$10 status change fee.

2. Firearms training verification must be received by the board before the officer's status can be changed to armed.

P. Re-Employment

1. When a registrant is re-employed by one licensee from another, the new licensee is responsible for insuring that the officer is trained, or has been trained in accordance with R.S. 37:3284 and the rules herein, and that proper documentation is, or has been, received by the board.

2. If registrant terminates employment with one employer and is reemployed within 30 calendar days, the new employer, within 20 days of such reemployment, shall submit to the board a reapplication on a form prescribed by the board, together with a reapplication fee paid by the new employer. The board shall then issue a new registration card reflecting the name or license number, or both, of the new employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:753 (December 1987), amended LR 15:11 (January 1989), LR 13:846 (October 1989), LR 18:191 (February 1992), LR 23:588 (May 1997), LR 26:1072 (May 2000).

Chapter 4. Training

§401. Training Programs

A. All board required training shall be administered by a licensed instructor. The board shall approve all training programs and shall develop training criteria outlining specific curriculum to be used in the instructing and training of all security officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:753 (December 1987), amended LR 15:12 (January 1989), LR 15:848 (October 1989), LR 18:192 (February 1992), LR 26:1072 (May 2000).

§403. Classroom Training

A. Any security officer employed after September 1, 1985 shall complete, within 30 days from his date of hire,

eight hours' classroom training under a board licensed classroom instructor.

B. Security officer shall have 60 days from date of first work assignment to complete an additional eight hours classroom training program which has been approved by the board.

C. Upon completion of each of the eight hour segments of the prescribed training, a 50 question examination shall be given to each security officer by the board licensed instructor. The first eight hour examination shall be different from the second eight hour examination, cover the required training topics, and be approved by the board prior to being administered. Minimum passing score is 70 percent.

D. All scores of such examinations must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed training verification form signed by the licensed instructor within 15 calendar days from completion of training.

E. Security officers who have been registered in other states who have licensing requirements similar to Louisiana, and law enforcement officers identified in R.S. 37:3284 may attend a four hour modular training program administered by a board licensed instructor. Upon completion of the four hour modular training, the officer shall take a 50 question examination, and if the security officer successfully passes the examination, this modular training shall be considered the equivalent to the classroom training provided for in R.S. 37:3284 and rules herein. If the security officer does not successfully pass the examination, then he must go through the entire classroom training program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:192 (February 1992), amended LR 23:588 (May 1997), LR 26:1072 (May 2000).

§405. Firearms Training

A. Armed security officers, in addition to the training requirements outlined in R.S. 37:3284 and in the rules herein, shall complete firearms training and range qualifications by a board licensed firearms instructor, as prescribed by the board, prior to working an armed assignment. Examination scores must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed verification form signed by the licensed instructor within 15 calendar days from completion of training.

B. Upon completion of the prescribed firearms training, a written examination will be given to each security officer by the board licensed firearms instructor. The examination shall cover the required training topics and be approved by the board. Minimum passing score is 70 percent.

C. Successful completion of firearms training also includes the security officer passing the board required firearms proficiency course by achieving a minimum marksmanship qualifying score of 75 percent.

D. Annual refresher firearms training, as outlined in paragraph F below, is due one year from the date of the last firearms training recorded at the board office. The anniversary date will not change if the training is taken within 30 days prior to said date.

E. Authorized Weapons. The following weapons are the only weapons authorized and approved by the board:

1. straight baton or PR-24 baton;
2. .357 caliber revolver, minimum four inch barrel with .357 or .38 caliber ammunition or .38 caliber revolver, minimum four inch barrel with .38 caliber ammunition only;
3. 9mm semiautomatic, minimum four inch barrel, double action;
4. shotgun and 40 caliber weapon, minimum four-inch barrel.

F. Handgun Proficiency Course. The handgun proficiency course shall have the following requirements:

1. a score of 80 percent required to qualify, 200 points out of 250 points;
2. an approved standard police or security firearms' target shall be used;
3. the caliber weapon trained with must be the same caliber weapon the security officer carries while on duty;
4. the handgun course of fire shall be:
 - a. at a distance of four yards:
 - i. 12 shots, unsupported, point shooting, without sights: 45 seconds:
 - (a). six shots, strong hand only;
 - (b). six shots, weak hand only;
 - b. at a distance of seven yards:
 - i. two shots, unsupported, two-handed with sights: 5 seconds (indexing these rounds);
 - ii. 12 shots, unsupported, two-handed with sights: 60 seconds;
 - iii. 12 shots, unsupported, two-handed point shooting: 60 seconds;
 - c. at a distance of 15 yards:
 - i. 12 shots, barricade, strong hand: 60 seconds;
 - ii. 12 shots, barricade, two handed with sights: 60 seconds:
 - (a). six shots, standing right barricade;
 - (b). six shots, standing left barricade.

G. Semiautomatic Handgun

1. Security officer must have successfully completed the board-required initial firearms training with a revolver prior to being trained with a semiautomatic handgun.
2. A board licensed semiautomatic firearms instructor must train the officer in the use of a semiautomatic handgun prior to him carrying such weapon on a job site. The board-licensed semiautomatic firearms instructor must meet the same qualifications of a firearms instructor as required by R.S. 37:3284.
3. Semiautomatic proficiency course used by the firearms instructor must be certified by the National Rifle Association, Department of Energy or P.O.S.T. and proof of such certification shall be submitted to the board for approval and verification.

H. Shotgun Proficiency Course. The shotgun proficiency course shall have the following requirements:

1. Training in use of shotgun is to be taught only if the security officer is required to carry a shotgun in the performance of his duties.
2. The shotgun course of fire shall be:
 - a. five rounds of buckshot (nine pellets only); 60 percent required to qualify out of 90 points possible on an NRA B-27 target. B-29 target may be used for 25 yards or 15 yards;

b. scoring: two points for each hit within the seven ring. One point for each hit outside the seven ring, in the black;

c. at a distance of 15 yards; two rounds, standing from the shoulder: 10 seconds;

d. at a distance of 25 yards; two rounds total from the shoulder; one round standing, two rounds kneeling. Time includes loading time with the shotgun starting from the "cruiser safe" position (chamber empty, magazine loaded, safety on): 20 seconds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:192 (February 1992), amended LR 23:588 (May 1997), LR 26:1073 (May 2000).

§407. Baton Training

A. Security officers carrying a straight baton as a weapon must successfully complete a minimum of eight hours of an initial straight baton training course approved by the board and administered by a board licensed straight baton instructor prior to carrying such weapon on duty. Security officer must also successfully complete a four hour annual refresher straight baton training program approved by the board.

B. Security officers carrying a PR-24 baton as a weapon must successfully complete a minimum eight hours of a prebasic PR-24 baton training course approved by the board and administered by a board licensed PR-24 baton instructor prior to carrying such weapon on post. Security officer must also successfully complete a four hour annual refresher PR-24 baton training program approved by the board.

C. The board licensed baton instructor must meet the same qualifications of a classroom instructor as required by R.S. 37:3284 and must possess a board recognized law enforcement baton certification.

D. Annual baton refresher training is due one year from the date of the last baton training recorded at the board office.

E. Security officers trained in baton must successfully pass a written examination administered by a board licensed baton instructor and achieve a minimum passing score of 70 percent. Examination scores must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed verification form signed by the licensed instructor within 15 calendar days from completion of training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:193 (February 1992), amended LR 23:589 (May 1997), LR 26:1073 (May 2000).

§409. Instructor Requirements, Responsibilities and Liability

A. The board shall collect the following instructor fees pursuant to R.S. 37:3286:

1. application fee	\$20
2. in-house/outside classroom license fee	\$50
3. in-house/outside firearms license fee	\$75
4. in-house/outside baton license fee	\$50
5. transfer application fee	\$20
6. in-house/outside classroom renewal license fee	\$50
7. in-house/outside firearms renewal license fee	\$75
8. in-house/outside baton renewal license fee	\$50
9. examination fee	\$25
10. reexamination fee	\$15

B. An applicant applying for an instructor license who does not successfully pass the required examination may reapply to take the examination twice within a six month period. If the applicant does not successfully pass the examination as required, the application shall be referred to the board for action.

C. Instructor Responsibilities and Liability

1. An in-house instructor who is covered under his employer's company insurance policy shall be required to have his employer submit a letter to the board stating that he is covered under the company policy for the teaching of security officers. If not covered under a company insurance policy, an instructor must provide a certificate of general public liability insurance in an amount as required by law, with the state of Louisiana named as an additional insured.

2. Licensed instructors are required to keep on file for three years records of training tests and any other documentation that verifies the test scores achieved by security officers they trained.

D. License Renewal

1. Instructor licenses issued by the board shall be valid for two years. Expiration date is based on the date the license is approved and issued.

2. To renew an instructor license, instructor shall submit to the board a renewal application form provided by the board and the required renewal fee 30 days prior to the expiration date of license.

E. Insurance Renewal. On or before the expiration date of the general liability insurance policy, instructor shall submit to the board a new certificate of insurance in an amount as required by law showing that insurance has been renewed and there has not been any lapse of coverage.

F. License Classification. Instructor licenses are categorized as follows:

In-House licensed with a security company and may only teach security officers employed with that company.

Outside licensed to train anyone in the state of Louisiana.

Outside Limited licensed to teach students at a training academy or educational institution. Instructor may only teach students of that particular institution

G. License Transfer

1. An instructor may transfer his license to another company by submitting to the board a transfer application, \$20 transfer fee, and proof of general liability insurance coverage.

2. An in-house instructor who desires to become an outside instructor shall submit a new instructor application, \$20 application fee, proof of general liability insurance and training program that will be used to teach the students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:194 (February 1992), amended LR 23:589 (May 1997), LR 26:1074 (May 2000).

Chapter 5. Criminal Background Checks

§501. Criminal Background Checks

A. Dispositions

1. If an applicant has been convicted of any crime that would prevent him from meeting the qualifications of a licensee or registrant as specified in R.S. 37:3276, it shall be incumbent upon the applicant to submit with his application documentation showing proof that he has been pardoned for that crime.

2. If an applicant possesses an arrest record as issued by the Louisiana State Police, Bureau of Identification, without the disposition thereof, it shall be incumbent upon the applicant, within 30 days, to provide the written disposition of his arrest from the district attorney's office or the criminal clerk of court's office from the judicial district in which the arrest occurred.

3. If the applicant does not provide the written disposition as required, the board shall have sufficient cause to deny the application.

B. Denial of Application Due to Conviction

1. If an applicant has a felony conviction, as evidenced by the background check run by the Louisiana State Police, Bureau of Identification, then his employment as a security officer must be terminated immediately unless he has provided the board with documentation showing proof that he has received a pardon or similar relief.

2. The board will notify the employer that the officer has been denied and it is incumbent upon the employer to submit to the board a termination notice within 10 calendar days after denial notification.

3. If the background check reveals a misdemeanor conviction that would disqualify the applicant under the provisions of R.S. 37:3270 through 3298 and the rules herein, he may continue to work pending the outcome of the appeal process.

4. If the applicant does not appeal the board's denial of his application due to his misdemeanor conviction, then the applicant must be terminated 30 days after receipt of written notice of denial from the board.

5. The board will notify the applicant and his employer if the application is denied and the reason therefor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:755 (December 1987), amended LR 15:13 (January 1989), LR 15:850 (October 1989), LR 18:194 (February 1992), LR 26:1074 (May 2000).

Chapter 6. Disciplinary Action

§601. Contested Proceedings

A. Before revoking or suspending a license or registration card, or imposing fines or costs over \$500, the board will afford the applicant an opportunity for a hearing after reasonable notice of not less than 15 days, except in a

case of a failure to maintain the required insurance or when a registrant is found carrying an unauthorized weapon while performing the duties of a security officer.

B. All requests for a hearing must be submitted in writing to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:756 (December 1987), amended LR 18:194 (February 1992), LR 26:1074 (May 2000).

§603. Final Decision and Orders

A. All final decisions and orders of the board shall be in writing and signed by the executive secretary or chairperson.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:195 (February 1992), LR 26:1074 (May 2000).

Chapter 7. Insignias, Markings, Restrictions

§701. Restrictions

A. No badge or insignia with the initials "SP" or "SO" may be worn on the uniform of a registrant.

B. A licensee shall not display red or blue emergency lights on any vehicle used on a security assignment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:757 (December 1987), amended LR 18:195 (February 1992), LR 26:1074 (May 2000).

Chapter 8. Licensee Suitability, Records, Investigations, and Registrant Violations

§801. Licensee's Suitability and Business Relationships

A. The board may deny an application, suspend, revoke, or restrict a licensee upon the vote of four concurring members when it finds that the licensee or business entity is unsuitable for the purpose of its license or endangers the health, safety, or welfare of the citizens of this state.

B. In determining the suitability of an applicant or licensee or other persons or business entities, the board may consider the following:

1. general character, including honesty and integrity;
2. financial security and stability, competency, and business experience in the capacity of the relationship; and
3. refusal to provide records, information, equipment, or access to premises to any authorized representative of the board, or any law enforcement officer when such access is reasonably necessary to insure compliance with R.S. 37:3270 through 3298 and the rules herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 15:14 (January 1989), LR 15:852 (October 1989), LR 18:195 (February 1992), LR 26:1075 (May 2000).

§803. Employee Records Required to be Kept and Subject to Inspection

A. The licensee is required to keep on file the following documentation on each registrant in their employment up to three years from date of termination. Such documentation is subject to inspection as may reasonably be required by an

authorized representative of the board during reasonable business hours:

1. current residence and phone number of all registrants;
2. copy of the application submitted to the board;
3. copy of training verification form submitted to the board and original training tests completed by any registrant trained by such company, and any other documented information on required training;
4. copy of registration card issued by the board; and
5. copy of termination notice.

B. An authorized representative of the board shall be defined as the executive secretary, investigator, or staff member of the board. Board members are not authorized to inspect employee records of licensees without the voting approval of the majority of the board at a public board meeting.

C. Licensee shall make available to any authorized representative of the board for inspection such employee records and other information as the board may reasonably require to insure compliance with R.S. 37:3270 through 3298 and the rules herein.

D. The board shall notify the company, in writing, 15 days prior to the conducting of a routine inspection of employee records.

E. A company will have no more than 30 days to comply with the board's written findings as a result of an inspection, in addition to paying any assessed administrative fines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 15:14 (January 1989), LR 18:195 (February 1992), LR 26:1075 (May 2000).

§805. Investigations

A. The board may investigate the actions of any licensee. The investigation shall be conducted for the purpose of determining whether a licensee is in compliance with R.S. 37:3270 through 3298 and the rules herein.

B. An investigation conducted by a duly authorized representative of the board is not to be construed as an inspection of files as described in §803.C hereof. It is an investigation of alleged violations by a licensee or registrant as a result of a complaint and is exempt from written and verbal notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 18:195 (February 1992), LR 23:589 (May 1997), LR 26:1075 (May 2000).

§807. Violations by Registrants

A. In addition to violations specified in R.S. 37:3270 et seq. and the other parts of these rules, the following shall be considered violations by a registrant:

1. performing security duties for any other person other than the licensee with whom he is registered;
2. failure to sign registration card;
3. failure to affix a photograph of registrant, taken within the last six months, to registration card;
4. failure to timely surrender registration card when required to do so;

5. possession or use of any registration card which has been improperly altered;
6. defacing of a registration card; and
7. allowing improper use of a registration card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 15:852 (October 1989), LR 18:195 (February 1992), LR 23:589 (May 1997), LR 26:1075 (May 2000).

§809. Inspection of Records

A. Licensee shall make available to any authorized representative of the board for inspection such employee records and other information as the board may reasonably require to ensure compliance with the Private Security Regulatory and Licensing Law and with these rules and regulations.

B. The board shall notify the company, in writing, 15 days prior to the conducting of a routine inspection of employee records.

C. The board shall notify the company, in writing, three days prior to conducting an inspection of their employee records brought on by a complaint.

D. A company will have no more than 30 days to comply with the board's written findings as a result of any inspection in addition to paying any fine assessed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 15:14 (January 1989), LR 15:852 (October 1989), LR 26:1075 (May 2000).

§811. Training Records

It is the responsibility of licensees and certified trainers to keep records of tests and firearms certification on training for each registrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), LR 26:1076 (May 2000).

§813. Unlawful Act

A. No person shall engage in the business of providing contract security services except in accordance with Chapter 7 and the rules and regulations adopted by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 15:852 (October 1989), LR 26:1076 (May 2000).

Chapter 9. Administrative Penalties

§901. Administrative Penalties Pursuant to R.S.

37:3288

A. Any person who is determined by the board, after reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Administrative Procedure Act, to have committed an act that is a violation of R.S. 37:3270 et seq., or any rule herein, is subject to an administrative penalty of not more than \$500 per violation; and/or denial, suspension, or revocation of a license or registration card; and/or imposition of probationary conditions or other restrictions including assessment of administrative costs incurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 18:196 (February 1992), LR 26:1076 (May 2000).

§903. Administrative Penalties Pursuant to R.S.

37:3288(B)

A. Licensees and registrants who violate provisions of R.S. 37:3270 et seq. and the rules herein may be assessed administrative penalties by the executive secretary in lieu of, but not limited to, bringing licensee or registrant before the board at a hearing.

B. Assessed administrative fines may be appealed by submitting to the board a written request to appear before the board at the next scheduled board meeting.

C. In accordance with R.S. 37:3288(B), administrative penalty schedule is as follows:

Penalty Fee Schedule	Not to Exceed
Licensee's failure to submit security officer application, fingerprint card, and/or necessary registration fees within prescribed time period. If the application, fingerprint card, and/or registration fees are not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500	\$25
Licensee's failure to resubmit fingerprint card after two written requests by the board when a deadline date is given. If the fingerprint card is not resubmitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500	\$25
Licensee's failure to notify the board in writing within prescribed time period of security officers in their employ who have been terminated. If termination is not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500	\$25
Licensee or registrant's failure to submit information as requested by the board when a deadline date is given. If information is not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500	\$25

Penalty Fee Schedule	Not to Exceed
Licensee's failure to submit company license renewal fee prior to expiration date	\$25/day up to \$500
Licensee's failure to submit renewal application and renewal fee for a registrant in their employ prior to expiration date. If the renewal application and renewal fee are not submitted within 14 days after deadline date, administrative fine accumulates at a date rate, not to exceed \$500	\$25
Licensee's failure to have registrant in their employ trained within prescribed time period. If registrant is not trained within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500	\$25
Licensee's failure to submit to the board a training verification form on a registrant in their employ within prescribed time period. If training verification is not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500	\$25
Registrant's failure to carry on his person a temporary or permanent registration card while on duty	\$25
Fingerprint cards repeatedly rejected by the Department of Public Safety as non-classifiable due to smudges, not being fully rolled, etc.	\$25
Registrant's performing security duties for any other person other than the licensee with whom he is registered	\$25
Registrant's failure to sign registration card	\$25
Registrant's failure to affix a photograph of registrant, taken within the last six months, to registration card	\$25
Registrant's failure to timely surrender registration card when required to do so	\$25
Registrant's possession or use of any registration card which has been improperly altered	\$25
Registrant's defacing of a registration card	\$25
Registrant's allowing improper use of a registration card	\$25
Registrant carrying an unauthorized weapon while on duty	not less than \$25 nor more than \$100
Licensee or registrant's submission of a check to the board that is returned from the bank deemed non-sufficient funds	\$25
Licensee allowing registrant to carry an unauthorized weapon while on duty	not less than \$25 nor more than \$100

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 15:14 (January 1989), LR 18:196 (February 1992), LR 26:1077 (May 2000).

§905. Request for Copies

A. Copies of these rules and regulations will be made available upon written request to the board, and a monetary fee will be assessed in accordance with the Division of Administration's rules governing public records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), LR 26:1077 (May 2000).

§907. Public Comments

A. Upon adoption of these rules and regulations, the board, if requested to do so by an interested person within 30 days after adoption, shall issue a concise statement of the principal reasons for and against its adoption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), LR 26:1077 (May 2000).

Wayne R. Rogillio
Executive Secretary

0005#018

RULE

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

**Crawfishing on Agricultural Lands Within
Sherburne WMA (LAC 76:VII.177)**

The Wildlife and Fisheries Commission does hereby repeal rules and regulations governing crawfishing activities on the agricultural lands on Sherburne WMA.

Title 76

WILDLIFE AND FISHERIES

Part VII. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

**§177. Crawfishing on Agricultural Lands Within
Sherburne WMA**

Repealed

Thomas M. Gattle, Jr.
Chairman

0005#020

RULE

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

Recreational Electronic Licensing (LAC 76:I.327)

The Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries do hereby supplant an existing rule on non-resident hunting and recreational fishing licenses with regulations on electronic licenses issuance.

Title 76

WILDLIFE AND FISHERIES

**Part I. Wildlife and Fisheries Commission and Agencies
Thereunder**

Chapter 3. Special Powers and Duties

Subchapter H. Electronic Licenses Issuance

§327. Recreational Electronic Licensing

A. In accordance with Act 164 of the 1998 first Extraordinary Session of the Louisiana Legislature, the secretary of the Department of Wildlife and Fisheries hereby establishes rules for electronic licenses issuance within the Department of Wildlife and Fisheries, providing regulations and qualification criteria of license vendors, criteria to accept or reject applications or suspend the licensee, and establish effective license authorization numbers.

B. The Department may enter into contracts to acquire electronic methods for issuing hunting and recreational fishing licenses within the State Purchasing regulations.

C. Effective June 1, 2000, all recreational licenses previously issued by non-electronic methods, shall be available through electronic issuing methods pursuant to these rules.

D. The secretary of the department shall have the authority to enter into contracts with license issuing agents (license vendors) for the purpose of distribution of electronic licenses. Licensing vendors shall be required to execute a contract provided by the Department which shall, at a minimum:

1. provide for a security deposit(s) by the vendor for electronic issuing equipment;
2. provide the mechanisms by which the electronic issuance and transfer of license fees shall be accomplished;
3. provide for compensation of licensing vendors in an amount not to exceed fifty-cents per license privilege, to be retained by the license vendor from license fees collected;
4. provide for other terms and conditions to be fulfilled by license vendors.

E. To qualify to become a license vendor, an applicant must complete the application, providing all required supporting documentation, sign a contract with the department, and pay security deposit(s) for equipment.

F. To remain qualified, a licensing vendor must abide by all terms and conditions of the contract executed with the department. Failure to do so may result in suspension of authority to participate in the program and subject the offender to other penalties as provided by law.

G. Funding for the electronic license system shall be provided from grants, license fees and other sources provided by law.

H. All payments for licenses sold shall be paid by bank transfer. The department shall specify the type of bank transfer(s) permitted.

I. Any vendor whose bank account is not sufficiently funded for three consecutive weeks, will be suspended from selling licenses until all funds due to the department have been satisfied. If any balance due from a suspended vendor is not paid within 60 days of written notification from the department, the vendor shall be dropped from the program, any balance due will be turned over for collection.

J. License vendors may only issue licenses to applicants who meet the requirements as set forth in R.S. 56, and who provide the required identification and documentation for the license.

K. Licensees who purchase licenses by telephone or Internet will be issued an effective license number (authorization number) that shall be effective immediately, or in accordance to dates provided therein, and will be valid for up to 14 days.

L. Out-of-state licensees obtaining privileges by electronic methods shall have in their possession picture identification issued by an agency of a state or the federal government. Louisiana residents shall possess identification as required in R.S. 56:8(12). R.S. 56:8(60.1) requires that the appropriate identification be in possession at all times when engaging in the activity for which the license was issued.

M. The secretary shall have the authority to provide for the implementation of lottery-type issues through electronic methods as provided herein.

N. If any provision of these regulations is held invalid, such invalidity shall not affect the other provisions of these regulations which can be given effect without the invalid provisions, and to this end the provisions of these regulations are hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(21) and R.S. 56:641.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Management and Finance, LR

24:505 (March 1998), amended by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:1078 (May 2000).

James H. Jenkins, Jr.
Secretary

0005#052

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Horticulture Commission

Qualifications for Examination and Licensure or Permitting (LAC 7:XXIX.105)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Horticulture Commission, hereby proposes to amend regulations regarding the age of applicants for examination.

The Department of Agriculture and Forestry, Horticulture Commission intends to adopt these rules and regulations for the purpose of allowing someone to apply and take an examination for licensure immediately prior to their 18th birthday.

These rules are enabled by R.S. 3:3801 and R.S. 3:3814.

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§105. Qualifications for Examination and Licensure or Permitting

All applicants for examination and licensure or permitting under the provisions of R.S.3:3801, et seq., must have attained their 18th birthday before taking an examination and before being issued a license or permit. Provided, however, that an applicant for examination who is 17 years of age, but who will attain his or her 18th birthday between regularly scheduled examinations make apply for and take the examination immediately prior to his or her 18th birthday. No applicant who qualifies to take an examination before his or her 18th birthday shall be issued a license or permit before attaining his or her 18th birthday.

B.- D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807, and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 20:639 (June 1994), LR 26:

All interested persons may submit written comments on the proposed rules through June 27, 2000, to Craig Roussel, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble concerning the proposed rules is available.

Family Impact Statement

The proposed amendments to rules LAC XXIX.105 regarding the age of applicants for examination 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;

the ability of the family or a local government to perform the function as contained in the proposed rule.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Qualifications for Examination and Licensure or Permitting

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no estimated implementation cost or savings to state or local governmental units. The proposed rule change will allow those individuals whose 18th birthday falls between scheduled exams to take the exam scheduled immediately prior to their 18th birthday.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collections to state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There could be an economic benefit to those individuals who would qualify to take the test earlier than allowed at present. If such an individual passes the test, they could begin employment sooner. The amount of time will vary with each such individual.

The impact on income should be minimal in the overall realm of things and will vary with each individual, making it difficult to estimate. This impact will be on individuals and not on any groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0005#078

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Advisory Commission on Pesticides

Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications (LAC 7:XXIII.145)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend regulations regarding the aerial application of an ultra low volume insecticide to be applied to cotton fields infested with boll weevils.

The aerial application of the insecticide is in accordance with the current concentration regulations have not been sufficient to control or eradicate the boll weevil. Failure to allow the concentrations in ultra low volume (ULV) Malathion applications will allow the boll weevil the opportunity to destroy the cotton bolls during the early 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.

These rules comply with and are enabled by LSA-R.S. 3:3203 and R.S. 3:3242.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Advisory Commission on Pesticides

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

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

A.4. ...

5. Unless further restricted by other regulations or labeling, the chemicals listed in §143.K above shall be applied in a minimum of five gallons of total spray mix per acre. With the following exceptions:

a. insecticides applied in the Boll Weevil Eradication Program, which shall be applied in accordance with their labels, all other agriculture pesticides, unless further restricted by other regulations or labeling, shall be applied in a minimum of one gallon of total spray mix per acre.

b. malathion insecticide applied with the following conditions to control boll weevil in cotton;

i. The Commissioner hereby declares that prior to making any aerial application of ULV Malathion 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 overflight between take-off and the commencement of spray operations, or overflight 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. There shall be no aerial spraying 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 applicators responsibility to determine if people are present prior to initiating treatment.

ix. Spraying will 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 rotorspan. For both fixed wing and helicopters, the program will accept the outermost nozzles between 60% and 75% of the wingspan/rotorspan. 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.

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. Differential

correction may be provided by fixed towers, portable stations, satellite, Coast Guard, or other acceptable methods. 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 3 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 3 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 3 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. When viewed on the monitor or the printed hard copy, the flight path will clearly differentiate between spray on and off. The software must be capable of replaying the entire flight in slow motion and stop and restart the replay at any point during the flight. Must be able to zoom to any portion of the flight for viewing in greater detail and print the entire flight or the zoomed-in portion. Must have a measure feature that will measure distance in feet between swaths or any portion of the screen. Must 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 shall be at an application rate of 12 oz. per acre with no dilutions or tank mixes.

xxxv. Applications of ULV malathion shall not be made prior to May 20.

xxxvi. Applications of ULV malathion 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), LR 26:

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through the close of business June 27, 2000 at 5825 Florida Blvd., Baton Rouge, LA 70806. A public hearing will be held on these rules on June 27, 2000 at 9:30 a.m. at the address listed above. 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.

Family Impact Statement

The proposed amendments to rules XXIII.145 regarding the aerial application of an ultra low volume insecticide to be applied to cotton fields infested with boll weevils 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.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No estimated implementation cost or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No estimated effect on revenue collections to state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated economic benefits to the aerial applicators will be passed on to the farmers. The savings is estimated to be \$2.00 per acre. There is estimated to be 75,000 acres of cotton planted in the Red River Eradication Zone of the Boll Weevil Eradication Program. It is estimated that one to one and one-half applications will be made to this 75,000 acres.

The cost to aerial applicators is estimated to be \$30,000.00 per airplane to install the Differentially Corrected Global

Positioning System (DGPS) and the flight data logging software.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No estimated effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0005#077

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences
Advisory Commission on Pesticides**

Pesticide Restrictions (LAC 7:XXIII.143)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend regulations regarding applications of certain pesticides in certain parishes.

The Department of Agriculture and Forestry, Advisory Commission is proposing to amend these rules and regulations for the purpose of adding Wards 1, 3, 4 and 10 of Point Coupee so that certain pesticides shall not be applied by commercial applicators between March 15 and September 15.

These rules comply with and are enabled by LA-R.S. 3:3203 and R.S. 3:3223.

Title 7

Agriculture And Animals

Part XXIII. Advisory Commission on Pesticides

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

§143. Restriction on Application of Certain Pesticides

A. - B. 15. ...

C. The pesticides listed in §143.B shall not be applied by commercial applicators between March 15 and September 15 in the following parishes:

- | | |
|-------------------------------|--|
| 1. Avoyelles | 14. Madison |
| 2. Bossier | 15. Morehouse |
| 3. Caddo | 16. Natchitoches |
| 4. Caldwell | 17. Ouachita |
| 5. Catahoula | 18. Pointe Coupee,
Ward 1, 2, 3, 4 and 10 |
| 6. Claiborne, Ward 4 | 19. Rapides |
| 7. Concordia | 20. Red River |
| 8. DeSoto, Ward 7 | 21. Richland |
| 9. East Carroll | 22. St. Landry, Wards
1, 4, 5 and 6 |
| 10. Evangeline, Wards 1, 3, 5 | 23. Tensas |
| 11. Franklin | 24. Union |
| 12. Grant | 25. West Carroll |
| 13. LaSalle | 26. Winn, Ward 7 |

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 19:791

(September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998) LR 26:

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through the close of business on June 27, 2000 at 5825 Florida Blvd., Baton Rouge, LA 70806. A public hearing will be held on these rules on June 27, 2000 at 9:30 a.m. at the address listed above. 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 necessary.

Family Impact Statement

The proposed amendments to rules XXIII.143 regarding applications of certain pesticides in certain parishes 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.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pesticide Restrictions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units. The Louisiana Department of Agriculture and Forestry intends to amend the rules and regulations for the purpose of adding Wards 1, 3, 4, and 10 of Point Coupe Parish so that certain pesticides shall not be applied by commercial applicators between March 15 and September 15.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups. This rule change is intended to make the Departments rule consistent with current practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0005#079

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Board of Certified Public Accountants**

Certified Public Accountants
(LAC:XIX.Chapters 1-21)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and of R.S. 37:74, the Board of Certified Public Accountants of Louisiana gives notice of its intent to revise LAC 46:XIX. The objective of this action is to adopt, amend and repeal rules in response to changes in the Louisiana Accountancy Act, Act No. 473 of 1999, enacted on June 18, 1999. The action is necessary because many of the current rules became outdated or inapplicable based on changes in the state's accountancy law. The revised rules are the result of extensive review and study by the Board's Rules Committee. In addition, aside from the significant changes in the law affecting the regulation of CPAs and CPA firms, the Louisiana Accountancy Act made changes in where certain provisions appeared in R.S. 37:71-95. Therefore, changes have been made in the location or order of existing rules along with renaming, renumbering, and reordering the rule chapters and sections. No preamble has been prepared with respect to the revised rules which appear below.

Implementation of the proposed rules will have no known effect upon family stability, functioning, earnings, budgeting; the responsibility and behavior of children; or, parental rights and authority, as set forth in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XIX. Certified Public Accountants

Chapter 1. Definitions

§101. Definition of terms used in the Rules

A. The definitions included in the act are used herein with the following additions which apply to LAC 46:XIX, unless otherwise indicated in following chapters:

Act the Louisiana Accountancy Act, Act No. 473 of the 1999 Regular Session of the Louisiana Legislature, or as it may hereafter be amended.

CPA Examination the examination which constitutes part of the requirement for a certificate as a Certified Public Accountant (CPA).

Practice in Louisiana

a. performing or offering to perform professional services as a CPA or CPA firm for a Louisiana based client; or

b. maintaining an office in the state to provide professional services arising out of or related to the specialized knowledge or skills associated with CPAs; or (c) providing any professional service that is restricted to licensees by the act, regardless of whether the service provider physically enters the state. "Louisiana based client" refers to an individual who is domiciled or resides in Louisiana, and with respect to corporations, partnerships, LLCs, LLPs, or other organizations, such term includes those entities with a substantial business presence in Louisiana, including without limitation, those having executive offices, major divisions, or a principal place of business located in Louisiana.

B. Masculine terms shall include the feminine and, when the context requires, shall include firms.

C. Where the context requires, singular shall include the plural or plural shall include the singular.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 6:1 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1112 (September 1997), LR 26:

Chapter 3. State Board of Certified Public Accountants of Louisiana

§301. Officers

The officers shall be chairman, secretary, and treasurer. The duties of the respective officers shall be the usual duties assigned to the respective office. The newly elected officers shall assume the duties of their respective offices on the first day of the month following the election of the officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997), LR 26:

§303. Fiscal Year

The fiscal year of the board shall end on June 30 of each year. The annual meeting shall be held as soon as practical after the close of the fiscal year, at which meeting the board shall elect its officers who shall serve until the next annual meeting or until their successors assume their duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997), LR 26:

§305. Duties of the Secretary

A. The duties of the secretary include, but are not limited to the following.

1. It shall be the duty of the secretary to determine when the prerequisites and procedures required by the act and by the board for taking the CPA examination have been satisfactorily completed by an applicant.

2. The secretary shall determine when, in his opinion, the prerequisites and procedures required by the act and by the board shall have been satisfactorily completed in respect to issuance of certificates and/or firm permits and he shall submit at each meeting of the board, for its approval or disapproval, current tabulations thereof, listing the names of the persons concerned.

3. The secretary shall list in the minutes of the board all persons approved for the issuance of certificates and/or firm permits and all persons whose certificates and/or firm permits are revoked, suspended, expired, or reinstated.

4. It shall be the responsibility of the secretary to see that official registers of all persons who have received certificates or firm permits from the board are maintained.

5. It shall be the responsibility of the secretary that annual listings of all certified public accountants, registrants in inactive status, and CPA firms are maintained.

6. The secretary may delegate duties related to his areas of responsibility to the Executive Director and/or other board personnel as may be appropriate in the circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997), LR 26:

§307. Duties of the Treasurer

A. The duties of the treasurer include, but are not limited to:

1. responsibility for the maintenance of the accounts of the board and the preparation of a financial report once a year, as of June 30; and

2. submittal of an annual budget to the board for its approval.

3. The treasurer may delegate duties related to his areas of responsibility to the Executive Director and/or other board personnel as may be appropriate in the circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997), LR 26:

§309. Meetings

A. Any public meeting may be called by the chairman or by joint call of at least two of its members, to be held at the principal office of the board, or at such other place as may be fixed by the board. Regularly scheduled board meetings are usually held on the last working days of January, April, July and October.

B. Meetings of the board shall be conducted in accordance with *Robert's Rules of Order* insofar as such rules are compatible with the laws of the state governing the board or its own resolutions as to its conduct. The chairman or presiding officer shall be entitled to vote on every issue for which a vote is called.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), LR 9:207 (April 1983), and LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1067 (November 1991), LR 23:1113 (September 1997), LR 26:

§311. Monthly Compensation

A. The officers of the board shall receive compensation of \$150 per month and other members shall receive \$100 per month. This compensation shall be for time expended by such members in conducting and/or monitoring examinations, attending board meetings and hearings, issuing of certificates and firm permits, conducting investigations, and discharging other duties and powers of the board.

B. A new appointee to the board shall be seated at the first board meeting he attends following his qualification as required by R. S. 37:74. A new appointee's compensation shall commence the month he is seated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:6 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1119 (September 1997), LR 26:

§313. Paid Out of Treasury

The compensation of board members and all other necessary expense incurred by the board in carrying out its duties as well as expense for operating the office of the board, conducting investigations (including the hiring of investigators and counsel), examinations and the issuance of firm permits and certificates shall be paid out of the treasury of the board.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:6 (January 1980), LR 26:

§315. Duties of the Executive Director

The Executive Director shall manage the day-to-day affairs of the board's office, supervise the personnel of the board and perform such other duties as may be assigned from time to time by the board. The board may delegate appointing authority to the Executive Director with respect to agency staff positions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 26:

§317. Substance Abuse and Drug-Free Workplace Policy

The board has adopted a written Substance Abuse and Drug-Free Workplace Policy applicable to employees, appointees, prospective employees and prospective appointees requiring testing for illegal drugs and unauthorized substances in accordance with R.S. 49:1001, et seq. and Executive Order 98-38.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 26:

§319. Assessment of Application, Annual and Other Fees

A. Examination, certification, firm permit application, renewal, and other fees shall be assessed by the board in amounts not to exceed the following:

Application fees:	
CPA examination fee	\$ 250
Service charge for refund of examination fee	\$ 50
Original or reciprocal certification application	\$ 100
Reinstatement of certificate application	\$ 100
Firm permit application	\$ 100
Annual fees:	
Renewal of certificate	\$ 100
Registration CPA inactive status	\$ 60

Renewal of firm permit	\$ 15
per owner (unlicensed in LA) not to exceed	\$5,000
Notice of substantial equivalency	\$ 100
Other fees in amounts not to exceed:	
Temporary (provisional) licenses	\$ 100
Replacement of a CPA certificate	\$ 50*
Transfer of grades transfer fee	\$ 25
Written verifications	\$ 25

Delinquent and other fees are cited in the act and applicable rules

B. *A replacement certificate shall be issued at the holder's request upon payment of fee and compliance with the following requirements:

1. in the event of a certificate which has been lost, the loss must be advertised in an appropriate newspaper for at least five times in 30 days and the request for replacement must be accompanied by a sworn statement that the certificate is lost and that the loss has been advertised in accordance with this rule;

2. in the event of a certificate which has been mutilated, the mutilated certificate must be returned to the board and if it is mutilated beyond the point of being able to be identified, the request must also be accompanied by a sworn statement that the return document is, in fact, the certificate;

3. if the request for replacement is to have a change in the name in which the certificate is issued, the original certificate must be returned to the board and the request must be accompanied by the appropriate documentation of the name change.

C. Returned Check. A fee not to exceed \$25 will be assessed against each person who pays any obligation to the board with a returned check. Failure to pay the assessed fee within the notified period of time shall cause the application to be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, Promulgated and amended LR 6:8 (January 1980), amended LR 9:209 (April 1983), LR 11:758 (August 1985), LR 13:13 (January 1987), and LR 15:619 (August 1989), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:

Chapter 5. Qualifications; Education and Examination

§501. Definition

Accredited University or College a university or college accredited by any one of the six regional accreditation associations: the Southern Association of Colleges and Schools; Middle States Association of Colleges and Schools; New England Association of Schools and Colleges; North Central Association of Colleges and Secondary Schools; Northwest Association of Schools and Colleges; and Western Association of Schools and Colleges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1119 (September 1997), LR 26:

§503. Educational Requirements

A. To be eligible for examination and certification by and under auspices of the board, after December 31, 1996, an applicant shall possess a baccalaureate or higher degree,

duly conferred by an accredited university or college recognized and approved by the board, and shall have, in the course of attaining such degree, or in addition thereto, received credit for not less than 150 hours of postsecondary, graduate, or postgraduate education at and by an accredited college or university approved by the board. The applicant shall present evidence which shall consist of one or more official transcripts certifying that the applicant has attained the foregoing degree and educational hours, and said transcripts shall evidence award of credit for satisfactory completion of the following courses and credit hours, according to whether such courses and credits are taken as an undergraduate course and semester hour or a graduate course and semester hour.

	Undergraduate Semester <u>Hours</u>	Graduate Semester <u>Hours</u>
Accounting Courses:		
Intermediate	6	3
Cost	3	3
Income tax	3	3
Auditing	3	3
Accounting Electives:	9	9
3 semester hours from one of the following:		
Advanced Financial Accounting,		
Not-for-profit Accounting/Auditing,		
Theory		
6 semester hours in accounting above the basic and beyond the elementary level		
Total Accounting Courses	24	21
	Undergraduate Semester <u>Hours</u>	Graduate Semester <u>Hours</u>
Business Courses		
(other than Accounting Courses):	24	24
Including at least 3 semester hours in Commercial Law, as it affects accountancy for CPA examination candidates		
Total Business Courses	24	24

1. The board will accept for business course credit semester hours earned in courses offered through the institution's College of Business and reported on official transcripts in the following areas:

- a. commercial law;
- b. economics;
- c. management;
- d. marketing;
- e. business communications;
- f. statistics;
- g. finance;
- h. information systems;
- i. mathematics (as it pertains to business);
- j. technical writing (covering subjects as opinions, tax planning reports, and management advisory service reports and management letters);
- k. computer science;
- l. CPA examination review courses if the curriculum is developed and taught in a classroom environment by a faculty member under contract at the

accredited college or university which is offering the course for credit.

2. Up to six semester hours in industry-specific business courses may be used to satisfy the business courses requirement described in §503.A.1.

3. Up to six semester hours for internship may be applied to the 150-hour requirement, but may not be used to meet the accounting or business courses requirement.

4. Standard conversion (four quarter hours equals three semester hours) will be applied whenever a school is not on the semester basis.

5. Remedial courses may be applied to the 150-hour requirement, but may not be used to satisfy the accounting or business courses requirement.

6. Credit hours for repeated courses for which credit has been previously earned may not be applied to the 150-hour requirement.

B. An applicant who has taken an examination approved by the board prior to December 31, 1996 shall not be required to receive credit for 150 hours in accordance with §503.A until his eligibility expires in accordance with this Subsection. Such applicants remain eligible to take any examination administered by the board prior to December 31, 1999, and shall thereafter be eligible, subject to applicable rules and regulations of the board, if conditioned on examination prior to December 31, 1999 to take sections of the examination in order to pass all sections of the examination. Candidates who have earned conditional credit(s) which expire after December 31, 1999 shall remain eligible until the expiration of the conditional credit(s). After expiration of their conditional credit(s) they shall be required to show completion of 150 semester hours before reapplying to take any other CPA examination in Louisiana.

C. In the event that the applicant's degree does not reflect the credit hours in the courses prescribed by §503.A, the board may, on good cause shown by the applicant, allow the substitution of other courses that, in the board's judgment, are substantially equivalent to any of such prescribed courses or to the credit hours prescribed therein. Documentation of good cause for any such requested substitution shall be submitted by the applicant to the board upon affidavit sworn to and subscribed by the applicant and an officer of the university, college or other educational institution where the course to be substituted was taken. Such affidavit shall set forth a course description of the course sought to be substituted and a comparison of the content of such course to that of the course for which substitution is requested.

D. If the applicant's degree does not reflect the credit hours in the courses prescribed by §503.A, an applicant may become eligible for examination and certification by and under the auspices of the board by having otherwise taken and completed the courses required by this rule and received credit for satisfactory completion thereof awarded by an accredited university, college, vocational or extension school recognized and approved by the board.

E. With respect to courses required for the degree, other than those specified by §503.A, the board does recognize credit received for courses granted on the basis of advanced placement examinations (such as CLEP, ACT or similar examinations). Except for correspondence courses at an accredited university approved by the board, the accounting

and business course credits specifically listed in §503.A shall have been awarded pursuant to satisfactory completion of a course requiring personal attendance at classes in such course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:616 (August 1989), LR 17:1070 (November 1991), LR 23:1120 (September 1997), LR 26:

§505. Examination

A. The examination shall consist of:

1. the Uniform Certified Public Accountant Examination prepared and graded by the American Institute of Certified Public Accountants; or

2. if applicable, the International Uniform CPA Qualification Examination (IQEX) prepared and graded by the American Institute of Certified Public Accountants.

B. Qualifications

1. Application. The board shall examine candidates for examination as a CPA.

a. Examinations are ordinarily held in May and November of each year. Candidates for these examinations shall file complete application forms. A complete application is one that is properly filled out, including payment of the required examination fee and, if an initial application, accompanied by all required official transcripts.

b. Applications for the May examination are due in the office of the board's agent no later than 5 p.m., March 1. Applications for the November examination are due in the office of the board's agent no later than 5 p.m., September 1. If the last day for filing falls on a Saturday, Sunday or state of Louisiana holiday, the due date will be extended to include the next state of Louisiana working day.

c. First time or transfer-of-grades candidates who have not taken their accounting courses in Louisiana must include a copy of the course description(s) of all accounting courses not clearly identified by titles listed in §503.A.

2. Residency Requirements

a. In addition to the requirements set forth in §503, an applicant for an initial examination must meet the following residency requirement:

i. reside in the state for a period of 120 consecutive days within the one-year period prior to the date of the candidate's initial examination; or

ii. during the period of a temporary residency outside of Louisiana, the applicant has maintained a permanent legal residence in Louisiana, to which he intends to return.

3. Fee Refund. If, after filing his application, a candidate is unable to sit for the CPA examination, he must so notify the agent of the board not later than seven working days prior to the first day of the examination; otherwise, the fee shall be forfeited. A service charge will be assessed on all refunds of examination fees.

C. Special Procedures. All examinations must be completed in the time allotted by the board. To comply with the requirements of the American with Disabilities Act (ADA) the board may authorize modification to the time allotted.

D. Board Responsibilities

1. Grade Decision. The board shall not be required to furnish the reason for any grades which it shall grant or for any decision which it may reach with respect to the examination process.

2. Lost Examinations. In the event that examinations are lost, any claim candidates may have against the State Board of Certified Public Accountants of Louisiana, its agents and employees will be limited to the examination fee paid.

E. Grades

1. Applicants shall each be given an identifying ID number and only this ID number shall be used on examination papers for identification purposes.

2. A candidate must sit for all the sections for which he is scheduled in order to receive his grades and to be able to sit for the next examination.

3. In order to pass the examination a candidate must receive a grade of at least 75 in each section.

4. The following rule shall apply for conditional credit:

a. if a grade of 50 or more is made in each section, a candidate who passes at least two sections at a single examination shall receive credit for the sections passed, conditioned upon his passing the remaining section or sections as set forth in §505.E.4.b;

b. a candidate who has received credit for passing at least two sections of the examination, as set forth in §505.E.4.a, shall be required to remove the condition in any of the next six consecutive examinations but shall receive no credit for passing a section or sections at any examination in which he makes a grade of less than 50 in any other section.

5. Grades below 40. Any candidate who makes a grade below 40 (39 or lower) in any section will not be allowed to take the next consecutive examination. This rule does not apply to conditioned candidates.

6. Transfer of Grades. Grades shall be accepted from other states when a candidate for transfer of grades has met all the requirements of Louisiana candidates except that he sat for the examination in another state.

a. Applicant must have completed the education requirements of §503 prior to sitting for the examination in the other state. An exception to this rule will be allowed for a bona fide resident of another state who took the exam in his state of residency which did not have the 150 hour requirement. Such applicants may complete their education requirements after sitting for the exam.

b. Applicant shall submit a completed initial application with an official transcript from an accredited college or university and a statement from an officer of the state board from which he is transferring as to dates of passing the examination and grades made.

c. An applicant for transfer of grades who has conditioned in another state must meet the conditional credit rules of §505.E.4 to retain his conditional credit and to remove his condition.

d. In addition to meeting the requirements for a transfer of grades, the applicant shall be required to pay a transfer fee at the time he request the transfer.

F. Each candidate shall be notified by mail, on the date specified by the American Institute of Certified Public Accountants, of the grades earned by him in each section of

the examination. No information concerning grades will be released until such date.

G. Cheating

1. Cheating by an applicant in applying for or taking the examination will invalidate any grade otherwise earned by a candidate on any part of the examination, and may warrant summary expulsion from the examination room and disqualification from taking the examination for a time period as prescribed by the board.

2. For purposes of this rule, the following actions, among others, may be considered cheating:

a. falsifying or misrepresenting educational credentials or other information required for admission to the examination;

b. communication between candidates inside or outside the examination room or copying another candidate's answers while the examination is in progress;

c. communication with others outside the examination room while the examination is in progress;

d. substitution of another person to sit in the examination room in the place of a candidate; or

e. reference to crib sheets, textbooks or other material inside or outside the examination room while the examination is in progress.

3. In any case where it appears to the board or its designee, while the examination is in progress, that cheating has occurred or is occurring, the board or its designee may either summarily expel the candidate involved from the examination or move the candidate to a position in the room away from other examinees where the candidates can be watched more closely.

4. Any person who receives from or discloses to another person any of the contents of a CPA examination which is classified as a nondisclosed examination shall be subject to disciplinary action by the board.

5. In any case where probable cause has been determined that a candidate has cheated on an examination, or where a candidate has been expelled from an examination, the board shall comply with the provisions of R.S. 37:81 to determine the facts, and penalty, if any. The penalty shall be in the sole discretion of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71, et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 9:208 (April 1983), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1068 (November 1991), LR 23:1119 (September 1997), LR 26:

Chapter 7. Qualifications; Application for CPA Examination

§701. Application Forms

Application for examination and/or certification as a certified public accountant shall be made on the appropriate forms provided by the board. Reproduction of these forms shall not be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), LR 26:

§703. Initial Application

A. First time or transfer candidates or applicants must complete an initial application form. An official transcript from each institution at which original credit toward the educational requirements was earned must accompany the initial application form. Official evidence of baccalaureate or higher degree conferral must be included, regardless of any other degrees the candidate has earned.

B. Candidates or applicants who have completed courses in fulfillment of the educational requirement in institutions outside Louisiana are required to submit course descriptions of all accounting and business courses not clearly identified by titles as listed in §503.

C. Candidates or applicants who have completed educational requirements at institutions outside the U.S. must have their credentials evaluated by the Foreign Academic Credentials Service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, Promulgated and amended LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1122 (September 1997), LR 26:

§705. Originals or Certified Copies Required

All documents required to be submitted must be the original or certified copies thereof. For good cause shown, the board may waive or modify this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 26:

§707. Rejection or Refusal of Application

The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form and received in the board's office; or for applications for the CPA examination, received in the office of the board's agent by the appropriate due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1069 (November 1991), LR 26:

§709. Fees

Each application for examination, certification, or firm permit shall be accompanied by a fee set by the board. In no event may a fee timely filed exceed \$250. Should such application be rejected, the fee less any service charge shall be refunded. If a Louisiana candidate requests that he be allowed to sit in a state that requires a proctoring fee, he shall be required to pay the proctoring fee. Additional information on fees is included in Chapter 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1069 (November 1991), LR 26:

Chapter 9. Qualifications for Initial Certificate

§901. Eligibility for an Initial Certificate; Experience Requirements

A. To be eligible for initial certification, an applicant shall present proof, documented in a form satisfactory to the board, that he has obtained such professional experience as is prescribed by §903.

B. To be eligible for reinstatement of a certificate which has expired by virtue of nonrenewal, or which was registered in inactive status because an exemption from CPE had been granted, the applicant must satisfy the requirements of §1105.D.

C. In satisfaction of the experience requirement, the applicant must submit such substantiating written statements and documentation in such form as the board shall require, from employers or others who have actual knowledge of such facts. Complete applications are due as prescribed in §1105.A. Written statements confirming an applicant's experience must be submitted with the application. An application received without proper support, or support received without the application, is not acceptable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 4:234 (June 1978), LR 6:7 (January 1980) and LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1069 (November 1991), LR 26:

§903. Qualifying Experience

A. The experience required to be demonstrated for issuance of an initial certificate pursuant to R.S. 37:75(G) shall meet the requirements of this rule.

1. Experience may consist of providing any type of services or advice using accounting, attest, management advisory, financial advisory, tax, or consulting skills. Such experience shall be of sufficient depth and quality and have been supervised by an active certificate holder or one from another state who has significant exposure to and review of the applicant's work.

a. Evidence of the applicant's supervision by a certificate holder and experience shall be submitted to the board. Supervision shall be of sufficient duration as determined by the board and may be evidenced by:

i. supervision in using accounting, attest, management advisory, financial advisory, tax, or consulting skills by a certificate holder having a managerial level one or more positions above the applicant's level; or

ii. employment by a firm or organization using the services of outside CPAs during the term of the applicant's employment. The applicant must have been responsible for providing information, explaining systems and procedures, and/or preparing schedules and analysis; or

iii. such other forms of supervision or oversight as the board considers adequate.

2. The applicant shall have their experience verified to the board by a certificate holder or one from another state. Acceptable experience shall include employment in government, industry, academia, or public practice. The board shall look at such factors as the complexity and diversity of the work.

a. Complexity and diversity of experience includes:

i. responsibility and the use of professional judgment in accounting, attest, management advisory, financial advisory, tax, or consulting skills;

ii. employment as a teacher of subjects primarily in the accounting discipline for an accredited college or university as defined in §501.

(a). The applicant shall have taught courses for academic credit in at least three different areas of accounting above the introductory or elementary level. Examples of these areas are intermediate accounting, advanced accounting, governmental accounting, international accounting, accounting theory, cost or managerial accounting, income taxes, auditing, and accounting information systems.

(b). The applicant shall have taught an accumulated course load of 24 semester hours or its equivalent for a period of no less than one year in the four years immediately preceding the date of application.

3. Any certificate holder who has been requested by an applicant to submit to the board evidence of the applicant's experience and has refused to do so shall, upon request by the board, explain in writing or in person the basis for such refusal.

4. The board may require any certificate holder who has furnished evidence of an applicant's experience to substantiate the information.

5. Any applicant may be required to appear before the board or its representative to supplement or verify evidence of experience.

6. The board may inspect documentation relating to an applicant's claimed experience.

B. One year of experience may consist of full-time or part-time employment that extends over a period of no less than one year and no more than four years. Experience shall be obtained within the immediate four-year period preceding the application. Part-time employment shall consist of no fewer than 2,000 hours of performance of services as described in Paragraph 2 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 4:223 (June 1978), LR 6:7 (January 1980) and LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:617 (August 1989), LR 23:1122 (September 1997), LR 26:

Chapter 11. Issuance and Renewal of Certificate §1101. Certificate

A. When an applicant has met all the requirements for certification, the board shall issue to him a certificate that he is a certified public accountant in the state of Louisiana. All such certificates shall be valid only when signed by the chairman and secretary of the board.

B. Prior to the issuance of his certificate, each such applicant shall be required to execute an oath as prescribed by the board. In addition, the board may require an examination in ethics.

C. R.S. 37:75(H) provides only for the issuance of the certificate for the year 1999. Any restriction in effect as of June 17, 1999 that had been imposed upon any individual as a result of a board proceeding, consent order or settlement agreement remains in effect. With respect to subsequent

years, certificates shall be renewed or reinstated in conformance with the requirements of R.S. 37:76 and related board rules.

D. R.S. 37:75(I) provides for the granting of a certificate under the act to individuals who, except for the experience requirement, met the requirements to become a CPA that existed at June 17, 1999. Accordingly, R.S. 37:75(I) pertains to individuals who, prior to June 18, 1999, the effective date of the act, previously held a valid certificate issued under former law. Such individuals are included as eligible to apply for a certificate under R.S. 37:75(I) irrespective of whether such individuals were currently registered in good standing as of the effective date of the act, but provided that any certificate or license that was not in good standing as of June 17, 1999, was unrelated to a suspension, restriction, revocation, or a relinquishment which resulted from a board disciplinary action, consent order, or settlement agreement.

1. Prior to obtaining a certificate under the act, individuals referenced by the R.S. 37:75(I) are required to renew and register their inactive status with the board annually and pay the annual renewal fee.

2. The experience required to be furnished to the board to be issued a certificate under the act must conform to all of the requirements of R.S. 37:75(G) and related board rules and must be submitted with an application form provided by the board for this purpose and with the applicable fee.

3. R.S. 37:75(I) is only available for an initial certificate after June 17, 1999 under the act. Subsequent to any issuance of a certificate under R.S. 37:75(I), renewals and applications for reinstatements of the certificate must conform to the requirements of R.S. 37:76 and related board rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1124 (September 1997), LR 26:

§1103. By Reciprocity

A. Definition

In Good Standing means the applicant is in compliance with the rules and regulations of the appropriate licensing board, including payment of the annual registration fee, and any penalties and other costs attached thereto. In the case of board-imposed disciplinary or administrative sanctions, the applicant must have complied with all of the provisions of the appropriate licensing board order.

B. The board shall issue a certificate to an applicant pursuant to R.S. 37:76(C)(2) who holds a valid and in good standing certificate, license or permit issued by a substantially equivalent state as determined by the board or its designee. The applicant's experience shall be substantially equivalent to the requirements of R.S. 37:75(G) and the rules there under.

1. Verification of substantial equivalency under R.S. 37:94(A)(1) and R.S.37:94(A)(2) may be made by the board or its designee.

2. Any individual entering this state under provisions of R.S. 37:94 must notify the board of their intent no less frequently than annually and pay any designated fee.

C. For those applicants who do not qualify for reciprocity under the substantial equivalency standard, the board shall issue a certificate to a holder of a valid and in good standing certificate, license or permit issued by another state upon showing that:

1. the applicant possesses a baccalaureate degree or higher and satisfies the educational requirements of §503; and

2. the applicant has successfully completed the Uniform Certified Public Accountant examination. Successful completion of the examination means that the applicant passed the examination in accordance with the rules of the other state at the time it granted the applicant's initial certificate and in the opinion of the board such rules for examination are substantially equivalent to Louisiana's examination rules;

3. the scores achieved by the applicant on all examinations are certified to the board by the state which issued the applicant's original certification; and

4. the applicant has no less than four years experience as described in R.S. 37:75 during the ten years immediately preceding the date on which the application for reciprocity certification is received by the board;

5. if the applicant's initial certificate, license, or permit was issued more than four years prior to the date of application, he/she must have fulfilled the continuing education requirements as described in §1301.A.

D. An applicant otherwise eligible for reciprocity certification under §1103.C, except for possession of a baccalaureate degree, or the credit for not less than 150 hours of university or college education, shall nonetheless be eligible for reciprocity certification by the board, provided that the applicant's original, initial certification as a certified public accountant by any state was issued on or before September 1, 1975, or the applicant has been in active, continuous practice as a certified public accountant for not less than four years during the 10 years immediately preceding the date on which the applicant's application for reciprocity certification is received by the board.

E.1. Applicants for reciprocal certificates shall not be required to reside or have a place for the regular transaction of business in Louisiana, but shall be required to take the CPA oath.

2. A CPA who has established a principal place of business in Louisiana must obtain a reciprocal certificate. Principal place of business is defined as a primary location in Louisiana where the applicant conducts his or her practice or business activity.

3. Complete applications for reciprocal certificates must be received in the board's office 30 days prior to a regular board meeting (§309).

F. Foreign Credentials - Reciprocity Based on Equivalent Experience

1. The board may designate a professional accounting credential issued in a foreign country as substantially equivalent to a CPA certificate.

a. The board may rely on the International Qualifications Appraisal board for evaluation of foreign credential equivalency.

b. The board may accept a foreign accounting credential in partial satisfaction of its domestic credentialing requirement if:

i. the holder of the foreign accounting credential met the issuing body's education requirement and passed the issuing body's examination used to qualify its own domestic candidates; and

ii. the foreign credential is valid and in good standing at the time of application for a domestic credential.

2. The board may satisfy itself through qualifying examination(s) that the holder of a foreign credential deemed by the board to be substantially equivalent to a CPA certificate possesses adequate knowledge of U.S. standards and the board's regulations. The board may rely on the National Association of State Boards of Accountancy, the American Institute of Certified Public Accountants, or other professional bodies to develop, administer, and grade such qualifying examination(s). The board will specify the qualifying examination(s) and process by policy.

3. An applicant for renewal of a CPA certificate originally issued in reliance on a foreign accounting credential shall:

a. apply for renewal at the time and in the manner prescribed by the board for all other certificate renewals;

b. pay such fees as are prescribed for all other certificate renewals.

4. If the applicant has a foreign credential in effect at the time of the application for renewal of the CPA certification, he/she must present documentation from the foreign accounting credential issuing body that the applicant's foreign credential has not been suspended or revoked and the applicant is not the subject of a current investigation. If the applicant for renewal no longer has a foreign credential, the applicant must present proof from the foreign credentialing body that the applicant for renewal was not the subject of any disciplinary proceedings or investigations at the time that the foreign credential lapsed; and either show completion of continuing professional education substantially equivalent to that required under §1301.A. within the three year period preceding renewal application, or petition the board for complete or partial waiver for the CPE requirement based on the ratio of foreign practice to practice in the State.

5. The holder of a CPA certificate issued in reliance on a foreign accounting credential shall report any investigation undertaken, or sanctions imposed, by a foreign credentialing body against the CPA's foreign credential.

6. Suspension or revocation of, or refusal to renew, the CPA's foreign accounting credential by the foreign credentialing body may be evidence of conduct reflecting adversely upon the CPA's fitness to retain the certificate and may be a basis for board action.

7. Conviction of a felony or any crime involving dishonesty or fraud under the laws of a foreign country is evidence of conduct reflecting adversely on the CPA's fitness to retain the certificate and is a basis for board action.

8. The board shall notify the appropriate foreign credentialing authorities of any disciplinary actions imposed against a CPA.

9. The board may participate in joint investigations with foreign credentialing bodies and may rely on evidence supplied by such bodies in disciplinary hearings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974,

promulgated LR 6:7 (January 1980), amended LR 9:208 (April 1983), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1069 (November 1991), LR 23:1121 (September 1997), LR 26:

§1105. Certificate application, Annual renewals, Inactive registration, Reinstatement, Notification under substantial equivalency

A. Applications

1. Applications for initial or reciprocal certificates pursuant to R.S. 37:76(F) shall be made on an original form provided by the board, and shall be submitted on or before the last day of the month preceding the month in which a regularly scheduled meeting of the board is held in order for such application to be considered by the board at that meeting.

2. Applications shall contain all of the information required by the board including but not limited to information regarding the satisfaction and verification of the experience requirements of R.S. 37:75(G) and other requirements as required by the act or by the board.

B. Renewals and current year reinstatement - Certificates

1. Each certified public accountant shall renew his certificate annually on or before the last day of December preceding the year for which renewal is applicable.

2. The board shall mail the necessary forms for renewal of certificates to the last known address of each certified public accountant on or before the first day of December each year.

3. Certificates expire on the last day of each calendar year.

4. The board shall mail a notice of default to the last known address of each certified public accountant who fails to renew his certificate on or before the renewal date provided in §1105.B.

5. Application for annual renewal of certified public accountant certificates shall be made on forms furnished by the board and shall be accompanied by renewal fees fixed by the board. The fee for annual renewal of a certificate shall not exceed \$100. Reproduction of renewal forms shall not be accepted.

6. The board may reinstate any certificate which has expired because of nonrenewal in the current year, upon payment of the renewal fee and such penalty fee as may be prescribed by the board, provided that the applicant for such renewal is otherwise completely qualified for certification.

7. A delinquent renewal fee equal to the current renewal fee shall be assessed against those certified public accountants who have not renewed prior to February 1st; and a reinstatement renewal fee equal to twice the current renewal fee shall be assessed against those persons whose certificates have expired for failure to register prior to March 1st.

8. A certified public accountant whose certificate has expired and has not been reinstated prior to April 16th of the current year shall submit an application, subject to board approval, for reinstatement of a current year certificate. In addition to the renewal fee and the other renewal fees assessed in Paragraphs 6 and 7 above, the board may assess an additional fee within the limits prescribed by law.

9. In addition to the above fees, a fee may be assessed against those certified public accountants who have received three suspensions within the previous six years.

10. For good cause, the board may waive or suspend in whole or in part any of the fees provided for in this Section.

11. Certified public accountants who have not timely renewed their certificates are in violation of R.S. 37:83 and therefore may be subject to the provisions of R.S. 37:81.

12. Failure to Timely Remit or Respond

a. No certificate of any certified public accountant who has failed to timely remit full payment of any fees, fines, penalties, expenses, or reimbursement of costs incurred by the board, which the certified public accountant owes the board or has been ordered to pay to the board shall be annually renewed, or reinstated.

b. The board may refuse to renew, or to reinstate, any certificate of any certified public accountant who has failed to comply with §1707.H.

C. Annual registration of CPA Inactive status

1. Each person entitled to use the designation "CPA inactive" under R.S. 37:76(D)(2) and R.S. 37:75(I) shall register such "CPA inactive" status annually on or before the last day of December preceding the year for which renewal is applicable.

2. Application for annual registration of "CPA inactive" status shall be made on forms furnished by the board and shall be accompanied by renewal fees fixed by the board. The fee for the annual registration shall not exceed \$60. Reproduction of renewal forms shall not be accepted.

3. The board shall mail the necessary annual registration forms to the last known address of each "CPA inactive" registrant the first day of December each year.

4. Annual registration expires on the last day of each calendar year.

5. The registrant shall affirm upon each annual registration form that he will abide by the applicable statutes and rules of the board governing the use of the designation "CPA inactive".

6. The board may reinstate the "CPA inactive" registration of any person upon the payment of the current year registration fee plus the registration fees for all years since the registrant was last registered.

D. Reinstatement of Certificate of Certified Public Accountant

1. An individual whose certificate has expired by virtue of nonrenewal, or who was registered in inactive status because an exemption from CPE had been granted in a preceding year, shall present proof in a form satisfactory to the board that he has:

a. satisfied the experience requirements prescribed in R.S. 37:75(G) within the four years immediately preceding the date of the application for reinstatement; and,

b. satisfied the requirements for continuing professional education for the preceding reporting period as specified in §1301.A.

2. Continuing education courses used to reinstate a certificate under Subsection 1.b above may be used to satisfy the requirements of either the preceding or current CPE reporting period but not both periods.

3. Applications for reinstatement of certificates pursuant to R.S. 37:76(F) shall:

a. be made on a form provided by the board;

b. be submitted on or before the last day of the month preceding the month in which a regularly schedule

meeting of the board is held in order for such application to be considered by the board at that meeting; and

c. contain all of the information required by the board including but not limited to information regarding the satisfaction and verification of the experience and continuing education requirements referred to in Subsection 1.(b).

E. Notification of practice under substantial equivalence

1. Prior to practicing in Louisiana, an individual holding a valid CPA certificate or license issued by another state shall file notice with and upon a form provided by the board. Such person who satisfies the requirements of R.S. 37:94 and board rules regarding substantial equivalency will be granted the privilege to practice as a CPA in Louisiana. Individuals intending to practice in Louisiana under R.S. 37:94 shall annually file such notice of intent to practice with the board.

2. The initial notice and each subsequent notice shall be accompanied by the fee of \$75.

3. An individual CPA granted practice rights under this Subsection may offer or perform non-attest services in Louisiana in his own name as an unincorporated sole practitioner.

4. If an individual CPA granted rights under this Subsection offers or performs attest services, or offers or performs other professional services through any other form of practice or legal entity that would otherwise be eligible and required to have a CPA firm permit in Louisiana, such entity may be granted a permit to practice in accordance with this Subsection. Qualifications and requirements for a permit under this Subsection include the following:

a. the firm's name, address and other required information must be included in the notices required under this Subsection;

b. the firm may not have an office or physical address in Louisiana;

c. the firm has and maintains a valid permit issued by another state that was issued by that state under requirements that are substantially equivalent to Louisiana's requirements;

d. if attest services will be offered or performed, the firm must confirm that it is subject to a peer review program acceptable to the board;

e. all individual CPAs in the firm who are responsible for professional services in Louisiana have also individually obtained practice rights in Louisiana;

f. an individual CPA with practice rights shall serve as the firm's designated licensee;

g. the practice rights granted to the firm may be suspended, restricted, or revoked by the board if:

i. the rights granted to the individual CPA(s) under this Subsection expire, are restricted, suspended or revoked for cause;

ii. the firm fails to comply with the act or the board's rules;

h. no firm permit or renewal fees, except for the fees for individual CPAs provided for in this Subsection, shall be assessed for permits granted under this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974,

promulgated and amended LR 6:8 (January 1980), amended LR 9:209 (April 1983), LR 11:758 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:

§1107. Change in Address or Practice Status

All certified public accountants, individuals registered in inactive status, and individuals who have the privilege to practice under substantial equivalency shall promptly notify the board in writing within thirty (30) days of any change in mailing address or practice status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended LR 9:209 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1125 (September 1997), LR 26:

Chapter 13. Maintenance of Competency; Continuing Professional Education (CPE)

§1301. Basic Requirements

A. Each certificate holder shall participate in at least 120 hours of continuing professional education every three years. The hours of a certificate holder to whom §1301.E.2 applies shall be reduced pro rata for the compliance period containing his effective date.

1. Certificate holders who participate in attest engagements shall complete at least 20 percent of the required hours in the subject area described in §1307.A.1 in fulfilling the above requirements, effective for the compliance period beginning January 1, 2001. Certificate holders participating in attest engagements include those responsible for conducting substantial portions of the procedures and those responsible for planning, directing, or reporting on attest engagements. Persons who "plan, direct, and report" generally include the in-charge accountant, the supervisor or manager, and the firm owner who signs or authorizes someone to sign the attest engagement report on behalf of the firm.

2. All certificate holders shall complete at least two hours of Professional Ethics that include a review of the State Board's Rules of Professional Conduct (LAC 46:XIX). In order to qualify, the contents of an Ethics course must have been pre-approved by the board.

3. Personal development hours cannot exceed twenty-five percent of the total qualifying CPE.

4. Each certificate holder shall triennially, when making application for certificate renewal, submit requested information on the prescribed form including a signed statement confirming the number of continuing education hours in which the certificate holder has participated during the reporting period.

B. Exemption. The board may grant an exemption from CPE in accordance with R.S. 37:76(D)(2). In order to be granted an exemption, the certificate holder must register in inactive status and follow the provisions of §1707.C.

C. An individual who held a license on June 17, 1999 or was issued a certificate on or after June 18, 1999 who wishes to reenter practice after having allowed such license or certificate to lapse must present proof, documented in a form satisfactory to the board, that he has satisfied the requirements for continuing professional education for the preceding period as specified by §1301.A.

D. The board may at its sole discretion grant extensions of time or waivers to complete the required continuing education requirements for hardship situations and for medical reasons.

E. Effective Date

1. As to any certificate holder who was licensed as of January 1, 1998, the effective date of these requirements was January 1, 1998; except for §1301.A.1, which will be effective January 1, 2001.

2. As to any individual who obtains an initial certificate, the effective date of these requirements shall be January 1, of the year after his initial certificate was issued.

F. Compliance Period

1. The first compliance period for continuing professional education was the three-year period ended December 31, 1982, and subsequent compliance periods shall end on December 31 each third year thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:4 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:614 (August 1989), LR 23:1116 (September 1997), LR 26:

§1303. Standards for Programs

A. Program Development

1. The program shall contribute directly to the professional competence of the participants.

2. The stated program objectives shall specify the level of knowledge the participant should have obtained or level of knowledge he should be able to demonstrate upon completing the program.

3. The education and/or experience prerequisites for the program should be stated.

4. Programs shall be developed by individual(s) qualified in the subject matter.

5. Program content shall be current.

6. A program shall be reviewed by an individual(s) qualified in the subject matter and knowledgeable in instructional design, other than the preparer(s).

B. Program Presentation

1. Participants should be informed in advance of objectives, prerequisites, experience level, content, advance preparation, teaching methods, and continuing professional education credit.

2. Instructors, lecturers or speakers should be qualified with respect to program content and teaching method used.

3. The number of participants and physical facilities should be consistent with the teaching method(s) specified.

4. Written evaluations shall be solicited from participants for each program, and summarized to provide an effective means for evaluating program quality, and retained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:4 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:614 (August 1989), LR 23:1116 (September 1997), LR 26:

§1305. Programs which Qualify

A. The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which

contributes directly to the professional knowledge and professional competence of an individual certificate holder. Formal programs of learning are those programs that are designed, and primarily intended, as educational activities, and comply with all CPE standards. Magazines and reference materials are not designed as educational programs nor do they comply with CPE standards. Accordingly, examinations on magazine articles or reference materials will not qualify for credit unless a formal program of learning was developed in addition to the examination. CPE credit will not be allowed for programs which have content that is in violation or is not in compliance with the act or rules of the board.

B. Continuing education programs qualify if they meet the above standards and if:

1. a written outline of the program is prepared in advance and preserved;
2. the program is at least one hour (50 minute period) in length; and
3. a record of registration and attendance or test results is maintained.

C. The following are deemed to be qualifying programs:

1. Accredited University or College Courses as defined in §501. Credit and non-credit courses earn continuing education credit as set forth in §1309.A.

2. Formal correspondence or other individual study programs, (including text books, audio or visual tapes, computer disc, CD-ROM, or internet based study programs), which require registration and provide evidence of satisfactory completion as set forth in §1309.B.

3. Formal live classroom study programs, including educational programs of recognized national and state professional organizations.

4. Technical sessions at meetings of recognized national and state professional organizations and their chapters.

5. Formal organized in-firm educational programs.

D. The board may look to recognized state or national professional organizations for assistance in interpreting the acceptability of and credit to be allowed for individual courses.

E. The responsibility for substantiating that a particular program is acceptable and meets the requirements rests solely upon the certificate holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated as LR 6:5 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:614 (August 1989), LR 17:1068 (November 1991), LR 23:1118 (September 1997), LR 26:

§1307. Subjects which Qualify

A. The following general subject matters are acceptable as long as they contribute to the professional knowledge and professional competence of the individual certificate holder and are relevant to the services rendered or to be rendered by the individual certificate holder in public practice, industry, academia or government.

1. Accounting and Auditing. This field of study includes accounting and financial reporting subjects, pronouncements of authoritative accounting principles

issued by the standard-setting bodies and any other related subject generally classified within the accounting discipline. It also includes auditing subjects related to the examination of financial statements, operations systems, and programs; the review of internal and management controls; and the reporting on the results of audit findings, compilations, and reviews. It also includes assurance services that relate to standards for attest engagements.

2. Consulting. This field of study deals with all advisory services provided by professional accountants. Services provided that encompass those for management such as designing, implementing, and evaluating operating systems for organizations as well as business advisory services and personal financial planning. The systems include those dealing with planning, organizing and controlling any phase of individual financial activity or business activity. Subjects may include designing and implementing a computer system to process the financial and management operations of a business; litigation support services and the related fields of law; personal financial planning services; investment planning for individuals or organizations; and management advisory services. This Subsection is primarily for consultants in public practice; however, internal consultants employed by a business entity providing advisory services within the entity may also use these subjects.

3. Taxation. This field of study includes subjects dealing with tax compliance and tax planning. Compliance covers tax return preparation and review and IRS examinations, ruling requests, and protests. Tax planning focuses on applying tax rules to prospective transactions and understanding the tax implications of unusual or complex transactions. Recognizing alternative tax treatments and advising on tax saving opportunities are also part of tax planning.

4. Management. This field of study considers the management needs of individuals in public practice, industry, and government. Acceptable subjects for individuals in public practice concentrate on the practice management area, such as organizational structures, marketing services, and administrative practices. For individuals in industry or government, there are subjects dealing with the financial management of the organization, including information systems, budgeting, asset management, as well as buying and selling businesses, contracting for goods and services, cost analysis and foreign operations. In general, the emphasis in this field is on the specific management needs of certificate holder's and not on general management skills.

5. Specialized Knowledge and Applications. This field of study treats subjects targeted to specialized industries, such as not-for-profit organizations, health care, oil and gas. An industry is specialized if it is unusual in one or more of the following ways: form of organization, economic structure, legislation of regulatory requirements, marketing or distribution, terminology, technology; and either employs unique accounting principles and practices, encounters unique tax problems, requires unique advisory services, or faces unique audit issues. This area applies to certificate holders in the three employment areas, i.e., public practice, industry, and government. A certificate holder would use this classification for courses not already

reportable under categories listed in §1307.A.1 - 4, such as Medicare cost reporting or rate regulations in the telephone and utility industry.

6. Personal Development. Personal Development is the field of study which includes self-management and self-improvement both inside and outside of the business environment. It includes issues of quality of life, interpersonal relationships, self-assessment, and personal improvement. Personal Development courses are intended to be more of a self-improvement category, as compared to courses that are directly related to the certificate holder's job duties or job requirements. Courses above the basic skill level that otherwise might qualify as Personal Development courses may be claimed in the management area or the consulting area if they relate to the certificate holder's job duties or job requirements.

7. Professional Ethics. Professional Ethics includes the study of the codes of professional ethics applicable to all CPA registrants and their effect on business decisions.

B. Special rules

1. For purposes of categorizing courses, a course may be categorized in its entirety based on the majority of its content.

2. Courses which have product or service sales as their underlying content shall not qualify for CPE credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated as LR 6:5 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:615 (August 1989), LR 23:1117 (September 1997), LR 26:

§1309. Credit Hours Granted

A. Class Hours

1. Only class hours or the equivalent (and not student hours devoted to preparation) will be counted.

2. Continuing education credit will be given for whole hours only, with a minimum of 50 minutes constituting one hour. As an example, 100 minutes of continuous instruction would count for two hours; however, more than 50 minutes but less than 100 minutes of continuous instruction would count only for one hour. For continuous conferences, conventions and other programs when individual segments are less than 50 minutes, the sum of the segments will be considered equal to one total program.

3. Credit courses at accredited universities or colleges shall earn 15 hours of continuing education for each semester hour of credit. A quarter hour credit shall equal 10 hours.

4. Continuing education credit allowable for noncredit short courses at accredited universities or colleges shall equal time in class in accordance with §1309.A.2.

B. Individual Study Program. The amount of credit to be allowed for correspondence and formal individual study programs is to be recommended by the program developer. These programs shall be pre-tested by the developer to determine the average completion time. Credit will be allowed in the period in which the course is completed as indicated on the certificate of completion.

1. Noninteractive self-study programs shall receive CPE credit equal to one-half the average completion time.

2. Interactive self-study programs shall receive CPE credit equal to the average completion time provided the course developer is registered as an *interactive self-study course* developer with either the AICPA, NASBA, or a State Society of CPAs, and the developer confirms that the course is an *interactive self-study course*.

a. An interactive self-study program is one which simulates a classroom learning process by providing ongoing responses and evaluation to the learner regarding his or her learning progress. These programs guide the learner through the learning process by:

i. requiring frequent student response to questions that test for understanding of the material presented;

ii. providing evaluative responses and comments to incorrectly answered questions; and

iii. providing reinforcement responses and comments to correctly answered questions.

b. Ongoing responses, comments, and evaluations communicate the appropriateness of a learner's response to a prompt or question. Such responses, comments, and evaluations must be frequent and provide guidance or direction for continued learning throughout the program by clarifying or explaining assessment of inappropriate responses, providing reinforcement for appropriate responses, and directing the learner to move ahead or review relevant material. It is the response of the learner that primarily guides the learning process in an interactive self-study program. Not all technology based self-study programs constitute interactive programs. Technology based self-study programs must meet the criteria set forth in the definition of interactive self-study programs, as must other self-study programs developed using different modes of delivery.

3. CPE program developers shall keep appropriate records of how the average completion time of self-study programs was determined.

C. Service as Lecturer or Speaker

1. Credit for one hour of continuing professional education will be granted for each hour completed as a lecturer or speaker to the extent it contributes directly to the individual's professional knowledge and competence and provided the program would qualify for credit under these rules. Credit for such service will be awarded on the first presentation only, unless a program has been substantially revised.

2. In addition, a lecturer or speaker may claim up to two hours of credit for advance preparation for each teaching hour awarded in §1309.C.1, provided the time is actually devoted to preparation.

3. The maximum credit for teaching and preparation, cannot exceed 50 percent of the three-year requirements under these rules.

D. Writing of Published Articles, Books, CPE programs, etc.

1. Credit for writing published articles, books, and CPE programs will be awarded in an amount determined by the board representative provided the writing contributes to the professional competence of the certificate holder. The board and author shall mutually approve this representative. CPAs requesting this service will be charged a fee; the fee is to be negotiated and agreed upon prior to the engagement.

2. The maximum credit for preparation of articles and books cannot exceed 25 percent of the three-year requirement under these rules.

3. Credit, if any, will be allowed only after the article or book is published.

E. Committee Meetings, Dinner and Luncheon Meetings, Firm Meetings

1. Credit will be awarded for participation in committee meetings, dinner and luncheon meetings, etc. provided the program portion thereof meets the other requirements of these rules.

2. Credit will be awarded for firm meetings or meetings of management groups if they meet the requirements of these rules. Portions of such meetings devoted to administrative and firm matters cannot be included.

F. CPE for completion of exams

1. CPE credit may be allowed for the successful completion of exams for Certified Management Accountant (CMA), Certified Information Systems Auditor (CISA), Certified Financial Planner (CFP), as well as other similar exams.

2. Credit will be awarded at a rate of 5 times the length of each exam taken and limited to 50 percent of the three-year requirement.

G. CPE Credit for Reviewers. Credit will be granted for actual time expended reviewing reports for the board's positive enforcement programs as determined by the board and approved by the board's practice monitoring administrator provided the reviewer completes and returns the assigned checklist(s), in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated as LR 6:5 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:615 (August 1989), LR 17:1068 (November 1991), LR 23:1118 (September 1997), LR 26:

§1311. Maintenance of Records and Control

A. Participants in formal CPE programs shall retain the documentation of their participation in CPE programs for a period of five years after the end of the calendar year in which the program is completed. Participants in formal CPE programs shall also retain advance materials, which should include the requirements set forth in §1303.B.1, and other promotional material which reflects the content of a course and the name of the instructor(s) in the event the participant is requested by the board to substantiate the course content.

B. Acceptable evidence of completion includes, but is not limited to, the following:

1. for group programs, a certificate of attendance or other verification supplied by the sponsor which includes:

- a. sponsorship organization;
- b. location of course;
- c. title and/or description of content;
- d. dates attended; and
- e. the qualifying hours recommended by the course sponsor;

2. for individual study programs, a certificate supplied by the sponsor after satisfactory completion of a workbook, an examination, or an interactive course that confirms the name of the sponsor, the title and/or description of the course contents, the date of completion and the qualifying hours recommended by the course sponsor;

3. for a university or college course that is successfully completed for credit, an official transcript reflecting the grade earned;

4. for instruction credit, evidence obtained from the sponsor of having been the seminar lecturer or speaker at a program in addition to the items required by §1311.B.1; and

5. for published articles, books, or CPE programs, evidence of publication.

6. for completion of exams, evidence of satisfactory completion and qualifying hours of length of exam taken.

C. Sponsors shall furnish a record of attendance or completion to participants, which includes the requirements set forth in §1311.B and retain same information.

D. Practitioners, partners, members, or shareholders and employees of a firm of certified public accountants will not be required to maintain the above records personally if the firm has a policy of maintaining such records for its members and professional employees and does maintain the records required herein for the required time and reports such information to each person at least once each year.

E. Each sponsoring organization shall maintain records of programs sponsored which shall show:

1. that the programs were developed and presented in accordance with the standards set forth in §1303-1305. If a program is developed by one organization and sponsored by another, the sponsoring organization shall not be responsible for program development standards and related record maintenance if:

a. it has reviewed the program and has no reason to believe that program development standards have not been met; and

b. it has on record certification by the developing organization that the program development standards have been met and that the developing organization will maintain the required records relative thereto.

F. The CPE program sponsor shall maintain records and information required under these rules for a period of five years after the end of the calendar year in which the CPE course was completed.

G. Records required under this rule shall be maintained for five years and shall be made available to the board or its designee(s) for inspection at the board's request.

H. Failure of a CPE program sponsor to comply with the CPE standards shall be cause for the board to deny credit for courses offered by the CPE sponsor until such time as the CPE sponsor can demonstrate to the board that the compliance standards are being met.

I. The board specifically reserves the right to approve or disapprove credit for all continuing education under this state board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:5

(January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:615 (August 1989), LR 23:1118 (September 1997), LR 26:

Chapter 15. Firm Permits to Practice; Attest Experience; Peer Review

§1501. CPA Firm Permits; Attest Experience; Application, Renewal, Reinstatement

A. Any firm which provides attest services or which uses the title "CPA", "CPAs", "CPA firm", "Certified Public Accountant", "firm of Certified Public Accountants", or similar such designations must obtain and hold a valid and current firm permit issued by the board under R.S. 37:77(A). The use of any of the above titles or designations anywhere on firm letterhead, business cards, electronic correspondence, advertisements or publications, promotional materials, or any other publicly disseminated medium by a firm not holding a valid and current firm permit is not allowed if it implies the existence of an entity that holds a current and valid firm permit issued by the board under the provisions of R.S. 37:77(A).

1. The board may require a firm applying for issuance, renewal or reinstatement of a firm permit to provide any and all information and/or documentation that the board deems appropriate and necessary to ensure the firm's compliance with all provisions of the act.

2. Any CPA firm organized as and/or represented as a professional accounting corporation is considered to be using the title "firm of certified public accountants" and therefore must hold a firm permit, pursuant to R.S. 37:77(A).

3. "Active individual participants" as referred to in R.S. 37:77(C)(2)(b) means natural persons, firms, associations, partnerships, corporations, or other business organizations or entities, in which all owners of such entities must provide personal services in the CPA firm or its affiliated entities in the nature of management, performance of services for clients, performance of services which assist the certificate holders within the firm in providing professional services, or similar activities; and,

4. A person or entity which makes or holds a passive investment in a CPA firm or its affiliated entities for the purposes of receiving income from the firm or its affiliated entities shall not constitute "active individual participation" as referred to in R.S. 37:77(C)(2)(b).

5. A certificate holder responsible for supervising attest services, or who signs or authorizes someone to sign accountant's reports on behalf of the firm, shall meet the experience requirements set out in AICPA professional standards.

a. Until the time as the AICPA promulgates such professional standards, the requisite experience applicable to certificate holders and firms who are issued certificates or permits after June 18, 1999 is as follows:

i. at least one year (i.e., 2,000 hours) experience in audit, review, or compilation engagements in which the individual was directly supervised by an active certificate holder who had previously met this same requirement;

ii. it is the responsibility of the firm and the certificate holder to determine that this experience requirement has been met.

6. All firms holding a valid registration as a certified public accounting firm June 18, 1999 shall be deemed to have met the initial firm permit requirements.

B. Firm Permits

1. Applications by firms for initial issuance and for renewal of permits pursuant to R.S. 37:77 shall be made on a form provided by the board. Applications will not be considered filed until the applicable fee, all requested information, and the required documentation prescribed in these rules are received.

2. A firm registered pursuant to R.S. 37:77 shall file with the board a written notification of any of the following events concerning the practice of public accountancy within this State within 30 days after its occurrence:

- a. change in the firm's designated licensee;
- b. formation of a new firm;
- c. addition of a new partner, member, manager or shareholder;
- d. any change in the name of a firm;
- e. termination of the firm;
- f. change in the management of any office in this State;
- g. establishment of a new office location or the closing or change of address of an office location in this State;

h. the occurrence of any event or events which would cause such firm not to be in conformity with the provisions of the act or any rules or regulations adopted by the board.

3. In the event of any change in the legal form of a firm, such new firm shall within 30 days of the change file an application for an initial permit in accordance with board rules and pay the fee required by the rules.

4. Samples of original letterhead must also be included with permit and renewal applications. Names of licensed partners, shareholders, members, managers and employees, and names of non-licensee owners, may be shown on a firm's stationery letterhead. However, names of licensed partners, shareholders, members and managers shall be separated from those of licensed employees by an appropriate line. Licensees shall be clearly identified and the names of non-licensee owners shall be separated from the name of licensees by an appropriate line.

5. Any firm which falls out of compliance with the provisions of R.S. 37:77 due to changes in firm ownership or personnel after receiving, renewing, or reinstating a firm permit shall notify the board in writing within thirty days of the occurrence of changes which caused the firm to fall out of compliance with R.S. 37:77.

a. Such notification shall include an explanation as to how and why the firm is not in compliance and the date upon which the firm fell out of compliance with R.S. 37:77.

b. The firm shall also provide any additional information or documentation the board may request concerning the firm's noncompliance with R.S. 37:77.

6. Within thirty days of written notification to the board that the firm is not in compliance with R.S. 37:77, the firm shall notify the board in writing that the firm has taken corrective action to bring the firm back into compliance.

a. Such notification shall include a description of the corrective action taken, and the dates upon which the corrective action was taken.

b. The firm shall also provide any additional information or documentation the board may request

concerning the corrective actions taken to ensure the firm's compliance with R.S. 37:77.

7. For good cause shown, the board may grant additional time for a firm to take corrective action to bring the firm into compliance with R.S. 37:77.

8. Any firm permit suspended or revoked for failure to bring the firm back into compliance within the time period described above, or within the additional time granted by the board, may be reinstated by the board upon receipt of written notification from the firm that the firm has taken corrective action to bring the firm back into compliance. Such notification shall include a description of the corrective action taken, the dates upon which the corrective action was taken, and any additional information or documentation the board may request concerning the corrective actions taken.

9. The board may impose additional requirements at its discretion, including but not limited to monetary fees, on any firm as a condition for reinstatement of a firm permit suspended or revoked for failure to bring the firm into compliance with R.S. 37:77.

10. At its discretion, the board may also take action against the CPA certificate of the firm's designated licensee for failure to provide written notification to the board required in this Section.

C. Firm Permit Renewals

1. Firm Permit renewals shall be filed in accordance with certificate renewals, i.e., renewals are due by December 31st, delinquent if not renewed prior to February 1st; and, expired if not renewed prior to March 1st.

2. Delinquent fees for firm permit renewals shall be \$15 per owner, partner, member or shareholder if not renewed prior to February 1st; \$30 if not renewed prior to March 1st.

D. An annual renewal fee to be set by the board, based on the total number of owners, partners, members and/or shareholders in the firm who are not licensed to practice in Louisiana but not to exceed \$15 per owner, partner, member or shareholder with a maximum of \$5,000 per firm if timely filed, shall be paid by each firm that files in accordance with the provisions of §1501.C-E.

E. Reinstatement of Firm Permits

1. To reinstate a firm permit which has been expired for a year or more due to non-renewal, the firm shall be required to file an initial application for a firm permit and pay the applicable application fee. The firm shall also be required to pay applicable delinquent fees.

2. For good cause shown, the board may waive in whole or in part the reinstatement fees provided for in this Section.

3. In addition to reinstatement fees, an additional fee may be assessed against those CPA firms whose firm permits expired or were cancelled pursuant to this Section three times within six years.

4. In addition to the above fees, an additional reinstatement fee may be assessed against those CPA firms which continued to practice as a CPA firm after the expiration or cancellation of the firm permit pursuant to this Section. Such fee shall be determined by the length of the period of time the firm has practiced without a permit times the annual renewal fee including additional for delinquency each year.

5. No firm permit shall be renewed or reinstated by the board if the firm applying for renewal or reinstatement has failed to remit full payment of any fees, fines, penalties, expenses, or reimbursement of costs incurred by the board, which the firm owes the board or has been ordered to pay to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended LR 9:209 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:

§1503. Practice Monitoring Programs

A. The board hereby establishes the Positive Enforcement Program (PEP). The purpose of the program is to improve the quality of financial reporting and to assure that the public can rely on the fairness of presentation of financial information on which CPA firms issue reports.

1. Each licensee or CPA firm, which performs attest services in Louisiana, shall undergo a peer review or a review of working papers and/or reports together with their accompanying financial statements and disclosures, under the board's Positive Enforcement Program at least once each three years.

2. Positive Enforcement Program

a. A qualified reviewer(s) engaged by the board will conduct a periodic review on behalf of and as agent of the board and report the findings to the licensee and the board. The accounting and auditing engagements to be reviewed include, but are not limited to: compilations, reviews, audits, and examinations of prospective financial information.

b. Upon notification of selection, the CPA firm will submit a list of accounting and auditing engagements performed in the area of compilations, reviews, audits, and examinations of prospective financial information including a breakdown by industry and licensee responsible in that firm during the three year period immediately preceding the renewal of the CPA firm permit.

c. The board reviewer(s) will determine, from the list of accounting and auditing engagements, which reports, together with their accompanying financial statements and disclosures, are to be submitted.

d. The board reviewer(s) may also request the submission of working papers developed by the CPA firm in connection with the issuance of any of the reports selected.

e. Any CPA firm which shall have its working papers reviewed by the board pursuant this Subsection shall be charged reasonable travel expenses and a per diem; provided that the aggregate amount of such reimbursable expenses shall not exceed the sum of \$1,000 as to any CPA firm within any three-year period. This limitation shall not apply to approved sponsoring organizations.

3. Confidentiality. Reports submitted to the board pursuant to §1503.B, and comments of reviewers and of the board on such reports of workpapers relating thereto, shall be preserved in confidence except that they may be communicated by the board to the licensees who issued the reports.

4. Exemptions

a. The requirements of §1503.B shall not apply with respect to any CPA firm which within the three years immediately preceding the renewal of the CPA firm permit had been subjected to and completed a professional peer review approved by and acceptable to the board and conducted pursuant to standards not less stringent than peer review standards applied by the American Institute of Certified Public Accountants. A CPA firm that obtains their initial firm permit from the board must have been subjected to and completed a professional peer review within eighteen months.

b. A CPA firm which is a member of the Securities and Exchange Commission Practice Section or the Private Companies Practice Section of the American Institute of Certified Public Accountants Division for CPA Firms shall furnish a copy of the CPA firm's most recent peer review report to the board within ninety days of the peer review report's issuance to qualify for an exemption from the requirements of §1503.B.

c. A CPA firm which is not a member of the Securities and Exchange Commission Practice Section or the Private Companies Practice Section of the American Institute of Certified Public Accountants Division for CPA Firms shall have the American Institute of Certified Public Accountants or its designee certify to the board, the CPA firm's participation in an acceptable peer review program and the dates of the CPA firm's most recent peer review should the CPA firm seek exemption from the board's requirements of §1503.B.

5. If a CPA firm has not provided evidence pursuant to the terms of §1503.D, then §1503.B will apply.

6. No CPA or CPA firm shall be required to become a member of any organization in order to comply with the provisions of §1503.

7. Peer Review Oversight Committee (PROC)

a. The board shall appoint a Peer Review Oversight Committee (PROC) whose function shall be the oversight and monitoring of sponsoring organizations for compliance and implementation of the minimum standards for performing and reporting on peer reviews. The PROC shall consist of three members, none of whom are current members of the State Board of Certified Public Accountants of Louisiana. These members shall be a licensee holding an active CPA certificate in good standing, and possess accounting, attest and peer review experience deemed sufficient by the board.

b. Responsibilities. At least one member of the PROC will attend all meetings of the Society of Louisiana Certified Public Accountants Peer Review Committee (PRC), or any successor thereof, and report periodically to the board on whether the PRC is meeting the requirements of these rules.

c. Compensation. Compensation of PROC members shall be set by the board.

d. Duties of the PROC.

i. The PROC will observe the plenary sessions of the PRC which include the assignment of reviews to committee members and the summary meeting where the conclusions of the review committee members are discussed;

ii. may periodically review files of the reviewers; and

iii. may observe the deliberations of the PRC and report their observations to the board; and

iv. make recommendations relative to the operation of the program; and

v. consider such other matters and perform such other duties regarding the peer review programs as may be necessary from time to time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1071 (November 1991), LR 23:1125 (September 1997), LR 26:

Chapter 17. Rules of Professional Conduct

§1700. General

A. Preamble

1. The services usually and customarily performed by those in the public practice of accountancy involve a high degree of skill, education, trust, and experience which are professional in scope and nature. The use of professional designations carries an implication of possession of the competence associated with a profession. The public, in general, and the business community, in particular, rely on this professional competence by placing confidence in reports and other services of accountants. The public's reliance, in turn, imposes obligations on persons utilizing professional designation, both to their clients and to the public in general. These obligations include maintaining independence of thought and action; continuously improving professional skills; observing, where applicable, generally accepted accounting principles and generally accepted auditing standards; promoting sound and informative financial reporting; holding the affairs of clients in confidence; upholding the standards of the public accountancy profession; and maintaining high standards of personal and professional conduct in all matters affecting fitness to practice public accountancy.

2. The board has an underlying duty to the public to insure that these obligations are met in order to achieve and maintain a vigorous profession capable of attracting the bright, young minds essential for adequately serving the public interest.

3. These rules of professional conduct are intended to have application to all kinds of professional services performed for the public in the practice of public accountancy, including but not limited to services relating to auditing; accounting; review and compilation services, tax services; management advisory and consulting services; and financial planning, and intended to apply as well to all certificate holders, whether or not engaged in the practice of public accounting, except where the wording of one of these rules of professional conduct clearly indicates that the applicability is more limited.

4. In the interpretation and enforcement of these rules, the board may consider relevant interpretations, rulings, and opinions issued by the boards of other jurisdictions and appropriate committees of professional organizations, but will not be bound thereby.

B. Definitions. The following terms have meanings which are specific to §1701.A.

Attest Client an entity for which an attest engagement is either performed or to be performed, including without limitation:

- a. the entity;
- b. its principal owners (those having 20% or more of direct ownership); and
- c. affiliated persons, including without limitation, affiliated entities, principals, officers, directors, management and audit committee members, who are in a position to control, engage, terminate or otherwise influence an attest engagement, or whose representations are relied upon during the engagement.

Audit Sensitive Activities those activities normally an element of or subject to significant internal accounting controls. For example, the following positions, which are not intended to be all-inclusive, would normally be considered audit sensitive, even though not positions of significant influence: a cashier, internal auditor, accounting supervisor, purchasing agent, or inventory warehouse supervisor.

Close Relatives nondependent children, stepchildren, brothers, sisters, grandparents, parents, parents-in-law, and their respective spouses; and, brothers and sisters of a spouse.

Grandfathered Loans those loans which were made under normal lending procedures, terms, and requirements by a financial institution before January 1, 1992, or prior to its becoming a client for which independence was required. Such loans must not be renegotiated after independence became required and must be kept current as to all terms. Such loans shall be limited to:

- a. loans obtained by the licensee which are not material in relation to the net worth of the borrower; or
- b. home mortgages; or
- c. any other fully secured loan, except one secured solely by a guarantee of the licensee.

Licensee the holder of a certificate of certified public accountant

- a. the term includes:
 - i. the licensee's firm;
 - ii. the firm's proprietors, partners, officers, shareholders, members or managers;
 - iii. employees or contractors participating in the engagement, except those who perform only routine clerical functions;
 - iv. employees or contractors with a managerial position located in an office participating in a significant portion of the engagement; and
 - v. entities owned by or whose operating, financial, or accounting policies can be controlled by one or more of the persons described in §1700.B.5.a.ii - iv, or by two or more such persons if they choose to act together;
- b. the term also includes employees and contractors of the certificate holder or his firm who provide services to clients and are associated with the client in any capacity described in §1701.A.1.b, if the individuals are located in an office participating in a significant portion of the engagement;
- c. the term does not include such an individual solely because he was formerly associated with the client in any capacity described in §1701.A.1.b, if such individual has disassociated from the client and does not participate in the engagement for the client covering any period of his association with the client;
- d. in addition, the term may include the following relatives of the certificate holder or of the individuals

described above: spouses, dependents, descendants, *close relatives*, persons living in a household with the certificate holder, or a former proprietor, partner, shareholder or member of the certificate holder's firm.

Period of Professional Engagement the period during which professional services are provided, with such period starting when the licensee is engaged or begins to perform professional services requiring independence and ending with the notification of the termination of that professional relationship by the licensee or by the client.

Permitted Personal Loans

- a. automobile loans and leases collateralized by the automobile;
- b. loans of the surrender value of an insurance policy;
- c. borrowing fully collateralized by cash deposits at the same institution;
- d. credit cards and cash advances on checking accounts with an aggregate unpaid balance of \$5,000.00 or less, provided that these are obtained from a financial institution under its normal lending procedures, terms, and requirements and are at all times kept current as to all terms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997), LR 26:

§1701. Independence, Integrity and Objectivity

A. Independence

1. A licensee shall not issue a report on the financial statements of an *attest client* or in connection with any attest engagement for an *attest client*, in such a manner as to imply that he is acting as an independent public accountant with respect thereto, nor shall he perform any other service in which independence is required under professional standards, unless he is independent. Independence shall be considered to be impaired if, for example:
 - a. during the period of his professional engagement or at the time of issuing a report, the licensee:
 - i. had or was committed to acquire any direct or material indirect financial interest in the *attest client*; or
 - ii. was a trustee of any trust or executor or administrator of any estate if such trust or estate had, or was committed to acquire, any direct or material indirect financial interest in the *attest client*; or
 - iii. had any joint, closely-held business investment with the *attest client* or any officer, director, or principal stockholder thereof which was material in relation to the net worth of either the licensee or the *attest client*; or
 - iv. had any loan to or from the *attest client* or any officer, director, or principal stockholder thereof other than permitted personal loans and grandfathered loans.
 - b. during the period covered by the financial statements, during the period of the professional engagement, or at the time of issuing a report, the licensee:
 - i. was connected with the *attest client* as a promoter, underwriter, or voting trustee, a director or officer, or in any capacity equivalent to that of an owner, a member of management, or of an employee; or
 - ii. was a trustee for any pension or profit sharing trust of the *attest client*; or
 - iii. receives a commission or had a commitment to receive a commission from the *attest client* or a third party

with respect to services or products procured for the *attest client*, including any related pension or profit-sharing trust, in violation of R.S. 37:83(K); or

iv. receives a contingent fee or had a commitment to receive a contingent fee from the *attest client* or a third party with respect to professional services performed for the *attest client*, including any related pension or profit-sharing trust, in violation of R.S. 37:83(L).

2. With respect to close relatives of the licensee, independence may be impaired depending on the nature of the relationships, the strength of the family bond which depends on the degree of closeness, the employment or audit sensitive activities of the individuals, or whether the individuals have significant influence over the engagement or the enterprise, as applicable to the circumstances.

3. The foregoing examples are not intended to be all inclusive.

B. Integrity and Objectivity

1. A licensee in the performance of professional services shall neither knowingly misrepresent facts nor subordinate his judgment to that of others. He shall be objective and shall not place his own financial interests nor the financial interests of a third party ahead of the legitimate financial interests of the client or the public in any context in which the client or the public can reasonably expect objectivity from one using the CPA title.

2. If the licensee uses the CPA title in any way to obtain or maintain a client relationship, the board will presume the reasonable expectation of objectivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended LR 4:358 (October 1978), LR 6:2 (January 1980), LR 11:757 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1114 (September 1997), LR 26:

§1703. Competence and Professional Standards

A. Definition

Professional Standards include but are not limited to those standards defined by Statements on Auditing Standards (SAS); Statements on Standards for Accounting and Review Services (SSARS); Statements on Standards for Consulting Services (SSCS); Statements on Standards for Attestation Engagements (SSAE); and Standards for Performing and Reporting on Peer Reviews or Quality Reviews issued by the American Institute of Certified Public Accountants; and Governmental Auditing Standards issued by the Comptroller General of the United States.

B. Competence. A licensee shall not undertake any engagement for performance of professional services which he cannot reasonably expect to complete with due professional competence.

C. Professional Standards. A licensee shall not act or imply that he is acting as a CPA by permitting association of his name or firm's name, issuing a report, or expressing an opinion, in connection with financial statements, elements thereof, or the written assertions and representations of a client, or by the performance of professional services, unless he has complied with applicable professional standards. This rule does not apply in any instance in which such compliance would otherwise be prohibited by the act or by rule of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended LR 4:358 (October 1978), LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1115 (September 1997), LR 26:

§1705. Responsibilities to Clients

A. Confidential Client Information. A licensee shall not, without the consent of his client, disclose any confidential information pertaining to such client obtained in the course of performing professional services.

1. This rule does not:

a. relieve a licensee of any obligations under §1705.B and C; or

b. affect in any way a licensee's obligation to comply with a validly issued subpoena or summons enforceable by order of a court; or

c. prohibit disclosures in the course of a peer review or for the purpose of assuring quality control of a licensee's professional services; or

d. preclude a licensee from responding to any inquiry made by the board or any investigative or disciplinary body established by law or formally recognized by the board; or

e. prohibit disclosures required by the standards of the public accounting profession in reporting on the examination of financial statements.

2. Members of the board, their duly authorized agents, and professional practice reviewers shall not disclose any confidential client information which comes to their attention from licensees in disciplinary proceedings or otherwise in carrying out their responsibilities, except that they may furnish such information to a duly authorized investigative or disciplinary body of the kind referred to above.

B. Records. A licensee shall furnish to his client or former client upon request:

1. a copy of a tax return of the client; and

2. a copy of any report, or other document, issued by the licensee to or for such client; and

3. any accounting or other records belonging to, or obtained from, or on behalf of, the client which the licensee removed from the client's premises or received for the client's account, but the licensee may make and retain copies of such documents when they form the basis for work done by him; and

4. a copy of the licensee's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client;

5. examples of records described in this Section include but are not limited to computer generated books of original entry, general ledgers, subsidiary ledgers, adjusting, closing and reclassification entries, journal entries and depreciation schedules, or their equivalents.

6. The information should be provided in the medium in which it is requested if it exists in that format (for example electronic or hard copy). The licensee is not required to convert information to another format.

7. The requested information shall be furnished by the licensee to the client in a timely manner.

8. A licensee is not required to retain any documents beyond the period prescribed in R.S. 37:89.

C. The nonpayment of professional fees and/or out-of-pocket expenses shall not be a basis for failure to furnish the records referred to in §1705.B.3, 4 and/or 5. A licensee shall be permitted to collect in advance of issuance a reasonable fee for time and expenses of issuing or reproducing documents referred to in §1705.B.1, 2, 4 and 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended LR 4:358 (October 1978), LR 6:2 (January 1980), LR 11:757 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1067 (November 1991), LR 23:1115 (September 1997), LR 26:

§1707. Other Responsibilities and Practices

A. Conduct reflecting adversely upon the licensee's fitness to perform services, within the meaning of R.S. 37:79(A)(8), includes but is not limited to the following:

1. adjudication as mentally incompetent;
2. fiscal dishonesty of any kind;
3. presenting as one's own a certificate, registration or firm permit issued to another;
4. concealment of information regarding violations by other licensees of the act or the rules there under when questioned or requested by the board;
5. willfully failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of such a report or record, or inducing another person to impede or obstruct such filing by another; and the making or filing of such a report or record which one knows to be false;
6. knowingly participating in the preparation of a false or misleading financial statement or tax return;
7. failure to comply with a final order of any state or federal court;
8. repeated failure to respond to a client's inquiry within a reasonable time without good cause;
9. false communication to the board;
10. willfully causing a breach in the security of the CPA examination;
11. conduct that brings dishonor, or is detrimental, to the profession.

B. Acting Through Others. A CPA or CPA firm shall not permit others to carry out on his behalf or on the firm's behalf, either with or without compensation, acts which, if carried out by the CPA or CPA firm, would place him or the CPA firm in violation of the rules of professional conduct, professional standards, or any provisions of the act.

C. Use of the "CPA inactive" designation

1. Certificate only holders under prior law. Prior to applying for and obtaining a certificate under R.S. 37:75(I), individuals who annually register in inactive status may use the "CPA inactive" designation in connection with an employment position held in industry, government or academia, or in personal correspondence. However, the use of such designation is further subject to the following limitations:

a. until December 31, 2003, any such individual who offers to perform or performs, for the public, professional services of any type involving the use of accounting, management advisory, financial advisory, tax, or consulting skills shall not use the designation "CPA" or "CPA inactive" in connection with such services; and,

b. beginning January 1, 2004, any such individual who offers to perform or performs, for the public, professional services of any type involving the use of accounting, management advisory, financial advisory, tax, or consulting skills shall not use the designation CPA or "CPA inactive" in connection therewith or in any other manner or in connection with any employment.

2. Certificate holders subject to CPE exemption:

a. Individuals granted an exception to continuing education requirements under R.S. 37:76(D)(2) shall not perform or offer to perform for the public one or more kinds of services involving the use of accounting, attest, management advisory, financial advisory, tax, or consulting skills and must place the word "inactive" adjacent to their CPA title on any business card, letterhead, or any other document or device.

b. Any individual referenced in R.S. 37:76(D)(2) who after being granted an exemption under that Section offers to perform or performs for the public professional services of any type involving the use of accounting, management advisory, financial advisory, tax, or consulting skills shall not use the designation "CPA inactive" in connection therewith or in any other manner or in connection with any employment.

D. Firm Name

1. The name under which a licensee practices public accounting must indicate clearly whether he is an individual practicing in his own name or a named member of a firm. If the name includes the designation "and Company" or "and Associates" or "Group" or abbreviations thereof, there must be at least two licensees involved in the practice, who may be either partners, shareholders, members or employees of the firm. However, names of one or more past partners, shareholders, or members may be included in the firm name of a successor firm.

2. A partner, member or shareholder surviving the death or withdrawal of all other partners, members or shareholders may continue to practice under the partnership or corporate name for up to two years after becoming a sole practitioner, sole member or sole shareholder.

3. A CPA firm name is misleading within the meaning of R.S. 37:83(G) if, among other things:

- a. The CPA firm name implies the existence of a corporation when the firm is not a corporation; or
- b. The CPA firm name includes the name of a person who is not a CPA.

4. A firm name not consisting of the names of one or more present or former partners, members, or shareholders may not be used by a CPA firm unless such name has been approved by the board as not being false or misleading.

E. Form of Practice. A licensee may practice public accountancy in a proprietorship, a partnership, a limited liability partnership, a limited liability company, a

professional corporation organized in accordance with the Louisiana Professional Accounting Corporations Law or similar law of another state, or any other organization or entity which may be authorized by law.

F. Advertising

1. Licensees shall have a right to advertise. However, a licensee shall not use or participate in the use of any public communication, written or verbal, having reference to professional services performed by the licensee, which contains a false, fraudulent, misleading, deceptive or unfair statement or claim, nor any form of communication having reference to the professional services of the licensee which is accomplished or accompanied by coercion, duress, compulsion, intimidation, threats, overreaching, or vexatious, or harassing conduct. A false, fraudulent, misleading, deceptive, or unfair statement or claim includes but is not limited to a statement or claim which:

- a. contains a misrepresentation of fact; or
- b. is likely to mislead or deceive because it fails to make full disclosure of relevant facts; or
- c. contains any testimonial or laudatory statement, or other statement or implication that the licensee's professional services are of exceptional quality; or
- d. is intended or likely to create false or unjustified expectations of favorable results; or
- e. implies educational or professional attainments or licensing recognition not supported in fact; or
- f. states, implies, or claims that the licensee has received formal recognition as a specialist or expert or has any specialized expertise in any aspect of the practice of public accountancy without stating from whom the recognition has been received; or
- g. states or implies that the licensee's ingenuity and/or prior record are principal factors likely to determine the results of the services rather than the merit of the facts involved, or contains statistical data or information so as to reflect past performance or predict future success; or
- h. represents that professional services can or will be completely performed for a stated fee when this is not the case, or makes representations with respect to fees for professional services that do not disclose all variables affecting the fees that will in fact be charged; or
- i. contains other representations or implications beyond those set forth in §1707.F.2 that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived; or
- j. implies the ability to influence any court, tribune, regulatory agency or similar body or any official thereof; or
- k. makes comparison with other CPAs;
- l. is undignified; or
- m. incorporates, refers to, or directly links to presentations which bring dishonor to the profession.

2. As an example, a licensee may use or participate in the use of a public communication which states in a dignified manner the following information about the licensee and any associated licensees:

- a. name, firm name, address, telephone numbers, office hours, and telephone answering hours;
- b. biographical and educational background;
- c. professional memberships and attainments;
- d. description of services offered;

e. the limitation of practice to certain areas of service;

f. the opening or change in location of any office and changes in personnel;

g. fees charged for the initial consultation, for specific services of average complexity, and hourly rates. Quoted fees must be adhered to for a reasonable period not less than thirty days after the publication.

G. Written Advertisements, Solicitations and Other Public Communications

1. A licensee shall have the right to mail or deliver advertisements, solicitations and other public communications, subject to the following provision:

a. a licensee shall not mail or deliver any advertisement, solicitation or other public communication if such advertisement, solicitation or other public communication would violate §1707.F.

2. For purposes of these rules, a *public communication* shall be deemed to include newsletters, brochures, magazines, books, announcements, notices, reports, notes, journals, letters, cards, inquiries, tapes, recordings, electronic communications, internet websites, and any other type of information or materials mailed, delivered or disseminated in any manner to one or more addresses who are not clients of the licensee at the time of such mailing, delivery, or dissemination. Materials disseminated only to clients of the licensee shall not be deemed to be a public communication.

3. Advertisements and public communications of any type may not contain any materials considered to be obscene, pornographic, or offensive.

4. All internet advertisements, websites or public communications which in any manner identifies the sponsor or participant as a CPA, certified public accountant, PA, public accountant, CPA firm, or professional accounting corporation is considered to be an advertisement or public communication by the CPA or CPA firm and must be in compliance with all rules adopted by the board and all provisions of the act.

H. Communications. A holder of a certificate or firm permit, or an individual in inactive status shall, when requested, respond to communications from the board in the manner requested by the board within 30 days of the mailing of such communications by certified mail, or by such other delivery methods available to the Board.

I. Applicability. All of the rules of professional conduct shall apply to and be observed by Louisiana licensees and CPAs licensed in other states who may be granted rights under the substantial equivalency provisions of R.S. 37:94. Notwithstanding anything herein to the contrary, they shall also apply to and be observed by individuals registered in inactive status, where applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended 4:358 (October 1978), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1068 (November 1991), LR 23:1115 (September 1997), LR 26:

Chapter 19. Investigations; Hearings; Suspension, Revocations or Restrictions; Reinstatements

§1901. Charges in Writing; Investigative files

A. Charges against holders of CPA certificates and/or firm permits shall be made in writing, signed by the persons preferring the charges and addressed or delivered to the board. The board's investigative staff may establish or open an investigative file upon receipt of such charges.

B. Investigative files may be established or opened by any member of the board or other person who has been designated as investigating officer in accordance with §1903, for the purpose of investigating any potential violations of the rules, regulations or statutes, which the board is authorized to enforce, whether as a result of charges made in accordance with §1901.A or otherwise initiated by the investigating officer. Any investigating officer may engage the assistance of counsel as he deems necessary and appropriate. Such counsel may also later serve as complaint counsel if an adjudicative proceeding is scheduled, but may not act as independent counsel in the same matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:

§1903. Investigating Officer

All charges shall be referred to the members of the board or other persons designated as investigating officers, who are appointed by the chairman of the board. The investigating officer is the person who determines preliminary "probable cause" on behalf of the board, as referred to in R.S. 37:81(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:

§1905. Investigations

A. Investigations shall generally be conducted by board staff on behalf of the investigating officer, but the investigating officer may engage other investigators, inspectors, special agents, or any other personnel he may deem necessary and appropriate to conduct the investigation. All correspondence and information submitted in the course of the investigation shall be addressed or delivered to the board's office, unless otherwise authorized by the investigating officer.

B. Information provided or obtained in the course of an investigation shall be reviewed by the investigating officer for a determination of "probable cause" or "no probable cause".

C. Some allegations may be settled informally by the investigating officer and the individual when the investigating officer ascertains that the matter does not rise to the level requiring formal disposition. These matters may be resolved by the individual's compliance with directives which will bring the individual in compliance with applicable rules or statutes, or by other means deemed

appropriate by the investigating officer. Upon resolution of such matters, the investigating officer shall report to the board the action taken to settle the matter, and shall report "no cause for further action".

D. If the investigating officer determines that "probable cause" exists, a written notice shall be mailed to the respondent in accordance with R.S. 49:961(C) of the Louisiana Administrative Procedures Act, affording the respondent an opportunity to demonstrate that he is not in violation of applicable rules, regulations and/or statutes.

1. The notice shall inform the respondent that the investigating officer has preliminarily concluded that "probable cause" exists. The notice shall also contain the alleged facts of the case and a citation of the rules, regulations and statutes the respondent is alleged to have violated, and may contain any other information the investigating officer deems appropriate.

2. The notice shall be mailed to the respondent by certified mail, or such other delivery methods available to the board, to the respondent's address last known to the board or to the respondent's registered agent for service of process.

3. The respondent will be given no less than fifteen days after the date of the notice to submit a written response to the board's office. For good cause shown, the investigating officer may grant additional time for the respondent to respond to the notice.

4. The investigating officer shall consider the respondent's response to the notice, if any, before making a final determination as to "probable cause" or "no probable cause".

E. When a final determination of a "probable cause" is made by the investigating officer and reported to the board, an administrative complaint shall be filed with the board's office. The administrative complaint shall be signed by the investigating officer, and shall include the alleged facts of the case and a citation of the rules, regulations and statutes the respondent is alleged to have violated. A notice of the time and place of hearing and a copy of the administrative complaint shall be served upon the respondent in accordance with R.S. 37:81.

F. The board may make informal disposition by default, consent order, agreement, settlement or otherwise, of any matter under investigation or any pending adjudication. Such informal disposition shall be considered by the board only upon the recommendation of the investigating officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 26:

§1907. Completion of Investigation

Upon completion of each investigation, the investigating officer shall report to the board a finding of "probable cause" or "no probable cause" with respect to a violation by a CPA of a statute or rule enforced by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), LR 26:

§1909. Hearing

A. The right to examine reports, if any, and evidence, referred to in R.S. 37:81.B, may be exercised by the respondent or the respondent's attorney by submitting a written request to the board's office.

1. A copy of any written materials which will be presented as evidence at the administrative hearing, and if requested the names of individuals who may testify at the hearing, shall be mailed to the person making such written request referred to above, or shall be furnished in person at the board's office if requested, as promptly as possible if available at the time of the request, but shall be provided no later than fifteen working days prior to the date of hearing.

2. Failure to provide the information no later than fifteen working days prior to the date of hearing, after having received a written request referred to herein, shall be grounds for the board to consider a continuance of the hearing if requested by the respondent, but shall not be grounds for dismissal of the charges against the respondent. If no written request is submitted, the board shall not be obligated to consider or grant a continuance of the hearing.

B. In the same manner that the respondent is afforded the right to obtain and examine information and evidence in the preceding Section, complaint counsel shall have the right to obtain and examine information and evidence of the respondent or the respondent's attorney.

C. Hearings shall be conducted in closed session, and shall be conducted by and under the control of the chairman of the board, or a presiding officer appointed by the chairman.

D. In any investigation or pending adjudication proceeding, no party shall serve on any other party more than 25 interrogatories. Each sub-part of an interrogatory shall count as an additional interrogatory. The chairman or presiding officer may, in his discretion, allow more than 25 interrogatories upon receipt of a written motion setting forth the proposed additional interrogatories and the reasons establishing good cause for their use.

E. Objections to interrogatories, and objections to answers to interrogatories, shall set forth in full, immediately preceding each answer or objection, the interrogatory or answer to which objection is being made.

F. Subpoenas issued by the board pursuant to R.S. 37:80(B) shall be signed and issued by the executive director of the board, or in his absence a designee of the board. Subpoenas shall be issued upon request of the respondent, complaint counsel, or an investigating officer. The issuance of subpoenas is governed by R.S. 49:956 of the Louisiana Administrative Procedures Act.

G. In any case of adjudication noticed and docketed for hearing, counsel for respondent and complaint counsel may agree, or the chairman or presiding officer may require, that a prehearing conference be held among such counsel, or together with the board's independent counsel, if any, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

H. Motions for continuance of hearing, for dismissal of proceeding, and all other prehearing motions shall be filed not later than 10 days prior to the date of the hearing. Any response or opposition to any prehearing motion shall be filed within 5 days of the filing of such prehearing motion.

For good cause shown, the chairman or presiding officer may waive or modify these requirements. Each prehearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor.

I. Notwithstanding the provisions of the preceding Section, a continuance of a hearing shall automatically be granted by the executive director of the board upon receipt of written notice from respondent and complaint counsel, or respondent and investigating officer, that both parties mutually agree to a continuance of the hearing. Such written notice shall not be required to be filed within the time period prescribed in the preceding Section.

J. All pleadings, motions, or other papers filed with the board in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board and shall by the same method of delivery be concurrently served upon complaint counsel, if filed by or on behalf of the respondent, or upon the respondent or the respondent's counsel if filed by complaint counsel.

K. Any prehearing motion, other than a mutually agreed upon request for continuance as referred to in §1909.I, shall be referred for decision to the chairman or presiding officer for ruling. The chairman or presiding officer, in his discretion, may refer any prehearing motion to the entire board for disposition.

L. Prehearing motions shall be ruled upon on the basis of the written information provided, without oral arguments. However, if the chairman or presiding officer refers the prehearing motion to the entire board for disposition, he may grant an opportunity for oral argument before the entire board, upon written request of respondent or of complaint counsel and on demonstration that there are good grounds therefor.

M. The order of proceedings at a hearing shall be as follows, but may be changed at the discretion of the chairman or presiding officer:

1. statement and presentation of evidence supporting the administrative complaint by complaint counsel, or the investigating officer, or any person designated by the investigating officer;
2. statement and presentation of evidence of the respondent as stipulated in R.S. 37:81(C);
3. rebuttal in support of the complaint;
4. surrebuttal evidence of the respondent;
5. closing statements;
6. board decision. The time in which the Decision will be rendered is at the discretion of the board.

N. Any person testifying at a hearing shall be required to testify under oath, or by affirmation subject to the penalties of perjury.

O. The chairman or presiding officer, board members, the respondent and his attorney, and complaint counsel or person presenting the case for the investigating officer, shall have the right to question or examine or cross-examine any witnesses.

P. All evidence presented at a hearing will be considered by the board unless the chairman or presiding officer determines that it is irrelevant, immaterial or unduly repetitious. Evidence may be received provisionally, subject to a later ruling by the chairman or presiding officer. The chairman or presiding officer may in his discretion consult

with the entire board in executive session or with independent board counsel in making determinations on evidence.

Q. The Final Decision of the board in an adjudication proceeding shall be in writing and shall include findings of fact and conclusions of law, and shall be signed by the chairman or presiding officer on behalf of and in the name of the board. Upon issuance of a final decision, a certified copy shall be served upon the respondent and the respondent's counsel, if any, in the same manner of service prescribed with respect to administrative complaints in R.S. 37:81.

R. In addition to the actions the board may take prescribed in R.S. 37:79 and R.S. 37:81(K), the board may order the publication of any action taken against a respondent. If a petition for review has been filed by the respondent, publication shall await the resolution of such review. If the resolution is in favor of the respondent, no publication shall be made.

S. Information concerning any board action against a respondent may be forwarded to the National Association of State Boards of Accountancy (NASBA) Enforcement Information Exchange System for inclusion in their database and reports of disciplinary actions, unless a petition for review has been filed by the respondent in which case the forwarding of information to NASBA shall await the resolution of such review. If the resolution is in favor of the respondent, no information shall be forwarded to NASBA.

T. Rehearings may be granted by the board as specified in R.S. 49:959 of the Louisiana Administrative Procedures Act.

U. Any matters concerning hearings, rehearings, or Decisions or Orders by the board, not addressed by the act or these rules shall be governed by applicable provisions of the Louisiana Administrative Procedures Act.

V. Any licensee whose certificate or firm permit issued by the board is subsequently suspended or revoked may be required within 30 days to return such certificate, registration or firm permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:

§1911. Reinstatement of Licenses (After Revocation, Suspension, Refusal to Renew)

A. Upon receipt by the board of a written request for reissuance of a certificate or firm permit which has been revoked by the board, or issuance of a new certificate or firm permit under a new number to a person or firm whose certificate or firm permit has been revoked, or for termination of a suspension of a certificate or firm permit suspended by the board, the board shall specify the time period and the manner in which such application shall be considered, pursuant to R.S. 37:82(B). The application shall include any and all information the board deems appropriate.

B. The board may, at its sole discretion, impose appropriate terms and conditions for reinstatement of a certificate, registration or firm permit or modification of a suspension, revocation or probation.

C. No application for reinstatement will be considered while the applicant is under sentence for any criminal

offense, including any period during which the applicant is on court-imposed probation or parole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 26:

Chapter 21. Petitions for Rulemaking

§2101. Scope of Chapter

The rules of this Chapter prescribe the procedures by which interested persons may petition the State Board of Certified Public Accountants of Louisiana to exercise its rulemaking authority under the act by the adoption, amendment or repeal of administrative rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:75(A)(3), (B)(2).

HISTORICAL NOTE: Adopted by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:

§2103. Definitions as Used in this Chapter

Interested Person a person who or which:

1. holds or has applied for any certification, license or firm permit issued by the board; or
2. is subject to the regulatory jurisdiction of the board; or
3. is or may be affected by the practice of CPAs or CPA firms in the state of Louisiana.

Person an individual natural person, partnership, corporation, company, association, governmental subdivision or other public or private organization or entity.

Rulemaking the process by which the board exercises its authority under the laws of the state of Louisiana, including the act, R.S. 37:71-95, and the Administrative Procedure Act, R.S. 49:950 et seq., to formulate, propose and adopt, amend or repeal and promulgate administrative rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:

§2105. Authorization

An interested person, individually or jointly with other interested persons, may, in accordance with the provisions of this Chapter, petition the board for the adoption, amendment or repeal of administrative rules and regulations within the rulemaking authority of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1127 (September 1997).

§2107. Petitions for Rulemaking

A. General Form. A petition for rulemaking must be made and submitted to the board in writing, legibly printed or typed in ink.

B. Title and Signature. A petition for rulemaking shall be plainly and prominently titled and styled as such and shall be manually signed by an individual petitioner, by an authorized officer or representative of the petitioner, or by an attorney at law representing the petitioner. The full name, title or office, if any, address and telephone number of a person signing a petition for rulemaking shall be printed or typed under the person's signature. Where a person signs a

petition for rulemaking in a representative capacity, the petitioner or petitioners represented by the signature must be clearly identified.

C. Required Contents. A petition for rulemaking shall:

1. clearly identify each petitioner by name and address of residence or principal place of business;

2. describe the legal status or nature of the petitioner to establish that the petitioner is an interested person, within the meaning of §2103 of this Chapter;

3. in the case of a petition for adoption of a new rule, set forth a concise statement of the substance, nature, purpose and intended effect of the rule which the petitioner requests that the board adopt and citation to the statutory authority for the board's exercise or rulemaking authority in the manner and on the subject requested;

4. in the case of a petition for amendment of an existing rule, specify, by citation to the *Louisiana Administrative Code*, the rule or rules which the petitioner requests that the board amend, together with a concise statement of the manner in which it is proposed that the rule or rules be amended, the purpose and intended effect of the requested amendment, and citation to the statutory authority for the board's exercise or rulemaking authority in the manner and on the subject requested;

5. in the case of a petition for repeal of an existing rule, specify, by citation to the *Louisiana Administrative Code*, the rule or rules which the petitioner requests that the board repeal, together with a concise statement of the purpose and intended effect of such repeal;

6. a. provide an estimate of the fiscal and economic impact of the requested rulemaking on:

i. the revenues and expenses of the board and other state and local governmental units;

ii. costs and/or benefits to directly affected persons;

iii. competition and employment in the public and private sectors; or

b. provide a statement that the petitioner has insufficient information or is otherwise unable to provide a reasonable estimate of such fiscal and economic impact;

7. set forth a concise statement of the facts, circumstances, and reasons which warrant exercise of the board's rulemaking authority in the manner requested; and

8. in the case of a petition for exercise of the board's emergency rulemaking authority under R.S. 49:953(B), a statement of the facts and circumstances supporting a finding by the board that an imminent peril to the public justifies the adoption, amendment or repeal of a rule upon shorter notice than that provided by R.S. 49:953(A).

D. Permissible Contents. In support of petitions for the adoption of a new rule or amendment of an existing rule, the board encourages, but does not require, the submission of a verbatim text of the rule proposed for adoption or amendment, prepared in the form prescribed by Title 1 of the *Louisiana Administrative Code* and as otherwise prescribed by the Office of the State Register. A petition for rulemaking may also be accompanied by such other information and data, in written or graphic form, as the petitioner may deem relevant in support of the petition for rulemaking.

E. Submission and Filing. Two copies of a petition for rulemaking, together with all supporting exhibits, if any,

shall be filed with the board by delivery or mailing thereof to the board's executive director at the offices of the board.

F. Nonconforming Petitions. The board may refuse to accept for filing, or may defer consideration of, any petition for rulemaking which does not conform to the requirements of this Section.

G. Public Record. A petition for rulemaking shall be deemed a public record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1127 (September 1997).

§2109. Board Consideration

A. Consideration by the board. A petition for rulemaking may be considered and acted on by the board at any regular or special meeting of the board. Within the time prescribed by §2111 for disposition of a petition for rehearing, the board may request additional information from the petitioners or interested persons other than the petitioners as it may deem relevant to its consideration of the petition.

B. Oral Presentations. Within the time prescribed by §2111 for disposition of a petition for rehearing, the board may, on its own initiative or at the request of the petitioner or any other interested person, permit petitioners and other interested persons to appear before the board to make an oral presentation of information, data, views, comments and arguments, in support of or opposition to the rulemaking requested by petitioners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1127 (September 1997).

§2111. Disposition of Petitions for Rulemaking

A. Form of Determination. The board may grant or deny a petition for rulemaking, in whole or in part. The board's determination with respect to a petition for rulemaking shall be stated in writing and served on the person signing the petition. If the board denies a petition for rulemaking, in whole or in part, its determination shall state the reasons for the board's denial of the petition. If the board grants a petition for rulemaking, in whole or in part, it shall promptly thereafter initiate rulemaking proceedings in accordance with R.S. 49:953. Nothing herein shall be construed to require that the board, in granting a petition for the adoption or amendment of a rule, adopt or employ the specific form or language requested by the petitioner, provided that the rule or amendment proposed by the board gives effect to the substance and intent of the rule or amendment requested by the petitioner.

B. Time for Determination. The board will render its determination with respect to a petition for rulemaking:

1. within 90 days of the date on which a complete petition for rulemaking conforming to the requirements of §2107 hereof is filed with the board; or

2. within 60 days of the date on which, at the request of the petitioner, the board entertains an oral presentation by the petitioner, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1128 (September 1997).

§2113. Construction and Effect

A. Board Discretion in Rulemaking. The provisions of this Chapter are intended to provide an orderly and reasonable means for interested persons to petition the board to exercise its rulemaking authority under law and to provide for board consideration of such petitions. Petitions for rulemaking are addressed to the board's discretion as to the necessity or appropriateness of the adoption, amendment or repeal or a rule in the discharge of its licensing and regulatory responsibilities under the act. Nothing in the rules of this Chapter, accordingly, shall be deemed to create any right or entitlement in any person to require the board to exercise its rulemaking authority.

B. Nature and Effect of Determination. The board's disposition of a petition for rulemaking by a determination made under §2111.A does not constitute, and shall not be deemed to constitute, a "decision" or "order" within the meaning of R.S. 49:951(A)(3) or a declaratory order or ruling within the meaning of R.S. 49:962, and the procedures prescribed by this Chapter do not constitute an adjudication within the meaning of R.S. 49:951(A)(1). A determination by the board with respect to a petition for rulemaking, accordingly, is final and not subject to judicial review or other appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1128 (September 1997), LR 26:

Interested persons may submit written comments through June 20, 2000 to the following address: Michael A. Henderson, CPA, Executive Director, State Board of Certified Public Accountants of Louisiana, 601 Poydras Street, Suite 1770, New Orleans, LA 70130.

A public hearing on the proposed rules will be held on June 29, 2000 at the Board's offices at 601 Poydras Street, Suite 1770, New Orleans, LA 70130, at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at the hearing.

Michael A. Henderson
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Certified Public Accountants

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No costs or savings to state or local governmental units are anticipated as a result of implementation of the proposed rule changes other than one-time costs for printing, publication, and dissemination. Revisions in agency forms and additional documentation are done internally and have essentially been completed as a result of the Louisiana Accountancy Act which was enacted in June 1999. The revised rules will not cause a

change in Board staffing requirements. There are no other expected material expenditures for fees, equipment or other charges.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No material effect on revenue to state or local governmental units is anticipated as a result of implementation of the revised rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No effect on costs or economic benefits to directly affected persons or non-governmental groups is anticipated as a result of implementation of the revised rules. The rules are primarily being revised because of the change in the accountancy law. The Louisiana Accountancy Act made changes that may affect costs and economic benefits to CPAs and CPA candidates. For example, the Act lessened the requirements for the type and length of qualifying experience necessary to qualify to practice as a CPA. Formerly, two years of public accounting or four years of other CPA supervised experience in financial reporting using generally accepted accounting principles was required. Under the Act, one year is required in industry, governmental, academic, or public practice under CPA supervision in which the applicant utilized skills in accounting, attest, advisory, consulting, or tax. However, other experience is required for CPAs who sign reports on financial statements or supervise attest engagements. In addition, the Act broadened the type of continuing professional education (CPE) that is required for certificate renewal. CPE may now relate to the job duties of the CPA. Under prior law, CPE had to relate to public accounting. Also, the Act allows the Board to recognize out of state CPAs' practice rights in Louisiana if the licensing state issued a certificate on a basis substantially equivalent to Louisiana, which will expedite the issuance of practice rights to certain CPAs whose offices are not located in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment that will directly result from the implementation of the revised rules. The rules are primarily being revised because of the change in the accountancy law. The Louisiana Accountancy Act made certain changes that may affect competition and employment. For example, the Act allows CPA firms to have up to 49% of non-CPA ownership. Under prior law, 100% of CPA ownership was required. Because of this change, CPA firms may be able to attract and permanently retain professionals who are not CPAs; broaden services; and, compete in other markets. In addition, the payment and receipt of commissions and contingent fees are permissible with respect to recommendations and services provided to non-attest clients. Under prior law and rules, these fees were prohibited. As such, CPAs may increasingly compete in fields in which these forms of compensation are commonly utilized, e.g., securities trading and insurance.

Michael Henderson
Executive Director
0005#033

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Board of Examiners of Interior Designers

Composition and Operation of the Board
(LAC 46: XLII.Chapter 1)

TITLE 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS PART XLIII. INTERIOR DESIGNERS

Chapter 1. Composition and Operation of the Board.

§101. Name

The name of this board shall be the Louisiana State Board of Examiners for Interior Designers, hereinafter called the "Board", as provided for by Act 227 of the 1984 Regular Legislative Session, hereinafter called the "Act."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

§103. Membership

All appointments to membership on the board shall be made by the governor of the State of Louisiana as provided for by the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3173.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

§104. Elections

A. The board shall select annually from among its members a chairman, vice-chairman, and secretary *and treasurer*. The election of officers will be held each year at the last meeting scheduled before the beginning of the fiscal year on July 1.

B. If an officer resigns or is unable to serve, an election to replace that officer shall be held at the next regularly scheduled meeting after the officer leaves his office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3173.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11: (April 1985), LR 26:

§105. Meetings

The board shall have at least two meetings per year for the purpose of examining candidates for registration as interior designers. The board may hold such other meetings and hearings as required for the proper performance of its duties under the Act. The board may receive per diem for only eight meetings per year, pursuant to the Act. The limitation does not prohibit any board member's right to receive per diem granted by Section 109, except as to regularly scheduled meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3175.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

§107. Order of Business

The order of business at any meeting shall be established by the chairman and conducted in accordance with "Robert's Rules of Order", except that all board members vote.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

§109. Expenses of the Board

Members of the board shall receive no compensation for their services but shall receive the same per diem and mileage as is provided by law for the members of the legislature for each day the board conducts business. Out of the funds of the board each board member shall be compensated at the legislative per diem rate for each day in attending board meetings and hearings, attending NCIDQ meetings, issuing certificates and licenses, reviewing examinations, necessary travel, and discharging other duties, responsibilities and powers of the board. In addition, out of said funds each board member shall be reimbursed actual travel, meals, lodging, clerical and other incidental expenses incurred while performing the duties, responsibilities, and powers of the boards, including but not limited to performing the aforesaid specific activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3175.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

§111. Financial Operation of the Board.

Payments out of the board's fund shall be made only upon orders of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

§113. Quorum

A quorum of the board as stated by the Act shall consist of four members of the board, but no action shall be taken without at least four votes in accord.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3173(F).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

§115. Subcommittees

The chairman shall appoint members to subcommittees as needed to fulfill the duties of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174(2).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

§117. Staff

The board may, at its discretion, employ an executive assistant, legal counsel, and such other assistants and clerical staff as it deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

§118. National Council of Interior Design Qualification

A. The board may maintain membership in the National Council of Interior Design Qualification (NCIDQ). Up to date information on the examinations and policies adopted from time to time by NCIDQ shall be developed by the Executive Assistant, and reported to the board regularly.

B. The board will cooperate with NCIDQ in furnishing transcripts of records, giving examinations and rendering other assistance calculated to aid in establishing uniform standards of professional qualification throughout the jurisdiction of NCIDQ.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3177.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

§119. Limitation of Liability

A person who serves as a member of the board shall not be individually liable for any act or omission resulting in damage or injury, arising out of the exercise of his judgment in the formation and implementation of policy while acting as a member of the board, provided he was acting in good faith and within the scope of his official functions and duties, unless the damage or injury was caused by his willful or wanton misconduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

Chapter 3. Officers of the Board and Their Duties.

§301. Chairman

The chairman shall exercise general supervision of the board's affairs, shall preside at all meetings at which he is present, shall appoint any committees within the board, shall sign vouchers, and shall perform all other duties pertaining to the office as deemed necessary and appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3173 and R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

§303. Vice Chairman

The vice chairman shall perform the duties of the chairman in his absence or other duties assigned by the chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

§305. Secretary

The secretary shall be an administrative officer of the board. He shall act as its recording and corresponding secretary and may have custody of and shall safeguard and keep in good order all property and records of the board which the chairman deems necessary and appropriate; cause written minutes of every meeting of the board to be kept in a book of minutes; keep its seal and affix it to such

instruments as require it; *and* sign all instruments and matters that require attest and approval of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985); amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (December 1999), LR 26:

§306. Treasurer

The Treasurer shall act as treasurer and receive and deposit all funds to the credit of the "Interior Design Fund;" attest all itemized vouchers approved by the chairman for payment of expenses of the board; make such reports to the governor and legislature as provided for by law or as requested by same; and keep the records and books of account of the board's financial affairs and any other duties as directed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 26:

Chapter 5. Fees and Charges.

§501. Fees and Charges

A. All fees and charges except for the annual renewal fee must be made by cashier's check or money order. The annual renewal fee may be paid by business or personal check, unless required otherwise by the board. The following fees and charges have been established:

- | | |
|--|-------|
| 1. Licensing | \$150 |
| 2. Annual renewal fee | \$100 |
| 3. Restoration of expired license or reactivation of expired license | \$150 |
| 4. Replacing lost certificate | \$25 |
| 5. Restoration of revoked or suspended license | \$150 |
| 6. Failure to renew license within the time limit set by the board | \$50 |

B. NOTE: The fees and charges may be amended by the board in accordance with the Act and rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3182 and R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

§503. NCIDQ Examination

Persons who wish to take the NCIDQ examination must purchase the examination directly from NCIDQ. The Board does not provide the examination as part of the licensing fee of \$150.00. The applicant for a license must provide evidence that the applicant has taken and successfully passed the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174, R.S. 37:3177 and R.S. 37:3182.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), LR 26:

Chapter 7. Issuance and Reinstatement of Certificates of Registration

§701. Issuance

Certificates of registration issued by the board shall run to and include December 31 of the calendar year following their issue. The initial registration fee payable by cashier's check or money order of \$150 should be submitted with the application to the board. Certificates must be renewed annually for the following calendar year, by the payment of a fee of \$100; provided that any approved applicant who has paid the initial registration fee of the preceding calendar year shall not be required to pay the renewal fee until December 31 of the next succeeding calendar year. Certificates not renewed by December 31 shall become invalid, except as otherwise provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991) amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

§703. Reinstatement

A. When a certificate has become invalid through failure to renew by December 31, it may be reinstated by the board at any time during the remainder of the following calendar year on payment of the renewal fee, plus a late penalty restoration fee of \$150. In case of failure to reinstate within one year from the date of expiration, the certificate cannot be renewed or reissued except by a new application approved by the board and payment of the registration fee.

B. A licensee may reinstate his or her license only with proof that he or she has completed the continuing education units for each year in which his or her license was invalid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), Department of Economic Development, Board of Examiners of Interior Designers, LR 17:340 (November 1991), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 20:864 (August 1994); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

§704. Restoration of Expired Certificates.

A. A certificate expires on December 31 of each year. If the licensee fails to have the certificate reinstated within one year of the expiration date of the certificate, then the applicant may petition the board to have his certificate restored if he files the said petition within three years of the expiration of the certificate. If the board approves the restoration of the certificate, then the applicant must pay the sum of \$150 to the board for the restoration and file a new application with the board.

B. A licensee may reinstate his or her license only with proof that he or she has completed the continuing education units for each year in which his or her license was invalid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers,

LR 17:1075 (November 1991), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 20:864 (August 1994); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999).

§705. Lost or Destroyed Certificates

Lost or destroyed certificates may be replaced on presentation of a sworn statement giving the circumstances surrounding the loss or destruction thereof, together with a fee of \$25. Such replaced certificate shall be marked duplicate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

Chapter 8. Continuing Education

§801. Continuing Education Policy

LSA-R.S. 37:3179 mandates that the Board promulgate regulations governing the participation by licensees in a continuing education program approved by the Board. These regulations are in compliance with that mandate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), LR 26:

§802. Continuing Education Units

A. The definition of a continuing education unit will be the same definition used by the Interior Design Continuing Education Council (IDCEC), which has ruled that one contact hour will equal .1 continuing education unit, or C.E.U.

B. The Board will only approve continuing education units which build upon the basic knowledge of Interior Design and which also include topics which concentrate on the subjects of health, safety and welfare of both licensees and their clients and customers.

C. A licensee must submit evidence on a yearly basis that he or she has participated in an approved continuing education program. The licensee must show that he or she has earned five or more contact hours of continuing education, or .5 C.E.U.'s.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

§803. Verified Credit

A. The term "verified credit" applies to continuing education units which are approved by the Board and at which attendance by the licensee is verified in some fashion. Verification of attendance occurs where the sponsor of the program verifies participation or a transcript from the C.E.U. registry is submitted.

B. The Board will hold at least one program every year that fulfills the requirements promulgated herein. Attendance at this program will automatically be recognized by the

Board as verified credit toward the requirements set forth herein.

C. The Board shall approve those programs submitted for Board approval based upon the following factors:

1. The program must comply with IDCEC criteria.
2. The program must build upon the basic knowledge of interior design and must concentrate on or address the subjects of health, safety, and welfare of both licensees and their clients and customers.
3. The length of the actual instruction time.
4. The program must be open to all licensees or applicants for licensing.

D. The Board will allow any program approved by the Board prior to the program's date to contain in its brochures or literature the statement "This program in whole or in part counts toward fulfilling requirements promulgated by the State of Louisiana for interior design continuing education units."

E. The approval of a submitted program shall be given by the Board in writing to the program's sponsor at least 60 days prior to the first presentation of the program for credit.

F. Any applicant or sponsoring agency applying for C.E.U. course approval should do so in advance of the program. Programs submitted for approval after they have been given will be reviewed by the Board, but approval is not guaranteed. Further, programs which are not approved prior to the date scheduled for the program cannot publish that they have been approved by the State of Louisiana as interior design continuing education units.

G. The Board shall not have the authority to disapprove earned C.E.U.'s of a pre-approved program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

§804. Approved Programs

A. The Board by majority vote shall appoint a Continuing Education Advisory Committee which shall solicit, examine, review and recommend for approval by the Board all continuing education courses which may be used by registrants and licensees to meet the requirements of this Chapter and Section 3179 of Title 37 of the Louisiana Revised Statutes.

B. The membership of the Continuing Education Advisory Committee shall be composed as follows:

1. At least one member of the Board.
2. One member appointed from a list of candidates provided by ASID.
3. One member appointed from a list of candidates provided by IIDA.
4. One correspondence member from each of the eight Louisiana Electoral Districts.
5. One member representing at-large Designers [non-affiliated].
6. Any other member approved by the Board.

B. The Continuing Education Advisory Committee shall approve only continuing education that builds upon the basic knowledge of interior design and which also concentrates on or addresses the subjects of health, safety, and welfare of both

licensees and their clients and customers and shall recommend guidelines for continuing education.

C. Any application for approval of any program must contain the following information:

1. Information on the course sponsor, including name, address and telephone number.
2. Description of the course, including a detailed description of subject matter and course offering. The following information is required: Length of instructional period, instruction format, lecture, seminar conference, workshop, or home study; presentation method, such as electronic, visuals, or printed materials. The description should also state how the course relates to public health, safety and welfare.
3. Course instructors, leaders and/or participants. Names, addresses and telephone numbers of instructors or leaders or participants in the program must be given. Participants will include any member of any panel, those who make a presentation by electronic means, or any other person who leads or contributes to the course content. Information on these should include education and professional credentials for each person. Professional references will be requested.
4. Time, place and cost. The information must include the date, time and location of course offerings, as well as attendance fees and cost of course materials.
5. Verification of course completion. The information must include the sponsor's method for verifying attendance, participation and achievement of program learning objectives.
6. Course information dissemination. The information must include the method of informing those interested of program offering.

E. Application fees.

1. All applicants for approval of a program for continuing education credit by the Board must pay the following costs, which represent the direct cost to the Board for committee review and expenses:

- a. programs already approved by professional organizations including ASID, IIDA, IDEC, IFMA, BOMA, NFPA, SBC AIA and the IDCEC \$10.00;
- b. individual presentations on a one-time annual basis 25.00;
- c. National Commercial Seminars presented by for profit organizations 50.00.

2. Review fees are payable to the Board and are non-refundable.

3. The Board may waive fees for programs solicited by the Board.

F. Committee meetings.

- a. The CEU Advisory Committee may meet by telephone conference calls or by other electronic means.
- b. Corresponding members will receive information regarding applications for CEU approval by facsimile and may respond via facsimile.
- c. All matters considered by the CEU Advisory Committee are subject to final approval by the Board at its regularly scheduled meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

§805. Recording and submission of credits

A. Those programs sponsored by the Board will verify attendance of licensee and maintain records of attendees on a yearly basis, and that information will be retained by the Board for five years.

B. It is incumbent on the licensee attending a pre-approved program to provide verification of attendance satisfactory to the Board, such as a transcript or certificate of attendance.

C. Licensees attending a pre-approved program must submit attendance verification with license renewal on a yearly basis no later than January 31 of the year after the year in which the program was attended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), LR 26:

§806. Notification of Approved Programs

A. The Board will publish information on approved C.E.U. courses being offered.

B. Information on Board-sponsored seminars will be sent directly to all applicants by mail to address listed in applicants' records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), LR 26:

Chapter 9. Examination and Registration.

§901. Qualifications for Registration

A1. A person desiring to be licensed as an interior designer shall apply to the board for licensure. Each applicant shall apply to the board on a form and in the manner prescribed by the board. To be eligible for the examination, an applicant shall submit satisfactory evidence of having successfully completed at least four years of study at the high school level, and in addition meets at least one of the following requirements:

a. is a graduate from an interior design program of 5 years or more and has completed one year of interior design experience;

b. is a graduate from an interior design program of four years or more and has completed two years of interior design experience.

c. has completed at least three years in an interior design curriculum and has completed three years of interior design experience.

d. is a graduate from an interior design program of at least two years and has completed four years of interior design experience.

2. All such education shall have been obtained in a program, school, or college of interior design accredited by the Foundation for Interior Design Education Research (FIDER) or in an unaccredited program, school or college of interior design approved by the board. The unaccredited program, school or college of interior design will be evaluated based upon FIDER standards. The board shall review and approve interior design experience on a case by case basis, using the same standards as those accepted by NCIDQ.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3174 and R.S. 37:3177.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers,

LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), LR 26:

§902. Licensing without Examination

A.1. All persons registered to use the title ~~Anterior~~ designer@, ~~Registered interior designer@~~ or ~~Alicensed interior designer@~~ on January 1, 2000, shall be qualified for interior design registration under the provisions of this Chapter, provided that their license was not inactive, expired, suspended or revoked.

2. Any person licensed on January 1, 2000, who has not passed the required examination by January 1, 2003, must show completion of one of the following:

a. passage of the building and barrier free code section of the NCIDQ examination; or

b. 15 hours of board-approved continuing education classes relating to building and barrier free code regulation prior to having the certificate of registration issued under this subsection renewed. Any hour earned for continuing education pursuant to this section shall be in addition to any other continuing education required by this part.

3. however, any person who has within the three years prior to January 1, 2000, completed 15 hours of approved continuing education on building and barrier free code regulation shall not be required to complete the 15 hours of continuing education related to building and barrier free code regulation as provided for herein.

4. Prior to January 1, 2003, or until he completes the requirements of this Section, the interior designer may retain the title ~~Alicensed interior designer@~~ and retain all rights and duties granted to registered interior designers pursuant to this act, conditioned upon the licensed interior designer abiding by all requirements of this part.

B. On January 1, 2000, all persons who are 65 years old and who are authorized to use the term ~~Alicensed interior designer@~~ on the effective date of the act shall not be required to establish proof of passage of the required examination. However, such persons shall comply with all other requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), LR 26:

§903. Application Procedure.

A. Application must be made to the board on application forms obtained from the State Board of Examiners for Interior Design and required fees filed. Application forms may be obtained by calling (225) 298-1283 or writing to: State Board of Examiners for Interior Design, 2900 Westfork Drive, Ste. 200, Baton Rouge, Louisiana 70827.

B. The application must request the following information:

1. name;
2. business address and telephone;
3. residential address and telephone;
4. affiliations, if any;
5. educational background;
6. employment background;
7. specialties, if recognized;
8. e-mail address;
9. volunteer status for Board committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

§905. Reciprocal Registration

Persons providing evidence of registration or licensing in another state, whose requirements for registration are equivalent to Louisiana's requirements and who extend the same privilege to those registered in Louisiana, may become registered by the board upon payment by such person of the initial registration fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), LR 26:

§907. Examination

A. The examination for purposes of the Act shall be the National Council for Interior Design Qualification (NCIDQ) Examination, which shall be held at least twice a year in the State of Louisiana. Application forms for said examinations may be obtained by contacting the board. The applicant must pass all portions of the examination and submit proof of passage to the board.

B. Those who have taken and successfully completed the examination provided by the American Institute of Interior Designers may submit proof of passage of that examination to the board. The board may consider for licensing those persons who have taken and passed the AID examination, which preceded and was replaced by the NCIDQ examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3177.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), LR 26:

§909. Seal and Display of License Number

A. An applicant for licensing who complies with all requirements established therefor, including the successful completion of an examination where applicable, shall be issued a certificate by the board to evidence such licensing. Each holder of a license shall secure a seal of such design as is prescribed in the rules of the board. All drawings, renderings, or specifications prepared by the holder or under his supervision shall be imprinted with his seal.

B. The seal to be used is identified in the following illustration:

C. Any licensed or registered interior designer who advertises his services through any medium, including but not limited to advertising in newspapers, magazines or on television, and to stationery and business cards, shall indicate in such advertisement his name, business address and license or registration number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.2.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers,

LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

§911. Inactive Status

A. A license which has become inactive may be reactivated pursuant to this Section upon application to the board and payment of an application fee.

B. An applicant who wishes to have his license reactivated must provide proof to the Board that he has completed Board-approved continuing education units of not less than five hours approved by the board for each year the license was inactive, to be cumulated at the time the applicant applies to have his license reactivated.

C. Any license which has been inactive for more than 4 years shall automatically expire if the licensee has not made application for reactivation. Once a license expires, it becomes null and void without any further action by the board. At least one year prior to expiration of the inactive license, the board shall give notice to the licensee at the licensee's last address of record that, unless reactivated, the license will expire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

§913. Application for inactive status

A. An applicant who wishes to apply for inactive status must file an application provided by the Board which requires all information asked of new and renewal applications. Further, the applicant must provide a good and supportable reason for inactive status. Inactive status is to be considered a status of last resort, and will only be available to a limited number of applicants. Some reasons for obtaining inactive status will be that the applicant is seriously ill; that the applicant is a full-time student; or that the applicant will be out of the country for longer than twelve months at one time. These reasons are for explanation only; other reasons may be considered.

B. Applications for inactive status will be considered on a case-by-case basis. Applicants may be required to produce evidence supporting their claim for inactive status.

C. During inactive status, the designer will not be able to use the term "interior design" or "interior designer" when describing his occupation or the services provided, as prohibited by statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), LR 26:

Chapter 10. Use of term "Interior Designer"

§1001. Limitation of use of term

A. Only those who are licensed as a licensed interior designer or registered interior designer by the board may use the appellation interior designer, licensed interior designer or registered interior designer or the plural thereof in advertising or in business usage when referring to themselves or services to be rendered.

Licensed Interior Designer is a person who is licensed pursuant to the provisions of this chapter.

Registered Interior Designer a licensed interior designer who has taken and passed the examination provided by the National Council for Interior Design Qualifications (NCIDQ).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3171 and R.S. 37:3176.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

§1003. Firm Practice

Nothing shall prevent a licensed or registered interior designer licensed pursuant to the statute or regulations from associating with one or more interior designers, architects, professional engineers, landscape architects, surveyors, or other persons in a partnership, joint venture, or corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3180.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

§1005. Use of Term by Business

A firm shall be permitted to use in its title the term licensed interior designer or registered interior designer and to be so identified on any sign, card, stationery, device, or other means of identification if at least one partner, director, officer, or other supervisory agent of such firm is licensed as an interior designer in this state. A firm shall not be required to include the names of all partners, directors, or officers in its title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3180.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

Chapter 11. Revocation or Suspension of Certificates of Registration

§1101. Authority of Board to Suspend or Revoke

A. The board may suspend for a definite period or revoke any certificate of registration on those grounds mentioned in the Act, which include:

1 that the license or any renewal thereof was obtained by fraud, misstatement, or misrepresentation of fact;

2 that the holder of the license or any applicant therefor has committed any act of fraud or deceit in his professional conduct or has been convicted of a felony;

3 that an applicant for a license has represented himself to be a licensed interior designer or a registered interior designer prior to the time of issuance of a license to him except as authorized by the Act;

4 that the holder of a license or an applicant therefor has been found by the board to have aided and abetted any person not licensed in violating any provisions of the Act;

5 that the holder of a license has failed to comply with the requirements of this Act or with any rule, regulation, or order of the board pursuant to authority granted by the Act;

6 that the holder of the license has been guilty of gross incompetence, dishonesty, or gross negligence in the practice of interior design;

7 that the holder of the license has been guilty of affixing his seal or stamp or name to any specification,

drawing, or other related document which was not prepared by him or under his responsible supervision and control, or permitting his seal, stamp, or name to be affixed to any such document:

a. that the holder of a license has been guilty of affixing his seal or stamp or name to any plan, specification, drawing or other document which depicts work which he is not competent or licensed to perform;

8. that the holder of the license has been convicted of a felony, in which case the record of conviction is conclusive evidence of such conviction;

9. that the holder of the license has been guilty of willfully misleading or defrauding any person employing him as an interior designer;

10. that the holder of the license has been guilty of willfully violating the provisions of the Act or any lawful rule or regulation adopted by the board pursuant to law;

11. that the holder of the license has been guilty of attempting to obtain, obtaining, or renewing, by bribery, by fraudulent misrepresentation, or through an error of the board, a license to use the title licensed interior designer;

12. that the holder of the license has been guilty of having a license to practice interior design, or a license to use the title licensed interior designer or registered interior designer revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction for any act which would constitute a violation of this part of this Chapter;

13. that the holder of the license has been convicted or found guilty of a crime in any jurisdiction which directly relates to the provision of interior design services or to the ability to provide interior design services. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charge. However, the board shall allow the person being disciplined to present any evidence relevant to the underlying charge and the circumstances surrounding such plea;

14. that the holder of the license has been guilty of false, deceptive, or misleading advertising;

15. that the holder of the license has been guilty of aiding, assisting, procuring, or advising any unlicensed person to use the title licensed interior designer or registered interior designer contrary to this Act or to a rule of the board;

16. that the holder of the license has been guilty of failing to perform any statutory or legal obligation placed upon an interior designer;

a. that the holder of the license has been guilty of:

i. making or filing a report which the licensee knows to be false;

ii. intentionally or negligently failing to file a report or record required by state or federal law; or

iii. willfully impeding or obstructing such filing or inducing another person to do so;

b. such reports or records shall include only those which are signed in the capacity as an interior designer;

18. that the holder of the license has been guilty of making deceptive, untrue, or fraudulent representations in the provision of interior design services;

19 that the holder of the license has been guilty of accepting and performing professional responsibilities which the licensee knows or has reason to know that he is not competent or licensed to perform;

20 that the holder of the license has been guilty of rendering or offering to render architectural services.

B. Revocation or nonrenewal of the registration of the registered interior designer is recommended for violations of Sections 1, 2, 6, 8, 9, 10, 11, and 12.

C. Revocation or nonrenewal of the registration of the registered interior designer is recommended if there is a finding that the registrant has been suspended at least twice prior to the hearing on the incident regarding the current complaint.

D. Revocation or nonrenewal of the registration of the registered interior designer is recommended if there is a finding that the registrant has violated any requirements relating to continuing education units.

E. A reprimand or suspension of 30 days to one year is recommended for violation of any Sections 3, 4, 5, 7(a), 13, 14, 15, 16, 17, 18, 19.

F. Suspension is recommended if the registrant has received three reprimands.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

§1103. Procedure for Suspension or Revocation

A. Upon receipt of notice of any alleged violations of this Part, or any rule or regulation adopted by the board, the board shall institute a preliminary investigation. If warranted by the investigation, the board shall duly notify the alleged violator and schedule a timely hearing for the resolution of the alleged violation. If following such hearing, the board reasonably finds that a violation of the rule or the rules or regulations promulgated by the board has occurred, the board shall take such disciplinary action that it may in its discretion choose to exercise in keeping with its delegated authority.

B. If a formal complaint is filed with the Board, that complaint shall be referred to the Disciplinary Committee, whose job shall be to investigate the complaint. If warranted by the investigation, the Disciplinary Committee shall duly notify the alleged violator in writing of the complaint and ask the alleged violator for a response to the complaint.

C. If the Disciplinary Committee by a majority vote determines that there has been no violation of the statutes and regulations regulating registered or licensed interior designers, then a report of that shall be made to the Board.

D. If the Disciplinary Committee determines that the registrant has corrected the alleged violation, and the complainant has accepted the correction without further hearing, it shall make a report of that to the entire Board.

E. If the Disciplinary Committee determines that there is a violation alleged, and that the registrant has not corrected the alleged violation, then it shall make a referral to the Board of this fact and ask that the matter be referred for a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174, R.S. 37:3179 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991); amended by the Department of Economic

Development, Board of Examiners of Interior Designers, (December 1999).

§1104. Hearing Procedures

A. If, after following the procedure in Section 1103, the Board determine that a hearing is warranted, the following procedure should be followed.

B. Proceedings to revoke, rescind or suspend the certificate of registration of an interior designer shall commence by any person filing a sworn affidavit with the board against the interior designer. A time and place for the hearing of the charges shall be fixed by the board. The board, upon its own motion, may investigate the actions of any interior designer and file a complaint against him.

C. A copy of the complaint shall be sent by the board to the interior designer against whom a complaint has been filed at his last known address by registered or certified mail at least twenty days prior to the hearing together with a notice of the time and place of the meeting of the board at which the complaint shall be heard.

D. At the hearing the interior designer against whom a complaint has been filed shall have the right to cross-examine witnesses against him, to produce witnesses in his defense, and to appear personally or by counsel.

E. No action shall be taken to rescind, revoke, or suspend the certificate of registration of any interior designer unless a quorum of the board is present at the hearing and then only by an affirmative vote of at least four of the members of the board present.

F. If the board determines upon the suspension of the certificate of registration of any interior designer, it shall fix the duration of the period of the suspension.

G. If the board revokes, rescinds, or suspends the certificate of registration of any interior designer, the secretary of the board shall give written notice of its action by registered or certified mail to the person against whom the complaint was filed at the last known address.

H. The board may require the production of books, papers, or other documents and may issue subpoenas to compel the attendance of witnesses to testify and to produce any relevant books, papers, or other documents in their possession before the board in any proceeding concerning any violations of the laws regulating registered interior designers or the practice of interior design. The subpoenas shall be served by the sheriff for the parish where the witness resides or may be found. If any person refuses to obey any subpoena so issued or refuses to testify or to produce any books, papers, or other documents required to be produced, the board may present its petition to the district court of the parish in which that person was served with the subpoena setting forth the facts. The court shall then issue a rule to that person requiring him to obey the subpoena or to show cause why he fails to obey it. Unless that person shall show sufficient cause for failing to obey the subpoena, the court shall direct him to obey the subpoena and, upon his refusal to comply, he shall be adjudged in contempt of court and punished therefor, as the court may direct.

I. Any licensed or registered interior designer who has been found guilty by the board of the charges filed against him and whose certificate of registration has been revoked, rescinded, or suspended, shall have the right to appeal to the district court of the parish in which the hearing was held. The appeal shall be governed by the Administrative Procedure Act, R.S. 49:950, et seq.

J. The board shall have the power to issue a new certificate of registration, change a revocation to a suspension, or shorten the period of suspension, upon satisfactory evidence that proper reasons for such action exist, presented by any person whose certificate of registration as an interior designer has been revoked, rescinded or suspended. Any person whose certificate of registration has been suspended shall have his certificate of registration automatically reinstated by the board at the end of his period of suspension upon payment of the renewal fee. No delinquent fee shall be charged for reinstatement of certificate of registration under the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991).

§1105. Appeal Process

Any person aggrieved by any disciplinary action of the board shall have the right to a rehearing by the board if written application for a rehearing is made to the board within 15 days after the adverse disciplinary action. If such person is aggrieved further by a decision or action by the board on rehearing, such person may appeal the decision or action of the board to the district court in the parish in which he is domiciled. The written petition for a rehearing in district court shall be made within 30 days after written notice sent to the person of the action or decision of the board on rehearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991).

§1106. Fine for Restoration of Revoked or Suspended License

The board may require a licensee who has had his license revoked or suspended pursuant to the provisions of this Chapter to pay a fine of up to \$150.00 to have his license restored to him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179 and R.S. 37:3182.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

§1107. Enforcement of Board's Decisions

The board may apply to any court which has jurisdiction for an order enjoining or restraining the continuance of the alleged unlawful act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and 37:3176.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), LR 26:

§1108. Disciplinary Committee

A. There is hereby created a disciplinary committee to review all complaints filed with the Board.

B. The Board shall appoint the members of the disciplinary committee.

C. The disciplinary committee shall be composed of the following members:

1. the Chairman of the Board or a representative of same;
2. one representative of ASID;
3. one representative of IIDA;
4. one representative of IDEC;
5. one unaffiliated registered interior designer.

D. All complaints filed with the Board shall be reviewed by the Disciplinary Committee before submission to the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), LR 26:

§1109. Cease and Desist Orders and Injunctive Relief

A. In addition to or in lieu of the administrative sanctions provided in this Chapter the board is empowered to issue an order to any person or firm engaged in any activity, conduct, or practice constituting a violation of any provision of this chapter directing such person or firm to cease and desist from such activity, conduct, or practice. Such order shall be issued in the name of the state of Louisiana under the official seal of the board.

B. The Board shall issue a cease and desist order against anyone who is not registered and who is found to be practicing interior design or using the term interior designer, registered interior designer, or licensed interior designer.

C. The alleged violator shall be served with the cease and desist order by certified mail. If within 10 days the alleged violator is continuing the offending activity, the Board may file a complaint with the appropriate district court requesting that the Court enjoin the offending activity.

D. Upon a proper showing by the board that such person or firm has engaged in any activity, conduct, or other activity proscribed by this Chapter, the court shall issue a temporary restraining order restraining the person or firm from engaging in unlawful activity, conduct, or practices pending the hearing on a preliminary injunction, and in due course a permanent injunction shall issue after hearing commanding the cessation of the unlawful activity, conduct, or practices complained of, all without the necessity of the board having to give bond as usually required in such cases. A temporary restraining order, preliminary injunction, or permanent injunction issued hereunder shall not be subject to being released upon bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), LR 26:

Chapter 12. Miscellaneous

§1201. Lending books

Books or other materials on the NCIDQ reading list, which books are owned by the Board and located in the Board offices may be loaned for a period not to exceed 14 days, provided that a borrower of any book must pay a deposit equal to the book's cost if the book is removed from board offices.

Deposits will not be refunded on books or other materials if they are not returned to board offices within the 14-day period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), LR 26:

§1202. Roster

The roster of licensed interior designers will be provided upon payment of the cost of copying at the rate of copying charges as set by the Regulations established by the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), LR 26:

Chapter 13. Severability

§1301. Severability

If any provision or item of the rules of the board or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of the rules of the board which can be given effect without the invalid provisions, items or applications, and to this end the provisions of the rules of the board are hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), LR 26:

J. Dan Bouligny
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Composition and Operation of the Board

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no increased cost as a result of the passage of the legislation. The State Board will not gain any new powers except for the right to impose fines on those who violate the law. The fines will pay for any disciplinary proceedings. At the present time, the State Board has the power to hold disciplinary proceedings against licensees so other costs will remain the same.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

None. The regulations do not change the current system of collection.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

None. The regulations do not change the current system of collection.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The regulations follow the 1999 revisions to the statute, which provide that only licensees may practice interior design. Formerly, the statute restricted only the use of the title. This

will limit the number of designers who will be able to practice interior design. Others who do qualify will become licensed.

J. Dan Bouligny
Chairman
0005#055

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Economic Development Office of Financial Institutions

Additional Fees and Charges (LAC 10:XI.701)

Under the authority of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., the Acting Commissioner of Financial Institutions ("Commissioner") hereby gives notice of intent to promulgate the following rule to implement the provisions of Act 1315 of 1999, and specifically R.S. 9:3517(C) of said Act, to provide for the approval of additional fees and charges not inconsistent with the Louisiana Consumer Credit Law, ("LCCL"), R.S. 9:3510, et seq.

TITLE 10

CHAPTER 7. Additional Fees and Charges

§701. Definitions

Additional Fees and Charges means those fees and charges which are not specifically authorized by the LCCL but, as determined by the Commissioner, are considered not to be inconsistent with the provisions thereof.

Creditor means a person who is a licensed lender as defined in R.S. 9:3516(22).

Petition means a written request of a creditor, in the form of a letter, directed to the Commissioner seeking approval of an additional fee or charge and including an explanation as to why a creditor believes a certain fee or charge is warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3517(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 26:

§703. Procedure for Requesting Approval of an Additional Fee or Charge

A. A creditor extending credit under the LCCL shall petition the Commissioner for authority to assess an additional fee or charge which is not inconsistent with the provisions thereof.

B. A petition shall include an explanation as to why a creditor believes the fee or charge is warranted, as well as a showing that such fee or charge is not inconsistent with the provisions of the LCCL. The creditor shall also include documentation supporting its request.

C. The Commissioner may publish the creditor's request, in a form prescribed by him, in the *Potpourri* section of the next *Louisiana Register*, to solicit public comments.

D. After considering the request and any public comments received, the Commissioner may approve the proposed fee or charge, as long as it is not inconsistent with the provisions of the LCCL, and it complies with the requirements established by policy promulgated by the Commissioner.

E. A current list of all fees and charges which have been approved or disapproved by the Commissioner shall be maintained on the OFI website and made available upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3517(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 26:

§705. Procedure for Consumers of Financial Services to Comment on Petitioner's Request for Approval of Additional Fees and Charges

A. When a creditor petitions the Commissioner to request approval of an additional fee or charge in accordance with this Rule, a notice may be published in the *Louisiana Register* that such petition has been received by the Commissioner. The notice shall apprise the public that a formal request for an additional fee or charge has been made and that the Commissioner will consider the merits of the request and make a decision regarding its approval within a time to be stated in the notice. Any interested person, shall have the opportunity to submit written comments, observations, or objections to the request. The comments, observations, or objections shall bear a postmark of not later than 15 days after publication of the notice in the *Louisiana Register*.

B. In addition to the public notice that is provided for by Section 703.C, the Commissioner may inform the general public by a press release, which is distributed to newspapers which have a general circulation, that a creditor has filed a petition requesting approval of an additional fee or charge and that any interested person may make comments, observations, or objections known in the same manner and in the same time as is provided for in Subsection A of this Section.

C. The notice which is provided for by Section 703.C and the press release which is permitted by Subsection B of this Section shall briefly summarize the creditor's reasons for requesting the additional fee or charge. The notice and press release shall inform the general public that any person may obtain a copy of the creditor's request, including any attachments or documents filed therewith to support the request, at no cost to the person requesting it. A copy of the petition and attachments may be obtained by a written request sent via U.S. Postal Service, addressed to the Chief Examiner, Non-Depository Division, Office of Financial Institutions, 8660 United Plaza Boulevard, Baton Rouge, LA 70809. In the alternative, any person may obtain, in person, a copy at the same address between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

D. By the end of the month following the month in which the petition for additional fees and charges was filed with the Office of Financial Institutions, if the fee or charge is approved, the Commissioner may announce the decision and publish it in the Potpourri section of the *Louisiana Register* which is issued in the month following the decision.

E. The creditor shall, within 30 days after the Office of Financial Institutions receives the Office of the State Register's invoice for costs of publication, reimburse the Office of Financial Institutions the total cost of publishing the notices provided for by Subsections A, C and D of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3517(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 26:

Any interested party may submit written comments regarding the contents of the proposed rule to Gary L. Newport, Chief Attorney, Office of Financial Institutions, in person to: 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA, 70809; or by mail to: Louisiana Office of Financial Institutions, Post Office Box 94095, Baton Rouge, LA, 70804-9095. All comments must be received no later than June 20, 2000 at 4:30 p.m.

Doris B. Gunn
Acting Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Additional Fees and Charges**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will not result in any implementation costs (or savings) to the state or local governmental units other than those one-time costs directly associated with the publication of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of the state will increase to the extent that creditors request authority to charge borrowers additional fees and incur additional fees to reimburse the OFI for publications costs.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Creditors requesting authority to charge additional fees will incur additional costs to reimburse the Office of Financial Institutions for the *Louisiana Register's* costs of publication of notices in the Potpourri section. It is indeterminable as to any economic benefit to creditors.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Doris B. Gunn
Acting Commissioner
0005#026

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Total Dissolved Carbon Dioxide Testing (LAC 35:I.1720)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:I.1720 "Total Dissolved Carbon Dioxide Testing," to ban bicarbonate loading or the administration of "milkshakes" or other substances that affect total dissolved carbon dioxide levels when administered by use of nasogastric tube or any other means whatsoever, which shall be deemed to have an adverse affect on the horse by changing its normal physiological state through elevation of blood total dissolved carbon dioxide, and to include provisions for total dissolved carbon dioxide testing in horses.

This proposed rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1720. Total Dissolved Carbon Dioxide Testing

A. Definitions

Bicarbonate Loading or *"Milkshaking"* terms used to describe the administration of bicarbonate of soda (sodium bicarbonate or NaHCO₃) or other substances that affect total dissolved carbon dioxide levels, administered through a nasogastric tube or by any other means, which shall be deemed to have an adverse affect on the horse by changing its normal physiological state through elevation of blood total dissolved carbon dioxide.

Nasogastric Tube any tube which can be inserted through the nose that extends into the stomach.

B. Procedures

1. The state veterinarian may draw blood samples from a horse for the purpose of obtaining a TCO₂ (total dissolved carbon dioxide) concentration level.

2. Blood samples for TCO₂ shall be drawn not earlier than 90 minutes following the official post-time of the race.

3. The post-race TCO₂ level in the blood shall not exceed:

a. 39.0 millimole per liter if the horse is competing on furosemide (lasix) or other permitted medication known to affect TCO₂;

b. 37.0 millimole per liter if the horse is not competing on furosemide (lasix) or other permitted medication known to affect TCO₂.

4. In the event a post-race sample drawn from a horse contains an amount of TCO₂ which exceeds the levels described above, the following penalties shall apply:

a. The first time the laboratory reports an excessive TCO₂ level, the trainer shall be fined \$1,000 and the purse shall be redistributed.

b. The second time the laboratory reports an excessive TCO₂ level, the stewards shall suspend the trainer for the duration of the race meeting plus ten days or for a period not to exceed six months, whichever is greater, and shall refer the case to the commission.

c. For each subsequent report of an excessive TCO₂ level, the penalties provided for in (B)(4)(b) shall apply.

5. The provisions of §1733 and §1769 through §1775, pertaining to split samples, shall not apply to blood samples drawn for the purposes of TCO₂ testing.

6. No permittee other than veterinarians shall possess a nasogastric tube, as described herein, on the premises under the jurisdiction of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Racing Commission LR 26:

The domicile office of the Louisiana State Racing Commission is open from 8AM to 4PM and interested parties may contact C. A. Rieger, assistant director, at (504

483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through June 9, 2000, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Total Dissolved Carbon Dioxide Testing**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated costs or savings to state or local governmental units associated with these rules, other than those one-time costs directly associated with the publication of these rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of local governmental units associated with this proposed rule. However, the state may receive an indeterminable increase in self-generated revenue through fines imposed on those not complying with these rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action benefits horsemen and patrons by assuring that no excessive amount of sodium bicarbonate is administered to horses, thereby making it more difficult to unduly alter the outcome of any race.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule.

Charles A. Gardiner, III
Executive Director
0005#059

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Tuition Opportunity Program for Students
(TOPS) Core Curriculum Equivalents for
Louisiana Schools (LAC 28:IV.703)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS).

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

The proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., May 20, 2000, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Tuition Opportunity Program for
Students (TOPS) Core Curriculum
Equivalents for Louisiana Schools**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The implementation cost associated with publishing these rule revisions in the Louisiana Register as emergency, notice and rule is approximately \$200. The purpose of this action is to establish core curriculum equivalent courses for students at the Louisiana School. This will not require increased funding. There are no costs inconsistent with current budgetary appropriations for this purpose.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

No impact on revenue collections is anticipated to result from this rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

TOPS applicants at the Louisiana School for Math, Science and the Arts who have taken high school courses that have been approved as substitutes for the core curriculum course requirements for TOPS may use those courses to establish eligibility for an award.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

No impact on competition and employment is anticipated to result from this rule.

Melanie Amrhein
Assistant Executive Director
0005#008

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Louisiana Pollutant Discharge Elimination
System (LPDES) Program (WP040)
(LAC 33:IX.2301, 2531 and 2533)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.2301, 2531, and 2533 (Log #WP040*).

This proposed rule is identical to federal regulations found in 40 CFR parts 136 and 40 CFR chapter I, subchapter N, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact

will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule will update the CFR references in Chapter 23 to the current 1999 CFR. Authorized programs are required to adopt changes made to the federal regulations. The basis and rationale for this proposed rule are to keep the LPDES program current with federal rules that are incorporated by reference into the state regulations.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality Regulations

**Chapter 23. The Louisiana Pollutant Discharge
Elimination System (LPDES) Program
Subchapter A. Definitions and General Program
Requirements**

§2301. General Conditions

(See Prior Text in A - E)

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter (e.g., 40 CFR 122.29) shall refer to those regulations published in the July 1999 *Code of Federal Regulations*, unless otherwise noted.

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 23:199 (February 1997), LR 23:722 (June 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter N. Incorporation by Reference

The Louisiana Department of Environmental Quality incorporates by reference the following federal requirements.

§2531. 40 CFR Part 136

Title 40 (Protection of the Environment) *Code of Federal Regulations* (CFR) part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, revised July 1, 1999, in its entirety.

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 23:958 (August 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2533. 40 CFR Chapter I, Subchapter N

Title 40 (Protection of the Environment) CFR, chapter I, subchapter N (Effluent Guidelines and Standards), revised July 1, 1999, parts 401 and 402, and parts 404 - 471 in their entirety. (Note: General Pretreatment Regulations for Existing and New Sources of Pollution found in part 403 of Subchapter N have been included in these regulations as Subchapter T.)

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 23:958 (August 1997), amended LR 25:1467 (August 1999), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on June 26, 2000, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. 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 Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by WP040*. Such comments must be received no later than June 26, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-5095. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of WP040*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/reg/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0005#065

NOTICE OF INTENT

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

Waste Tire Regulations (SW027)
(LAC 33:VII.Chapter 105)

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 Solid Waste regulations, LAC 33:VII.Chapter 105 (Log #SW027).

The rule clarifies definitions, simplifies the exemption process, simplifies the standards for waste tire generators, transporters, and recyclers, and implements the fee for off-road tires. The revisions are necessary to meet the standards required by Act 1015 of the 1999 Regular Session of the Louisiana Legislature, which places a fee on off-road tires for their disposal and/or recycling. In addition, many of the sections in the Waste Tire Program regulations have not been updated since inception in 1994. These revisions will make the regulations current. The basis and rationale for the

proposed rule are to incorporate the aspects of Act 1015 into the regulations and to make the standard current.

This proposed rule meets an exception listed in R.S. 30:2019(D)(3) 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 VII. Solid Waste
Subpart 2. Recycling**

Chapter 105. Waste Tires

§10503. Administration

This program shall be administered by the Department of Environmental Quality.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10505. Definitions

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

* * *

[See Prior Text]

Agreement a written contract or other written arrangement between recipient persons and the administrative authority that outlines specific goals or responsibilities.

Authorization Certificate written authorization issued by the administrative authority.

Clean Closure the act of closing a facility whereby all waste tires and waste tire material are removed, including any resulting on-site or off-site contamination.

Collection Center a permitted or authorized location denoted on an authorization certificate where waste tires and waste tire material can be stored and/or collected.

Collector—a person who operates a collection center.

* * *

[See Prior Text]

Destination Facility a facility where waste tires and/or waste tire material is processed, recycled, collected, stored and/or disposed after transportation.

* * *

[See Prior Text]

Disposal the depositing, dumping, or placing of waste tires or waste tire material on or into any land or water so that such waste tires, waste tire material, or an constituent thereof, may have the potential for entering the environment, or being emitted into the air, or discharged into any waters of Louisiana.

Facility any land and appurtenances thereto used for storage, processing, recycling, and/or disposal of solid waste or tire material, but possibly consisting of one or more units. (Any earthen ditches leading to or from a facility that receive waste are considered part of the facility to which they connect; except ditches which are lined with materials

which are capable of preventing groundwater contamination.)

Generator a facility that generates waste tires as a part of its business operations.

Government Agencies local, parish, state, municipal, and federal governing authorities having jurisdiction over a defined geographic area.

* * *

[See Prior Text]

Manifest the form, provided by the department, used for identifying the quantity, composition, origin, routing, and destination of waste tires and/or waste tire material during transportation from the point of generation to the authorized destination.

* * *

[See Prior Text]

Mobile Processor a standard permitted processor who has processing equipment capable of being moved from one location to another.

Modification any change in a site, facility, unit, process or disposal method, or operation that deviates from the specification in the permit. Routine or emergency maintenance that does not cause the facility to deviate from the specification of the permit is not considered a modification.

Motor Vehicle an automobile, motorcycle, truck, trailer, semi-trailer, truck-tractor and semi-trailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power.

Off-Road Vehicle a vehicle used for construction, farming, industrial uses, or mining, not normally operated on the roads of the state. This term does not include vehicles propelled solely by muscular power.

Permittee/Permit Holder a person who is issued a permit and is responsible for meeting all conditions of the permit and these regulations at a facility.

* * *

[See Prior Text]

Processing any method or activity that alters whole waste tires so that they are no longer whole; such as, cutting, slicing, chipping, shredding, distilling, freezing, or other processes as determined by the administrative authority. At a minimum, a tire is considered processed only if its volume has been reduced by cutting it in half along its circumference.

Processor a person that collects and processes waste tires.

Qualified Recycler any person that the department determines recycles waste tires or waste tire material so that the waste tire or waste tire material is reused or returned to use in the form of raw material, product, or fuel source.

Recycling any process by which waste tires, waste tire material, or residuals are reused or returned to beneficial use in the form of products or as a fuel source.

Standard Permit a written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, or closure of facilities or equipment used or intended to be used to process or collect waste tires in accordance with the act, these regulations, specified terms and conditions, and the permit application.

Temporary Permit a written authorization issued by the administrative authority for a specific amount of time to a person for the construction, installation, operation, closure, or post closure of a particular facility used or intended to be used for processing waste tires or waste tire material in accordance with the act, these regulations, and specified terms and conditions.

Tire a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle or off-road vehicle.

Tire Dealer any person, business, or firm that engages in the sale of new tires for use on motor vehicles.

Tire Wholesaler any wholesaler, supplier, distributor, jobber, or other entity who distributes tires to retail dealers in this state or to its own retail establishments in this state.

Transporter a person who transports waste tires.

Unauthorized Waste Tire Pile a pile in excess of 20 waste tires whose storage and/or disposal is not authorized by the administrative authority.

Waste Tire a whole tire that is no longer suitable for its original purpose because of wear, damage, or defect.

Waste Tire Material waste tires after processing; such as, but not limited to, chipped, shredded, cut, or sliced tires, crumb rubber, steel cord, cord material, oil, or carbon black.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10507. Exemptions

Any persons, facilities, or other entities subject to these regulations may petition the department for exemption from these regulations or certain portions thereof in accordance with LAC 33:VII.307.

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 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10509. Prohibitions and Mandatory Provisions

A. No person may knowingly or intentionally dispose unprocessed waste tires in a landfill within the boundaries of Louisiana.

B. Upon promulgation of these regulations, no person may store more than 20 whole waste tires unless they are authorized by the administrative authority and:

1. collected and stored at a registered tire dealer, registered used tire dealer, or registered other generator of waste tires;

2. collected and stored at an authorized waste tire collection center or permitted waste tire processing facility; or

3. collected and stored at an authorized waste tire recycling facility.

C. No person may transport more than 20 waste tires without first obtaining a transporter authorization certificate.

D. No person may receive payment from the Waste Tire Management Fund for processing tires without a standard permit issued by the department.

E. No regulated generator, collector, or processor may store any waste tire for longer than 365 days.

F. All persons subject to these regulations are subject to inspection and/or enforcement action by the administrative authority, in accordance with LAC 33:VII.10537.

G. All persons subject to these regulations shall maintain all records required to demonstrate compliance with these regulations for a minimum of three years. The department may extend the record retention period in the event of an investigation. The records shall be maintained at the regulated facility or site unless an alternate storage location is approved in writing by the administrative authority. All records shall be produced upon request for inspection by the department.

H. All persons who sell new tires shall retain and make available for inspection, audit, copying, and examination, a record of all tire transactions in sufficient detail to be of value in determining the correct amount of fee due from such persons. The records retained shall include all sales invoices, purchase orders, inventory records, and shipping records pertaining to any and all sales and purchases of tires. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A).

I. Each tire wholesaler shall maintain a record of all new tires sales made to dealers in this state. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A). These records shall contain and include the name and address of each tire purchaser and the number of tires sold to that purchaser.

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 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26.

§10511. Permit System

A. Permit Requirements

1. Scope. Persons, other than generators and government agencies, operating collection facilities that collect waste tires and/or waste tire material and/or process waste tires or waste tire material for payment from the Waste Tire Management Fund must secure a permit and are subject to the requirements detailed in these regulations.

2. Types of Permits

a. Temporary Permits. A temporary permit allows continued operation of an existing collector and/or processor, in accordance with an approved interim operational plan, but does not allow the expansion or modification of the facility without approval of the administrative authority. The administrative authority may issue a temporary permit in the following situations:

[See Prior Text in A.2.a.i]

ii. Order to Close – to allow operations to continue at an existing facility while a closure plan is being processed or while a facility is being closed in accordance with a closure plan.

[See Prior Text in A.2.b]

3. Permit Provisions

[See Prior Text in A.3.a-b]

B. Modifications. Modification requests shall be tendered in accordance with LAC 33:VII.517. No modifications shall be made to the permit or facility without prior written approval from the administrative authority.

C. Suspension or Revocation of Permit. The administrative authority may review a permit at any time. After review of a permit, the administrative authority may, for cause, suspend or revoke a permit in whole or in part in accordance with procedures outlined in LAC 33:VII.

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 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26.

§10513. Permit Process for Existing Facilities Classified for Upgrade and for Proposed Facilities

[See Prior Text in A-A.3]

B. Submittal of Permit Applications

1. Any applicant for a standard permit for an existing or proposed facility shall complete a waste tire standard permit application, and submit four copies to the department. Each individual copy of the application shall be in standard three-ring-bound documents measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

[See Prior Text in B.2]

C. Requirements for Public Notification of Permit Application

1. As provided in R.S. 30:2022 and 30:2418, upon receipt of a permit application the department shall provide written notice on the subject matter to the parish governing authority and each municipality affected by the application.

[See Prior Text in C.2]

3. The applicant shall cause the notice of the hearing to be published in the official journal of the parish or municipality on two separate days preceding the hearing. The last day of publication of such notice shall be at least 10 days prior to the hearing. The applicant shall provide the department with proof of publication.

4. The applicant shall post a notice of the hearing, in prominent view of the public, for two weeks prior to the hearing, in the courthouse, government center, and all the libraries of the parish.

5. A public comment period of at least 30 days shall be allowed following the public hearing.

[See Prior Text in D-D.2]

E. Waste Tire Standard Permit Application Review

1. An application deemed unacceptable for technical review shall be rejected. Applications shall be subject to the completeness review requirements of LAC 33:I.1505.A.

2. Applications shall be subject to the technical review requirements of LAC 33:I.1505.B.

3. Closure plans that are determined to be unacceptable for a technical review shall be rejected. The applicant shall be required to resubmit the closure plan to the administrative authority.

4. An applicant whose closure plan is acceptable for technical review, but lacks the necessary information, shall be informed of such in a closure plan deficiency letter. These deficiencies shall be corrected by submission of supplementary information within 30 days after receipt of the closure plan deficiency letter. Closure plans that have been deemed technically complete shall be approved.

F. Standard Permit Applications Deemed Technically Complete

* * *

[See Prior Text in F.1-2]

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 the official journal of the parish or municipality where the facility is located. 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 the official journal of the parish or municipality where the facility is located. 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. A public hearing shall be held for any proposed standard permit application when the administrative authority determines, on the basis of comments received and other information, that a hearing is necessary.

5. Public Opportunity to Request a Hearing. Any person may, within 30 days after the date of publication of the newspaper notice required in Subsection F.3 of this Section, request that a public hearing be held. If the administrative authority determines that the hearing is warranted, a public hearing shall be held. If the administrative authority determines not to hold the requested hearing, the department shall send the person requesting the hearing written notification of the determination. The request for a hearing must be in writing and must contain the name and affiliation of the person making the request and the comments in support of or in objection to the issuance of a permit.

* * *

[See Prior Text in F.6]

7. Receipt of Comments Following a Public Hearing. The department shall receive comments for 30 days after the date of a public hearing.

* * *

[See Prior Text in G-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 the official journal of the parish or municipality where the facility is located. 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 the official journal of the parish where the facility is located. 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:

§10515. Agreements with Waste Tire Processors

Standard permitted waste tire processors may apply to the administrative authority for subsidized funding to assist them with waste tire processing and marketing costs. This application form is available from the administrative authority.

A. Maximum Payments to Processors

1. Standard permitted processors shall be eligible to receive \$1 per tire equivalent unit of 20 pounds of waste tire material that is processed, marketed, and manifested by the facility on a monthly basis. This weight shall be documented by Department of Agriculture certified scale-weight tickets.

2. Standard permitted processors shall be eligible to receive \$.15 per tire equivalent unit of 20 pounds of waste tire material that is actually recycled or that reaches certifiable end-market uses provided.

a. Standard permitted processors shall provide documentation to prove that they are contracted with a qualified recycler. Proof shall be provided in the form of a letter or other document from the qualified recycler.

b. Standard permitted processors shall provide a certificate of end use demonstrating that the waste tire material has been recycled.

c. Standard permitted processors shall provide a Department of Agriculture certified scale-weight ticket including gross, tare and net weights.

3. Standard permitted processors shall be eligible to receive \$1 per 20 pounds of whole waste tire that is marketed and shipped to a qualified recycler in accordance with LAC 33:VII.10535.D.4.c.

a. Standard permitted processors must apply and obtain approval from the department in order to market and ship whole waste tires. At this time they shall provide a detailed description of the operational plan to market and ship whole waste tires to a qualified recycler, including:

- i. shipping destination;
- ii. place of origin of the tires;
- iii. name of the qualified recycler;
- iv. method of recycling authorized or allowed under applicable state and federal laws;
- v. detailed description of product material or fuel source; and
- vi. a copy of an agreement with the qualified recycler who will accept whole waste tires for recycling.

b. The standard permitted processor shall ensure the qualified recycler accepts whole waste tires or baled waste tires from the processor in accordance with its agreement and Subsection A.2.a of this Section.

B. The standard permitted processor shall provide, with the monthly report required by LAC 33:VII.10535.D.6, a certificate of end use by the qualified recycler, demonstrating that it has recycled the waste tires or waste tire material.

C. The standard permitted processor shall comply with LAC 33:VII.10533.

D. The standard permitted processor shall provide all documentation to demonstrate that all the requirements of this Section have been met.

E. Once the application is approved, the department shall issue an agreement in accordance with Subsection A of this Section.

F. General Conditions of Agreements. It shall be the responsibility of processors to make payments to authorized waste tire transporters who provide them with waste tires. This includes making payments to local governmental bodies acting as transporters.

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:

§10517. Standard Waste Tire Permit Application

Each applicant requesting a standard permit in accordance with these regulations shall complete the permit application, including, but not limited to, the information included in this Section.

A. Processing Facility. The permit application shall include:

1. the name of the applicant;
2. the name and phone number of the owner/contact;

[See Prior Text in A.3]

4. the location of the processing/collection facility, including section, township, and range;

[See Prior Text in A.5-6]

7. the name, address, and phone number of a contact person in case of an emergency, other than the individual specified in Subsection A.2 of this Section;

8. certification. The applicant must certify in writing that all the information provided in the application and in accordance with the application is true and correct. Providing false or incorrect information may result in criminal or civil enforcement. The applicant shall also provide the site master plan, including property lines, building, facilities, excavations, drainage, roads, and other elements of the process system employed, certified by a registered engineer licensed in the state of Louisiana.

9. a copy of written notification to the appropriate local governing authority, stating that the site is to be used as a waste tire processing and/or collection facility;

[See Prior Text in A.10]

11. written documentation from the property owner granting approval for use of property as a waste tire processing and/or collection facility, if property owner is other than applicant;

12. proof of publication of notice of intent to submit an application for a standard waste tire permit;

[See Prior Text in A.13-14.a]

b. waste tire acceptance plan, to count, record, and monitor incoming quantities of waste tires;

[See Prior Text in A.14.c-e.i]

ii. maximum number of waste tires and volume of waste tire material to be stored at any one time. The total amount of waste tires and volume of waste tire material shall not exceed 60 times the daily capacity of the processing unit;

[See Prior Text in A.14.e.iii-iv]

v. type of access roads and buffer zones; and

[See Prior Text in A.14.e.vi-15]

16. site closure plan to assure clean closure. The closure plan must be submitted as a separate section with each application. The closure plan for all facilities must ensure clean closure and must include the following:

a. the method to be used and steps necessary for closing the facility;

b. the estimated cost of closure of the facility, based on the cost of hiring a third party to close the facility at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive;

c. an estimate of the maximum inventory of whole waste tires and waste tire material on-site at any one time over the active life of the facility;

d. a schedule for completing all activities necessary for closure; and

e. the sequence of final closure as applicable;

[See Prior Text in A.17-21]

B. Waste Tire Collection Center. Waste tire processors or other persons may operate a waste tire collection center in accordance with LAC 33:VII.10527. All information required in Subsection A of this Section must be provided in a permit application for each waste tire collection center.

C. Governmental Agencies. Government agencies intending to operate collection centers and/or tire processing equipment for the purposes of volume reduction prior to disposal will not be required to possess permits provided that:

1. the governmental agency collection centers shall be located on property owned or otherwise controlled by the governmental agency, unless otherwise authorized by the department;

2. governmental agency collection centers shall be attended during operational hours and have controlled ingress and egress during non-operational hours;

3. governmental agency collection center personnel shall witness all loading and unloading of waste tires;

4. governmental agency collection centers may accept waste tires from roadside pickup from right-of-ways, individual residents, and unauthorized waste tire piles. For the tires from unauthorized waste tire piles to be eligible for the \$1 per 20 pounds marketing payment to permitted processors as indicated in LAC 33:VII.10535, the governmental agency must notify the department, in writing, of the agency's intent prior to removing the tires from said site;

5. governmental agencies shall develop fire control plans and disease vector control plans for the collection center and /or tire processing equipment; and

6. governmental agencies shall satisfy the requirements of LAC 33:VII.10509 and 10533.

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:

§10519. Standards and Responsibilities of Generators of Waste Tires

A. Within 30 days of commencement of business operations, generators of waste tires shall notify the department of their existence and obtain a generator identification number prior to initiating a waste tire manifest. Notification shall be on a form provided by the department.

B. Tire dealers must accept one waste tire for every new tire sold from the purchaser of the new tire at the time of purchase, unless the purchaser elects to retain the waste tire.

C. Each tire dealer doing business in the state of Louisiana shall be responsible for the collection of the waste tire fee specified in LAC 33:VII.10535.B upon the sale of each new tire. "Tire dealers" includes any dealer selling tires to a resident of Louisiana, or business operating in Louisiana, where the tire is delivered into this state.

D. All tire dealers shall remit the waste tire fee, as specified in LAC 33:VII.10535.B and C, to the department on a monthly basis on or before the twentieth day following the month covered. The fee shall be submitted along with the Monthly Waste Tire Fee Report Form obtained from the department. Every tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. These records shall be open for inspection by the administrative authority at all reasonable hours.

* * *

[See Prior Text in E-E.1]

2. "All Louisiana tire dealers are required to collect a waste tire cleanup and recycling fee of \$2 per tire weighing 100 pounds or less, and an additional \$1 per 20 pounds of weight in excess of 100 pounds, upon sale of each new tire. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every new tire sold, unless the purchaser elects to retain the waste tire."

F. The waste tire fee established by R.S. 30:2418 shall be listed on a separate line of the retail sales invoice. No tax of any kind shall be applied to this fee.

G. Generators of waste tires shall comply with the manifest requirements of LAC 33:VII.10533.

H. For all waste tires and waste tire material collected and/or stored, generators must provide:

1. a cover adequate to exclude water from the waste tires;
2. vector and vermin control; and

3. means to prevent or control standing water in the containment area.

I. Generators of waste tires may store waste tires up to 365 days after receipt or generation, provided:

1. the extended storage is solely for the purpose of accumulating such quantities as are necessary to facilitate proper processing; and

2. documentation supporting the storage period and the quantity required for proper processing are available at the generator's facility for department inspection.

J. All waste tires and waste tire material must be collected and/or stored on property contiguous to the tire dealership or other waste tire generator facility.

K. No generator shall allow the removal of waste tires from his place of business by anyone other than an authorized transporter, unless the generator generates less than 50 waste tires per month from the sale of 50 new tires. In this case, the generator may transport his waste tires to an authorized collection or permitted processing facility provided LAC 33:VII.10523.C is satisfied.

L. A generator who ceases the sale of tires at the registered location shall notify the administrative authority within 10 days of the date of the close or relocation of the business. This notice shall include information regarding the location and accessibility of the tire sale and monthly report records.

M. Generators of waste tires shall segregate the waste tires from any new or used tires offered for sale.

N. Governmental agencies are not required to comply with this Section, except Subsections A, G, I, and J of this Section.

O. All tire wholesalers shall keep a record of all tire sales made in Louisiana. These records shall contain the name and address of the purchaser, the date of the purchase, the number of tires purchased, and the type and size of each tire purchased. These records shall be kept for a period of three years and shall be available and subject to inspection by the administrative authority at all reasonable hours.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10521. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10523. Standards and Responsibilities of Waste Tire Transporters

A. Transporters of waste tires shall complete the application for transporter authorization form and submit the application, with the payment of the transporter fees as specified in LAC 33:VII.10535.A, to the administrative authority.

B. A transporter authorization certificate shall be valid for a maximum of one year from the date of issuance. All transporter authorization certificates expire on August 31 of each calendar year. The administrative authority shall issue

to the transporter an appropriate number of transporter decals to be placed in accordance with Subsection F of this Section.

C. No person shall transport more than 20 waste tires without a completed manifest satisfying the requirements of LAC 33:VII.10533.

D. For in-state waste tire transportation, the transporter shall transport all waste tires to an authorized collection center or a permitted processing facility.

E. Any person who engages in the transportation of waste tires from Louisiana to other states or countries or from other states to Louisiana, or persons who collect or transport waste tires in Louisiana, but have their place of business in another state, shall comply with all of the requirements for transporters contained in this Section.

F. The transporter shall affix to the driver's door, along with the transporter decal, and the passenger's door of each truck or tractor listed on the notification form, the authorization certificate number in characters no less than three inches in height.

G. All persons subject to this Section shall notify the administrative authority in writing within 10 days when any information on the authorization certificate form changes, or if they close their business and cease transporting waste tires.

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

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

§10525. Standards and Responsibilities of Waste Tire Processors

A. Upon receiving a shipment containing waste tires, the processor shall be responsible to verify the number of waste tires in each shipment by actually counting each waste tire. The processor shall sign each waste tire manifest upon receiving waste tires.

* * *

[See Prior Text in B-C]

D. All waste tire facilities must meet the following standards:

1. All processors shall control ingress and egress to the site through a means approved by the administrative authority, with at least one entrance gate being a minimum of 20 feet wide.

2. All facilities shall have a buffer zone of 100 feet. Waste tires and waste tire material shall not be placed in the buffer zone.

3. Fire Protection

a. There shall be no open burning.

b. The facility operator shall enter into a written agreement with the local fire department regarding fire protection at the facility.

c. The facility operator shall develop and implement a fire protection and safety plan for the facility to ensure personnel protection and minimize impact to the environment.

4. Suitable drainage structures or features shall be provided to prevent or control standing water in the waste tires, waste tire material, and associated storage areas.

5. All water discharges, including stormwater runoff, from the site shall be in accordance with applicable state and federal rules and regulations.

6. All waste tire processors, collectors, and associated solid waste management units shall comply with LAC 33:VII.Subpart 1.

7. Waste tires and waste tire material shall be treated according to an acceptable and effective disease vector control plan approved by the administrative authority.

8. Waste tires and waste tire material stored outside shall be maintained in piles, the dimensions of which shall not exceed 10 feet in height, 20 feet in width, and 200 feet in length or in such dimensions as approved by the administrative authority.

9. Waste tire or waste tire material piles shall be separated by lanes with a minimum width of 50 feet to allow access by emergency vehicles and equipment.

10. Access lanes to and within the facility shall be free of potholes and ruts and be designed to prevent erosion.

11. The storage limit for waste tires and waste tire material shall be no more than 60 times the daily permitted processing capacity of the processing facility.

12. All waste tire facility operators shall maintain a site closure financial assurance fund in an amount based on the maximum number of pounds of waste tire material that will be stored at the processing facility site at any one time. This fund shall be in the form of a financial guarantee bond, performance bond, or an irrevocable letter of credit in the amount of \$20 per ton of waste tire material on the site. A standby trust fund shall be maintained for the financial assurance mechanism that is chosen by the facility. The financial guarantee bond, performance bond, irrevocable letter of credit, or standby trust fund must use the exact language included in the documents in Appendix A. The financial assurance must be reviewed at least annually.

13. An alternative method of determining the amount required for financial assurance shall be as follows:

a. the waste tire facility operator shall submit an estimate of the maximum total amount by weight of waste tire material that will be stored at the processing facility at any one time;

b. the waste tire facility operator shall also submit two independent, third-party estimates of the total cost of cleaning up and closing the facility, including the cost of loading the waste tire material, transportation to a permitted disposal site, and the disposal cost; and

c. if the estimates provided are lower than the required \$20 per ton of waste tire material, the administrative authority shall evaluate the estimates submitted and determine the amount of financial assurance that the processor is required to provide.

14. Financial assurances for closure and post closure activities must be in conformity with the standards contained in LAC 33:VII.727.A.2.i.

E. Mobile Processors

1. Only standard permitted processors shall be eligible to apply for mobile processor authorization certificates. Any mobile processor certificate that expires after the effective date of these regulations shall not be renewed for a period extending beyond 365 days after the effective date of these regulations.

* * *

[See Prior Text in E.2-6]

7. Mobile processors are responsible for notifying the administrative authority in writing within 10 days when any information on the notification changes or if they cease processing waste tires with a mobile unit.

F. Governmental agencies may operate tire splitting equipment for the purposes of volume reduction prior to disposal without a permit to process waste tires, provided they meet the requirements outlined in LAC 33:VII.10517.C and request authorization from the administrative authority before initiating any processing.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

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

A. All collection center operators shall satisfy the manifest requirements of LAC 33:VII.10533. All collection center operators shall be responsible for counting the tires in the shipment. The collection center shall maintain a log for all unmanifested loads of 20 or fewer waste tires.

B. All collection center operators shall meet the standards in LAC 33:VII.10525.D.1-10 and 12-14.

C. The storage limit for a collection center shall be 3000 whole waste tires or 60 times the daily permitted processing capacity, whichever is greater.

D. Use of mobile processing units are allowed at collection centers only when processed waste tire material is immediately deposited in a trailer or other suitable container for immediate removal from the site.

E. No processed waste tire material shall be deposited on the ground at a collection center at any time.

F. All collection centers shall provide a method to control and/or treat process water if applicable.

G. The closure plan for all collection centers must ensure clean closure and must include the following:

1. the method to be used and steps necessary for closing the center;
2. the estimated cost of closure of the center, based on the cost of hiring a third party to close the center at the point in the center's operating life when the extent and manner of its operation would make closure the most expensive;
3. an estimate of the maximum inventory of whole waste tires ever on-site over the active life of the center;
4. a schedule for completing all activities necessary for closure; and
5. the sequence of final closure as applicable.

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

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

§10529. Standards and Responsibilities of Property Owners

A. Owners of property on which unauthorized waste tire piles are located shall remediate the site or reimburse the

department for the cost of remediation, except as provided by R.S. 30:2156.

B. Owners of property on which unauthorized waste tire piles are located shall provide disease vector control measures adequate to protect the safety and health of the public, and shall keep the site free of excess grass, underbrush, and other harborage.

C. Owners of property on which unauthorized waste tire piles are located shall limit access to the piles to prevent further disposal of tires or other waste.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10531. Standards And Responsibilities of Qualified Recyclers

* * *

[See Prior Text in A-A.9]

B. All facilities recycling waste tires and/or waste tire material in Louisiana shall meet the requirements of LAC 33:VII.10525.D.

C. The storage limit for waste tire material shall be no more than 180 times the daily recycling capacity of the recycling facility. The facility must maintain records to document its compliance with this provision.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10533. Manifest System

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

B. The manifest document flow is as follows:

1. the generator initiates the manifest (original and at least five copies), completing all of Section 1 and designating the destination facility in Section 3. After the transporter signs the manifest, the generator retains one copy for his files, and the original and all other copies accompany the waste tire shipment. Upon receipt of the waste tires, the transporter completes the Section 2, Transporter 1 information. If applicable, upon surrender of the shipment to a second transporter, the second transporter completes the Section 2, Transporter 2 information. After Transporter 2 signs the manifest, Transporter 1 retains his copy of the manifest;

2. the transporter secures signature of the designated destination facility operator upon delivery of waste tires and/or waste tire material to the designated destination facility. The transporter retains one copy for his files and gives the original and remaining copies to the designated destination facility operator;

3. the designated processing facility operator completes Section 3 of the manifest and retains a copy for his files. The designated processing facility operator shall submit the original manifest to the department with the monthly processor report. The designated processing facility

shall send all remaining copies to the generator no later than seven days after delivery;

4. a generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated destination facility within 30 days of the date the waste tires and/or waste tire material was accepted by the initial transporter must contact the transporter and/or the owner or the operator of the designated destination facility to determine the status of the shipment; and

5. a generator must submit to the department written notification, if he has not received a copy of the manifest with the handwritten signature of the designated destination facility operator within 45 days of the date the shipment was accepted by the transporter. The notification shall include:

a. a legible copy of the manifest for which the generator does not have confirmation of delivery; and

b. a cover letter signed by the generator explaining the efforts taken to locate the shipment and the results of those efforts.

C. Upon discovering a discrepancy in the number or type of tires in the load, the designated destination facility must attempt to reconcile the discrepancy with the generator(s) or transporter(s). The destination facility operator must submit to the administrative authority, within five working days, a letter describing the discrepancy and attempts to reconcile it and a copy of the manifest(s). After the discrepancy is resolved a corrected copy is to be sent to the administrative authority.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10535. Fees and Fund Disbursement

A. Permit and Application Fees. Each applicant shall submit a non-refundable application fee in the amount specified, according to the categories listed below. The appropriate fee must accompany the permit application or authorization application form.

* * *

[See Prior Text in A.1-8]

B. Waste Tire Fee upon Promulgation of These Regulations. A waste tire fee is hereby imposed on each new tire sold in Louisiana, to be collected by the tire dealer at the time of retail sale from the purchaser. The fee shall be \$2-per tire weighing 100 pounds or less and \$1 per 20 pounds of weight in excess of 100 pounds.

C. Waste Tire Fee at Full Implementation of These Regulations. Effective January 1, 1995, the disposition of the fee shall be as follows:

1. the entire waste tire fee shall be forwarded to the administrative authority by the tire dealer and shall be deposited in the Waste Tire Management Fund.

2. the waste tire fee shall be designated as follows: 50 percent will be utilized to pay waste tire processors that are working under agreement with the administrative authority for the processing of currently generated waste tires, a maximum of 10 percent will be utilized for program administration, 5 percent may be used for research and

market development, and a minimum of 35 percent shall be used for unauthorized tire pile cleanup.

D. Payments for Processing and Marketing Waste Tires and Waste Tire Material. Payments made by the state of Louisiana are meant to temporarily supplement the business activities of processors and are not meant to cover all business expenses and costs associated with processing and marketing. Payments shall only be paid to standard permitted processors under written agreement with the department in accordance with LAC 33:VII.10515.

* * *

[See Prior Text in D.1-4.b]

c. the payment for marketing or recycling of shredded waste tire material shall be \$.15 per 20 pounds of waste tire material that is recycled by a qualified recycler. The processor shall demonstrate that the waste tire material has been recycled. The determination that waste tire material is being marketed to a qualified recycler shall be made by the administrative authority; this determination may be reviewed at any time.

5. Payments for processing and/or marketing waste tire material by means not covered in Subsection D.4 of this Section, which must be approved in writing by the administrative authority, are:

a. the payment for marketing waste tire material shall be \$ 1 per 20 pounds of waste tire material; and

b. the payment for marketing and shipping an unprocessed waste tire to a qualified recycler shall be \$1 per whole waste tire. The processor shall prove that the waste tire was recycled.

6. Payments shall be made to the processor on a monthly basis, after properly completed monthly reports are submitted by the processor to the department.

7. The amount of payments made to each processor is based on the availability of monies in the Waste Tire Management Fund.

8. All, or a portion, of a processor's payments shall be retained by the administrative authority if the administrative authority has evidence that the processor is not fulfilling the terms of his agreement and/or his standard permit.

9. After January 1, 1998, no payments shall be made for only processing waste tires.

10. After January 1, 1998, a payment of \$1 per 20 pounds of shredded waste tire material or equivalent amount for waste tire material produced by other processes shall be made when it is documented to the administrative authority that this material has been marketed, delivered, and recycled.

11. Waste tire material that was produced prior to January 1, 1998, and for which processing payments were made are only eligible for the additional \$.15 incentive for marketing the waste tire material when the material is marketed after December 31, 1997.

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 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10536. Remediation of Unauthorized Tire Piles

A. Upon promulgation of these regulations, the administrative authority may issue agreements for

remediation of unauthorized waste tire piles. The number of agreements issued each year shall be determined based on the availability of funds in the Waste Tire Management Fund that are designated for unauthorized waste tire pile remediation. Any such agreements shall designate specific eligible sites and the department shall monitor the remediation activities, which shall be made in accordance with the standards and responsibilities outlined in the Solid Waste Regulations, LAC 33:VII. Any such agreements shall stipulate a maximum amount of total allowable costs that shall be paid from the Waste Tire Management Fund. These monies shall not be applied to indirect costs and other unallowable costs, which include but are not limited to, administrative costs, consulting fees, legal fees, or premiums for performance bonds. Furthermore, they shall not be applied to reclamation efforts or remediation costs associated with other types of contaminants, which may be detected during the remediation process. Rather, these funds shall be applied to direct costs such as labor, transportation, processing, recycling, and disposal costs of the waste tires.

B. In order to apply for and receive funding for unauthorized waste tire site remediation, local governments must provide the administrative authority with unauthorized waste tire site information. This information includes, but is not limited to, accurate site location, number of tires on site, visual report on site with photographs and proximity to residences, schools, hospitals and/or nursing homes, and major highways. Such information shall be submitted using forms available from the administrative authority.

C. Unauthorized waste tire piles shall be chosen for remediation based on their placement on the waste tire priority remediation list. Point values shall be assigned in accordance with the Waste Tire Management Fund Prioritization System located in Appendix B. These ranking criteria were developed in consideration of threat to human health, threat of damage to surrounding property, and adverse impact on the environment.

* * *

[See Prior Text in D-G]

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 22:1213 (December 1996), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10537. Enforcement

* * *

[See Prior Text in A]

B. Investigations and Audits: Purposes, Notice. Investigations shall be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the identity of the persons or parties involved. Upon written request, the results of an investigation shall be given to any complainant who provided the information prompting the investigation and, if advisable, to any person under investigation, if the identity of such person is known. In cases where persons selling new tires have failed to report and remit the waste tire fee to the administrative authority, and the person's records are inadequate to determine the proper amount of fee due, or in cases(s) where a grossly incorrect report or a report that is

false or fraudulent has been filed, the administrative authority shall have the right to estimate and assess the amount of the fee due, along with any interest accrued and penalties. The burden to demonstrate to the contrary shall rest upon the audited entity.

* * *

[See Prior Text in C-D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

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:

WASTE TIRE FACILITY FINANCIAL GUARANTEE BOND

Date bond was executed: [Date bond executed]

Effective date: [Effective date of bond]

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

Surety: [name and business address]

[site identification number, site name, facility name, and current closure amount for each facility guaranteed by this bond]

Total penal sum of bond: \$

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality Waste Tire Management Fund in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

NOW THEREFORE, if the Principal shall provide alternate financial assurance as specified in LAC 33:VII.10525.D.12-14 and obtain written approval from the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform closure in accordance with the closure plan and permit requirements as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105. Appendix A dated August 4, 1994, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate Seal]

CORPORATE SURETIES

[Name and Address]

State of incorporation:

Liability limit:

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[This information must be provided for each cosurety]

Bond Premium: \$

SAMPLE DOCUMENT 2:

WASTE TIRE FACILITY PERFORMANCE BOND

Date bond was executed: [date bond executed]

Effective date: [effective date of bond]

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

Surety: [name(s) and business address(es)]

[Site identification number, site name, facility name, facility address, and closure amount(s) for each facility guaranteed by this bond]

Total penal sum of bond: \$

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality, Waste Tire Management Fund, in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in LAC 33.VII.10525.D.12-14 and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of the Louisiana Administrative Code, Title 33, Part VII, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance as specified in LAC 33.VII.10525.D.12-14 and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in

no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified by the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105.Appendix A dated August 4, 1994, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate Seal]

CORPORATE SURETY

[Name and Address]

State of incorporation:

Liability limit:

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond Premium: \$

SAMPLE DOCUMENT 3:

WASTE TIRE FACILITY IRREVOCABLE LETTER OF CREDIT

Secretary

Louisiana Department of Environmental Quality

Post Office Box 82231

Baton Rouge, Louisiana 70884-2231

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit Number in favor of the Department of Environmental Quality of the State of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the closure fund for its [list site identification number, site name, and facility name] at [location], Louisiana for any sum or sums to up to the aggregate amount of U.S. dollars \$ upon presentation of:

(1) A sight draft, bearing reference to the Letter of Credit Number drawn by the administrative authority together with;

(2) A statement signed by the administrative authority, declaring that the operator has failed to perform closure in accordance with the closure plan and permit requirements and that the amount of the draft is payable into the Waste Tire Management Fund.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date, and on each successive expiration date thereof, unless, at least 120 days before the then current expiration

date, we notify both the administrative authority and the [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder/applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft to the Department of Environmental Quality for deposit into the Waste Tire Management Fund in the name of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except as otherwise expressly agreed upon, this credit is subject to the uniform Customs and Practice for Documentary Credits (1983 Revision), International Chamber of Commerce Publication Number 400, or any revision thereof effective on the date of issue of this credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105.Appendix A dated August 4, 1994, effective on the date shown immediately below.

[Signature(s) and Title(s) of Official(s) of issuing Institutions]

[Date]

Appendix B

Waste Tire Management Fund Prioritization System

Each waste tire site for which cleanup funds are solicited will be ranked according to the point system described below. The total number of points possible for any one site is 145 points. The points shall be allocated according to the following criteria:

I. Approximate Number of Tires in the Pile. This figure shall be an estimate by the department.

Number of Tires in Pile	Point Value
>1,000,000	50
250,001 - 1,000,000	40
100,001 - 250,000	30
50,001 - 100,000	20
<50,000	10

II. Proximity to Nearest Schools. If a school is located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

Proximity to Nearest School	Point Value
School within 2 mile radius	25
School within 4 mile radius	17
School within 6 mile radius	9

III. Proximity to Residences. If 50 or more residences are located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

Proximity to 50+ Residences	Point Value
50 or more within 2 mile radius	25
50 or more within 4 mile radius	17
50 or more within 6 mile radius	9

IV. Proximity to Hospitals and/or Nursing Homes. If a hospital and/or nursing home is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 25.

Proximity to Hospital and/or Nursing Home	Point Value
Hospital and/or nursing home within 2 mile radius	25
Hospital and/or nursing home within 4 mile radius	17
Hospital and/or nursing home within 6 mile radius	9

V. Proximity to Major Highways. If a major highway is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 20.

Proximity to Major Highway	Point Value
Major highway within ¼ mile radius	20
Major highway within ½ mile radius	10

A public hearing will be held on June 26, 2000, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. 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 Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by SW027. Such comments must be received no later than July 3, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of SW027.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100

Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Waste Tire Regulations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units as a result of implementing the proposed rule. No additional personnel are required. The only implementation measure will be a revision to the monthly Waste Tire Fee Report.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Waste Tire Management Fund will collect, approximately, an additional \$510,000 per year based on 30,000 off-road tires at an average fee of \$17 per tire

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated off-road fee increase will be borne directly by those individuals purchasing off-road tires.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment.

James H. Brent, Ph.D.
Assistant Secretary
0005#067

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Elderly Affairs**

State Plan on Aging
(LAC 4:VII, 1301 - 1323)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to repeal and amend LAC4:VII 1301-1323.

The purpose of this amended rule is to acknowledge that the Office of Elderly Affairs will develop a State Plan that will be submitted to the U. S. Department of Health and Human Services, Administration on Aging to receive grants from it allotment under Title III of the Older Americans Act of 1965 as amended (the Act). Title III authorizes formula grants to state agencies on aging to assist states and local communities to develop comprehensive and coordinated systems for the delivery of services to older persons.

**Title 4
ADMINISTRATION**

Part VII. Governor's Office

Chapter 13. State Plan on Aging

§1301 State Plan On Aging

A. To receive funding from the Older Americans Act the State Agency on Aging must have an approved State Plan on Aging. This plan must be on file with the Administration on Aging and be available for public review. At the minimum, the plan must include:

1. Identification by the State of the sole State agency that has been designated to develop and administer the plan.
2. Statewide program objectives to implement the requirements under Title III of the Act and any objectives established by the Commissioner through the rulemaking process.
3. A resource allocation plan indicating the proposed use of all Title III funds administered by the State agency and the distribution of Title III funds to each planning and service area;
4. Identification of the geographic boundaries of each planning and service area and o area agencies on aging;
5. Prior Federal fiscal year information related to low income minority and rural older individuals;
6. All assurances and provisions as outlined in the Older Americans Act and regulations, as well as the following assurances:
 - a. Preference is given to older persons in greatest social or economic need in the provision of services under the plan;
 - b. Procedures exit to ensure that all services under this part are provided without use of any means tests;
 - c. All services provided under Title III meet any existing State and local licensing, health and safety requirements for the provisions of those services;
 - d. Older persons are provided opportunities to voluntarily contribute to the cost of services;
 - e. Other such assurances as are needed for compliance with the Act, Regulations, other applicable federal law, State Statues, and/or State policy;

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1317 (October 1993), repealed and promulgated LR 23:1146 (September 1997),repealed and promulgated LR 26:

§1303. Development of the State Plan

A The State Agency will develop a State Plan according to the following:

1. Elect to utilize a one, two, three, or four-year format for the State Plan
2. Develop a data profile on the older Louisianian from available census data;
3. Conduct statewide needs assessment activities including, but not limited to, public hearings
4. Assurances for state and area agencies on aging as set forth by the Older Americans Act
5. Goals and Objectives
6. Publicize public hearing(s) giving dates, times, locations to public officials and other interested parties for their participation
7. Conduct public hearings and incorporate written and verbal comments into the revised Plan, as appropriate;

8. Submit final revised plan for approval by the Governor

9. Submit approved plan from the Governor to the Administration on Aging Regional Office for approval

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1317 (October 1993), repealed and promulgated LR 23:1146 (September 1997),repealed and promulgated LR 26:

§1305 Intrastate Funding Formula

A. Intrastate Funding Formula

1. The following is a descriptive summary of the current Intrastate Funding Formula's assumptions and goals, and the application of the definitions of greatest economic or social need and a demonstration of the allocation of funds, pursuant to the formula, to each PSA.

2. Descriptive Statement

a. The current intrastate funding formula for the distribution of Older Americans Act Title III funds in Louisiana provides for a base allocation by parish. The following factors are considered in the distribution of funds remaining after base allocations are made: population aged 60 and over; population aged 60 and over below the Bureau of the Census poverty threshold; population aged 75 and over; and land area in square miles. Each of these factors is derived by dividing the planning and service area total by the state total.

b. Population aged 60 and over, and land area in square miles is assigned weights of one (1) each. Population aged 60 and over below the Bureau of the Census poverty threshold is assigned a weight of nine-tenths. Population aged 75 and over is assigned a weight of one-tenth. The sum of these four factors is three (3).

c. Those elderly in greatest economic need are defined as persons aged 60 and older whose incomes are at or below the poverty threshold established by the Bureau of the Census. Those elderly in greatest social need are defined as persons aged 60 and over who have needs based on noneconomic factors such as social isolation caused by living in remote areas, or who are especially vulnerable due to the heightened possibility of frailty among elderly aged 75 and older. Other social needs are those, which restrict an elderly individual's ability to perform normal daily tasks, or which restrict his or her ability to live independently; they can be caused by racial or ethnic status, or language barriers. The intra-state funding formula accounts for these individuals by not allocating funds solely on the basis of population. The land area in square miles factor is included to compensate area agencies serving predominantly rural areas for the special problems encountered by sparse populations who may be spread over large geographical areas. The four funding factors combine to meet the special needs of socially and economically needy elderly, urban elderly and rural elderly.

d. The base funding allocation of \$12,000 per parish is established on the assumption that this amount represents a minimum allocation for the administration of Older Americans Act programs. There is an increasing need to provide a continuum of care for the very old (aged 75 and older) as this segment of the population gets larger each year. Funding limitations dictate that this group is given special emphasis.

3. Numerical statement of the intrastate funding formula

- a. Base allocation per PSA: \$12,000 per parish
- b. Formula Allocation per PSA:

Factors	Weight
i. <u>PSA 60+Population</u>	
State 60+Population	1.0
ii. <u>PSA 60+Population</u>	
<u>Below Poverty Threshold</u>	
State 60+Population	
Below Poverty Threshold	0.9
iii. <u>PSA Land Mass in Square Miles</u>	
State Land Mass in Square Miles	1.0
vi. <u>PSA 75+Population</u>	
State 75+Population	
v. Sum	3.0
4. <u>PSA Formula = (i) X 1 + (ii) X 0.9 + (iii) X 1 + (iv) X 0.1</u>	3

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 23:1146 (September 1997),repealed and promulgated LR 26:

§1307-1323. Reserved

A public hearing will be held at 412 North 4th Street 1st floor conference room on Monday June 26, 2000 at 9A.M. Inquiries concerning the proposed amendment may be directed in writing to the Governor’s Office of Elderly Affairs, Margaret McGarity, P. O. Box 80374, Baton Rouge, LA 70898-0374, by 5 P.M. June 26, 2000.

Family Impact Statement

The effect of this rule on the stability of the family. This rule does not affect the stability of the family.

The effect of this rule on the authority and rights of parents regarding the education and supervision of their children. This rule does not deal with the education or supervision of children and will not make an impact on the family.

The effect of this rule on the functioning of the family. This rule does not effect the functioning of the family.

The effect of this rule on family earnings and family budget. This rule will have no impact on family earnings.

The effect of this rule on the behavior and personal responsibly of children. This rule does not deal with children and will not have any impact.

The effect of this rule on the ability of the family or local government to perform the function as contained in the proposed rule. N/A

Paul F. "Pete" Arceneaux
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: State Plan on Aging

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only cost of implementation is the minimal cost of printing the plan and publishing the rulemaking. No saving to the state is anticipated, and there are no anticipated costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule outlines the requirements of the state agency in fulfilling its mission as prescribed in the Older American’s Act. There will be no additional costs to the Governor’s Office of Elderly Affairs contractors and subcontractors, including area agencies on aging, parish councils on aging and other service providers, or to the elderly residents of the state. This proposed rule will not make any changes in the economic benefits to the elderly.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Older Americans Act V program participants will be placed in subsidized or unsubsidized paid positions.

Paul F. "Pete" Arceneaux Robert E. Hosse
Executive Director General Government Section Director
0005#025 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

Restricted Licensees; Adverse Sanctions; Temporary Licenses; Licensure by Credentials; Dental Assistant Duties; Curriculum Development for Expanded Duty Dental Assistants; Local Anesthesia; Air Abrasion Units; Exemptions; and Violations
(LAC 46:XXXIII.105; 116; 120; 306; 502; 503; 706; 710; 1305; 1607;and 1619)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.105, "Restricted Licensees," .116 "Reconsideration of Adverse Sanctions," .120 "Temporary Licenses," .306 "Requirements of Applicants for Licensure by Credentials"(dentists), .502 "Authorized Duties of Expanded Duty Dental Assistants," .503 "Guide to Curriculum Development for Expanded Duty Dental Assistants," .706 "Requirements of Applicants for Licensure by Credentials"(hygienists), .710 "Administration of Local

Anesthesia For Dental Purposes,".1305 "Air Abrasion Units," .1607 "Exemptions," and .1619 "Violations." No preamble has been prepared.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 1. General Provisions

§105. Restricted Licensees

A. All applicants for a restricted license must successfully complete the Louisiana State Board of Dentistry examination in jurisprudence within sixty days of receiving said license, except those licenses issued for less than one year.

B. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 21:571 (June 1995), amended LR 22:23 (January 1996), LR 23:1529 (November 1997), LR 26:

§116. Reconsideration of Adverse Sanctions

A. - C. ...

D. If the committee decides that the application is without substantial merit, it shall so inform the officers of the board and, thereafter, one officer shall be appointed to notify the applicant, in writing, of said unfavorable action. The applicant is not thereafter entitled to appear before the full board relative to this application; only applications which have been found to have substantial merit by the committee are to be submitted to the full board.

E. The full board, at its next meeting, may consider those applicants found by the committee to have substantial merit in open meeting if requested to do so by the applicant. In the absence of such request, the board shall entertain the matter in executive session. In the course of the board's review, if it deems necessary, it may require the applicant and all supporting references to appear in person before the board for the purpose of affording the board an opportunity to interview each person first hand. All expenses for the attendance of the applicant and his/her personal references shall be borne by the applicant. Moreover, the board shall prescribe time limitations for all speakers appearing before it and order such other considerations as will promote a fair and orderly meeting.

F. - H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998), amended LR 26:

§120. Temporary Licenses

Under R.S. 37:760(6), the board is authorized to issue licenses in conformity with the Louisiana Dental Practice Act. However, under R.S. 37:752(8), dentists and dental hygienists may obtain a temporary license without satisfying all licensing requirements of the Louisiana Dental Practice Act provided the applicant applies for a full license by taking an examination at the next time the clinical licensure examination is given by the board or by applying for licensure by credentials for the nearest scheduled board meeting. In order to protect the public and to avoid abuses of this exemption, the board shall not award a temporary

license to any dentist under the provisions of R.S. 37:752(8), and will not award a temporary license to any dental hygienist within 60 days before or 60 days after the clinical licensing examination is given. Under no circumstances shall a temporary license awarded to a dental hygienist be in effect for any period longer than 7 months. Section 120 does not prohibit the awarding of temporary licenses to dentists who are seeking exemptions under R.S. 37:752(4).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 26:

Chapter 3. Dentists

§306 Requirements Of Applicants For Licensure By Credentials

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing:

1. - 15. ...

16. has furnished three current letters of recommendation from professional associates, i.e. associations, boards, or prior employers listed on application for licensure on letterhead stationery from said organization;

17. - 20. ...

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:

Chapter 5. Dental Assistants

§502 Authorized Duties of Expanded Duty Dental Assistants

A. A person licensed to practice dentistry in the State of Louisiana may delegate to any expanded duty dental assistant any chairside dental act that said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient and must be reversible in nature. Furthermore, the act must be under the direct supervision of the treating dentist. However, a dentist may not delegate to an expanded duty dental assistant:

1 - 15 ...

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 21:569 (June 1995), LR 22:1217 (December 1996), LR 24:1115 (June 1998), LR 26:

§503. Guide to Curriculum Development for Expanded Duty Dental Assistants

A. ...

B. The following is a model outline for the expanded duty dental assistant course. The hours are to be allocated by the instructor in accordance with current law:

1. - 15. ...

16. clinical and written exams;

17. lecture on the placement of pit and fissure sealant;

18. lab on placement of pit and fissure sealant; performance evaluation lab shall be practicing on typodonts.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 22:22 (January 1996), LR 24:1115 (June 1998), LR 26:

Chapter 7. Dental Hygienists

§706 Requirements of Applicants for Licensure by Credentials

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing that he/she:

1. - 14. ...

15. has furnished three current letters of recommendation from professional associates, i.e. associations, boards, or prior employers listed on application for licensure on letterhead stationery from said organization;

16. - 19. ...

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July, 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998), LR 25:513 (March 1999), LR 26:

§710 Administration of Local Anesthesia for Dental Purposes

A. - E. ...

F. Deleted.

G. - I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1292 (July 1998), amended LR 26:

Chapter 13. Dental Laser and Air Abrasion Utilization

§1305 Air Abrasion Units

Utilization of air abrasion units by licensed dental hygienists and dental auxiliaries is prohibited. However, this does not prevent the utilization of air polishing units by licensed dental hygienists.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:334 (March 1993), amended LR 24:1117 (June 1998), LR 26:

Chapter 16. Continuing Education Requirements

§1607. Exemptions

A. - B. ...

C. Due to the fact that dental and dental hygiene licenses are issued on a biennial basis, dentists and dental hygienists must accumulate one-half of the continuing education hours required under LAC 46:XXXIII.1611 and .1613 during the second year of the biennial period in which they received their initial licensure. For example, if a dentist receives his license immediately after graduation in June 1999, and he/she does not have to renew their license until the year 2001, that licensee need only accumulate 20 hours of continuing education, one-half of which must be clinical.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 24:1117 (June 1998), LR 26:

§1619. Violations

A. Violation Table

	Minimum	Maximum
1. First violation of continuing education	\$500.00	\$2,000.00
a. For completion of 3/4th or more of the requirement	\$500.00	
b. For completion of 1/2 to 3/4th of the requirement	\$1,000.00	
c. For completion of 1/4th to 1/2 of the requirement	\$1,500.00	
d. For completion of 0 to 1/4th of the requirement	\$2,000.00	
2. Second violation	\$1,000.00	\$4,000.00
3. All continuing education not completed on time shall be completed no later than August of the following calendar year and shall not count toward the continuing education requirements of the subsequent renewal period.		
4. A second violation of the continuing education requirements shall be reported to the National Practitioner Data Bank, whereas the first violation will not.		
5. After a second violation of continuing education requirements, the licensee shall be placed on a minimum of a two-year period of probation, depending upon the number of hours not completed.		
6. A third violation of continuing education requirements will result in the suspension of a dental or dental hygiene license for a period of not less than six months.		
7. Any subsequent violation of continuing education requirements will result in the revocation of a dental or dental hygiene license.		

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR: 26:

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Restricted Licensees; Adverse Sanctions; Temporary Licenses; Licensure by Credentials; Dental Assistant Duties; Curriculum Development for Expanded Duty Dental Assistants; Local Anesthesia; Air Abrasion Units; Exemptions; and Violations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A costs of \$500 is estimated to implement these rule changes. Notification of these rule changes will be included in a mass mailing to all licensees, which has already been budgeted for previous rule making changes. It is anticipated that these rule changes will be sent to licensees during the summer of 2000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by the Louisiana State Board of Dentistry. There will be no effect on any other state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
0005#007

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Practical Nurse Examiners**

**Licensure; Education; Practice; and Fees
(LAC 46:XLVII.Chapter 1)**

The Board of Practical Nurse Examiners proposes to amend LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of the proposed rule change is to update existing policies governing the Board of Practical Nurse Examiners and to reflect changes made to the Practical Nursing Practice Act in the 1999 session of the Louisiana Legislature. More specifically, the proposed change: reduces the need for future amendments to the rule by removing specific dates and numbers from the text, corrects typographical and syntax errors, provides a mechanism to grant a retired/emeritus license, updates and clarifies the rules and adjudication and license suspension and revocation proceedings, adds the definition of "Executive Director", provides for Associate Degree Registered Nurses to serve as faculty of practical nursing programs, and updates the section regarding fees to reflect statutory changes made by Act 942 of the 1999 session of the Louisiana Legislature.

The proposed change to §1715, related to fees, reflects the new fees outlined in the statute governing the practice of practical nursing.

The statutory change was required to allow the board to continue its operations as, in spite of a hiring and spending freeze, deficit spending had depleted the board's cash reserves. The renewal of license is the main source of revenue for the board and was last raised in 1991. This revenue source declines each year, as the pool of practical nurses shrinks. As revenue decreases, and even if all other expenditures remain stable, classified employee salaries and benefits increase each year. In addition, the board is currently responsible for benefits of four retired employees.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLVII. Nurses**

Subpart 1. Practical Nurses

Chapter 1. Foreword

§101. Foreword

This manual of administrative rules and minimum requirements contains the approved rules and regulations of the Louisiana State Board of Practical Nurse Examiners relating to practical nurse education, the development, progression and discontinuation of practical nursing programs, and practical nurse licensure in the state of Louisiana. These rules and requirements have been adopted and promulgated in accordance with the law relating to the practice of practical nursing with the authorization vested in the board by the Louisiana Revised Statutes of 1950, Title 37, Chapter 11. Nurses, Part II. Practical Nurses, Section 961 et seq., as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:961 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:192 (April 1977), amended LR 5:355 (November 1979), LR 10:335 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1126 (October 1992), repromulgated LR 18:1259 (November 1992), amended LR 26:

Chapter 3. Board of Practical Nurse Examiners

§301. Organization

The Louisiana State Board of Practical Nurse Examiners consists of members appointed by the Governor and is the regulatory agency created by statute to act with legal authority on matters related to practical nursing education and the practice of practical nursing in Louisiana as determined by the Louisiana Revised Statutes, Title 37, Section 961 et seq., as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, and 37:962 as amended Act 272, 1982 and Act 642, 1990.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:192 (April 1977), amended LR 5:355 (November 1979), LR 10:335 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1126 (October 1992), repromulgated LR 18:1259 (November 1992), amended LR 26:

§303. Additional Duties and Powers of the Board

A. In accordance with the Louisiana Statutes, Title 37, Section 969, the board shall have all such powers and duties as written. In addition, the board shall:

1. - 3. ...

4. deny, revoke or suspend a license to practice practical nursing;

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:193 (April 1977), amended LR 10:335 (April 1984), amended LR 26:

§305. Procedure for Adoption of Rules

- A. ...
- B. The board, on its own motion or on the petition of any interested person, may request the promulgation, amendment, or repeal of a rule.
 - 1. Such petition shall:
 - a. ...
 - b. state the name and address of its author;
 - c. - e. ...
 - 2. The board shall consider the petition within 90 days after receipt of said petition, at which time the board shall deny the petition in writing, stating reasons therefore, or shall initiate rulemaking proceedings in accordance with this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 2:274 (September amended LR 26: 1976), amended LR 3:193 (April 1977), LR 10:336 (April 1984), amended LR 26:

§306. Rules and Adjudication and License Suspension and Revocation Proceedings

- A. - B. ...
- C. Communications received by the board expressing such allegation(s) shall be privileged, confidential, and shall not be revealed to any person except when such document(s) are offered for evidence in a formal hearing, or are requested pursuant to a subpoena by a court of competent jurisdiction.
- D. The allegation(s) shall be investigated by the executive director, his/her designee, and/or staff. Any information and/or documents generated pursuant to such investigation of the allegation(s) shall be considered the work product of the board and shall be privileged, confidential, and shall not be revealed to any person except when such investigative information and/or documents are offered for evidence in a formal hearing or are requested pursuant to a subpoena by a court of competent jurisdiction.
- E. - G4. ...
- H. Formal hearing procedures shall commence with the filing of a formal complaint by the board. The complaint shall include:
 - 1. a statement of the time, place and nature of the hearing;
 - 2. a statement of the legal authority and jurisdiction under which the hearing is to be held;
 - 3. a reference to the particular sections of RS 37:961 et seq., and/or rules involved;
 - 4. a short and plain statement of the matters asserted.
 If the board is unable to state the matters in detail at the time the complaint is served, the initial complaint may be limited to a statement of the issues involved. Thereafter, upon request, a more definite and detailed statement shall be furnished.
- I. The formal complaint shall be sent by certified mail, a minimum of 20 days prior to the hearing date, to the last known address of the accused licensee. If the mailing is not returned to the board, it is assumed to have been received by said licensee as it is the licensee's obligation and duty to keep the board informed of his/her whereabouts.
- J. The licensee shall return his/her response to the complaint to the board within 10 days or shall be deemed to have waived his/her right to a hearing. In response, the

licensee shall either deny or admit the allegations of the complaint and may either:

- 1. appear for the scheduled hearing;
- 2. submit a written response to the hearing officer to be presented at the hearing in lieu of the licensee's live testimony; or
- 3. waive his/her right to a hearing.
- K. ...
- L. Opportunity shall be afforded to all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.
- M. ...
- N. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default. A consent order or agreed settlement shall be presented to the board for approval before it becomes binding.
- O. Discovery
 - 1. Prior to a formal hearing, an accused licensee shall have the right to retain an attorney to represent his/her interest before, during, and after the proceedings. All costs and/or expenses incurred by a licensee as a result of his/her exercise of said right shall be the sole responsibility and obligation of the licensee.
 - 2. Prior to a formal hearing, the executive director or his/her designee will, upon written request received by the board at least five days prior to the formal hearing, issue subpoenas on behalf of the board and/or the accused licensee. Such subpoenas include or are for the purpose of:
 - a. requiring that a person appear and give testimony in the formal hearing; and
 - b. subpoena duces tecum, requiring that a person produce books, records, correspondence, or other materials over which he/she has control providing:
 - i. the information requested is reasonable in terms of amount; and
 - ii. the scope of the information requested is limited to documentary material that is relevant to the proceeding;
 - iii. the information requested does not include those documents referred to in §307.C - D; and
 - iv. the requesting party deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in the proceedings is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.
 - 3. Prior to a formal hearing, an accused licensee shall, upon written notice received by the board at least five days prior to said hearing, be given a list of all witnesses the board will or may call to give testimony during a formal hearing.
 - 4. Prior to a formal hearing, an accused licensee, his/her attorney, or any party representing his/her interest is prohibited from having any contact whatsoever with any witness which will or may be called to give testimony in a formal hearing.
 - 5. Depositions for the purpose of discovery are not permissible and may only be allowed for the perpetuation of a witness' testimony upon good showing to the board that a witness will be unavailable to appear in person at a formal

hearing. All costs of a deposition are borne by the requesting party.

6. Motions may be made before, during, and/or after a formal hearing. All motions made before and after a formal hearing shall be made in writing and in a timely manner in accordance with the nature of the request. Motions made during a formal hearing shall be made orally, as they become a part of the transcript of the proceeding.

P. During a formal hearing, the licensee or his/her attorney shall be afforded the opportunity to present documentary, visual, physical or illustrative evidence and to cross-examine witnesses as well as call witnesses to give oral testimony on behalf of the licensee. All testimony given during a formal hearing shall be under oath and before a certified stenographer.

Q. The record of the proceeding shall be retained until such time for any appeal has expired or until an appeal has been concluded. The record of the proceeding shall not be transcribed until such time as a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

R. After the hearing is concluded, the hearing officer shall issue a report containing his/her findings of fact, conclusions of law and recommendations. This report shall be presented to the board.

S. The board shall make a decision based on the hearing officer's report and determine what sanctions, if any, should be imposed and issue an appropriate order with respect thereto. This order of the board shall be sent to the licensee by certified mail.

T. Sanctions imposed by the board may include reprimand, probation, suspension, revocation, as well as penalties provided under R.S. 37:961 et seq., as amended or any combination thereof.

1. Reprimand. May include a personal conference between the licensee and the executive director and/or a letter to the licensee regarding the incident or incidents which have been brought to the board's attention and which may or may not be determined to warrant a hearing.

2. Probation. Will include stipulations which may be imposed by the board as a result of the findings of facts of a hearing and the order shall clarify the obligations of the licensee through a specified period of time. A licensee who is placed on probation by the board may practice practical nursing in the state of Louisiana provided the probation terms are met.

3. Suspension. A license to practice practical nursing in the state of Louisiana may be withheld by the board as a result of the findings of facts presented in a hearing. The time of suspension may be a definite stated period or an indefinite term. A licensee whose license is suspended may not practice practical nursing in the state of Louisiana during the suspension period so designated.

a. Definite time of suspension shall be stipulated by the board in the order to the licensee. Upon termination of the time period the licensee shall be entitled to receive his/her license upon payment of the required fee and upon documented compliance with the conditions which may have been imposed by the board at the time of the original order.

b. If a license is suspended for an indefinite term, the licensee may petition for reinstatement of his/her license only after one calendar year has lapsed from the date of the

original order. The board may terminate the suspension and reinstate such license after a hearing is held and the board determines that the cause/causes for the suspension no longer exist or that intervening circumstances have altered the condition leading to the suspension. If reinstatement is granted the licensee shall pay the required reinstatement fee.

4. Revocation. A license to practice practical nursing in the state of Louisiana may be withdrawn by the board. A person whose license is so revoked shall never again be allowed to practice practical nursing in the state.

U. A petition by a party for reconsideration or rehearing must be in proper form and filed within 30 days after notification of the board's decision. The petition shall set forth the grounds for the rehearing, which include one or more of the following:

1. the board's decision is clearly contrary to the law and the evidence;

2. there is newly discovered evidence which was not available to the board or the licensee at the time of the hearing and which may be sufficient to reverse the board's action;

3. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly;

4. it would be in the public interest to further consider the issues and the evidence.

V. The grounds for disciplinary proceedings against a licensed practical nurse include, but are not limited to:

1. is guilty of fraud or deceit in procuring or attempting to procure a license to practice practical nursing;

2. is guilty of a crime;

3. is unfit, or incompetent by reason of negligence, habit or other causes;

4. is habitually intemperate or is addicted to the use of habit-forming drugs;

5. is mentally incompetent; or

6. is guilty of unprofessional conduct; unprofessional conduct includes, but is not limited to the following:

a. failure to practice practical nursing in accordance with the standards normally expected;

b. failure to utilize appropriate judgement in administering nursing practice;

c. failure to exercise technical competence in carrying out nursing care;

d. violating the confidentiality of information or knowledge concerning a patient;

e. performing procedures beyond the authorized scope of practical nursing;

f. performing duties and assuming responsibilities within the scope of the definition of practical nursing when competency has not been achieved or maintained, or where competency has not been achieved or maintained in a particular specialty;

g. improper use of drugs, medical supplies, or patients' records;

h. misappropriating personal items of an individual or the agency;

i. falsifying records;

j. intentionally committing any act that adversely affects the physical or psychosocial welfare of the patient;

k. delegating nursing care, functions, tasks, or responsibilities to others contrary to regulation;

l. leaving a nursing assignment without properly notifying appropriate personnel;

m. failing to report, through the proper channels, facts known regarding the incompetent, unethical, or illegal practice of any health care provider;

n. is convicted of a crime or offense which reflects the inability of the nurse to practice practical nursing with due regard for the health and safety of clients or patients or enters a plea of guilty or nolo contendere to a criminal charge regardless of final disposition of the criminal proceeding including, but not limited to, expungement or nonadjudication or pardon;

o. is guilty or moral turpitude;

p. inappropriate, incomplete or improper documentation;

q. use of or being under the influence of alcoholic beverages, illegal drugs or drugs which impair judgement while on duty, to include making application for employment;

r. possess a physical or psychological impairment which interferes with the judgement, skills or abilities required for the practice of practical nursing;

s. has violated any provisions of this Part (R.S. 37:961 et seq.), as amended or aid or abet therein.

W. The board may, at its discretion, impose a reasonable monetary assessment against the licensee or applicant for licensure for the purpose of defraying expenses of a hearing and/or expenses of the board in monitoring any disciplinary stipulations imposed by order of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:978 and Acts 675 and 827, 1993.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 20:663 (June 1994), amended LR 26:

Chapter 5. Definitions

§501. Terms in the Manual

* * *

Executive Director where used in this manual includes his/her designee and/or staff.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:961 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 2:274 (September 1976) amended LR 3:193 (April 1977), LR 10:336 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1126 (October 1992), repromulgated LR 18:1259 (November 1992), amended LR 26:

Chapter 7. Program Establishment

§703. Initial Requirements

A. - J. ...

K. Cooperating agencies shall meet the following requirements:

1. - 5. ...

6. The hospital administrator, directors of nursing service and others responsible for patient care shall be aware of the objectives of the practical nursing program and shall participate in the furthering of such objectives in so far as is consistent with the objectives of the hospital staff.

7. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976 as amended Act 642, 1990.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:194 (April 1977), amended LR 10:337 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 14:708 (October 1988), LR 18:1126 (October 1992), repromulgated LR 18:1260 (November 1992), amended LR 26:

Chapter 9. Program Projection

Subchapter A. Faculty and Staff

§901. Faculty

A. ...

B. Qualifications

1. - 3. ...

4. Nurse Instructor shall be:

a. A graduate of a three-year diploma registered nursing program or a graduate of a baccalaureate registered nursing program with a minimum of three years experience in medical-surgical nursing or nursing education. At least one of these three years must have been as a hospital staff nurse providing direct patient care. An applicant for nurse instructor must have worked as a nurse for a minimum of six full-time months during the three years immediately preceding application, or complete an approved review course and/or successfully pass a board approved competency examination; or

b. A graduate of an associate degree registered nurse program with a minimum of five years of medical-surgical nursing with at least one of these being immediately prior to consideration of appointment. An associate degree registered nurse with prior preparation and experience as a licensed practical nurse shall have a minimum of two years experience in medical-surgical nursing as an associate degree registered nurse, with at least one of these years being immediately prior to consideration of appointment.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and R.S. 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:194 (April 1977), amended LR 10:338 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 16:133 (February 1990), LR 18:1127 (October 1992), repromulgated LR 18:1260 (November 1992), amended LR 21:1244 (November 1995), amended LR 26:

Subchapter F. Admissions

§939. Advanced Standing

A. - C. ...

D. At the discretion of the nursing faculty and based upon individual evaluation, a student who has withdrawn from an approved or accredited practical nursing program within the previous four years may be granted advanced credit for units previously completed.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:197 (April 1977), amended LR 5:65 (March 1979), LR 10:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1128 (October 1992), repromulgated LR 18:1261 (November 1992), amended LR 26:

Subchapter H. Board Reports and Records

§953. Periodic Reports

A. - 1. ...

2. annual report forms to be obtained from the board office and completed in duplicate; one copy shall remain at the institution, one shall be submitted to the board office by July 1 each year;

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:197 (April 1977), amended LR 10:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1128 (October 1992), repromulgated LR 18:1261 (November 1992), amended LR 26:

Chapter 13. Program Approval and Accreditation

§1305. Type of Approval

A. - D. ...

E. Provisional Approval

1. - 2. ...

3. Programs on provisional accreditation shall:

3.a. - 5....

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and R.S. 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 5:355 (November 1979), LR 10:340 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1129 (October 1992), repromulgated LR 18:1262 (November 1992), amended LR 26:

Chapter 17. Licensure

§1707. Retirement from Practice

A. Inactive and Emeritus/Emerita License

1. A licensee who is retiring from practice shall send a written notice to the board. Upon receipt of this notice the board shall place the name of the licensee upon an inactive list. While on this list, the licensee shall not be subject to the payment of any renewal fees and shall not practice practical nursing in the state. When the licensee desires to resume practice, a renewal license shall be issued to a licensed practical nurse who submits the required fee.

2. Should a retired licensee in good standing with the board wish to receive an Emeritus/Emerita license, s(he) shall request and complete an Emeritus/Emerita renewal application and submit same with the appropriate license renewal fee. Upon receipt of the fee and approval of the renewal application s(he) may be issued an "Emeritus/Emerita" license. Said license does not permit practice in the State of Louisiana. If a retired licensee desires to return to practice, s(he) will be subject to the same requirements as any licensee.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, 37:972-975, 37:977, 37:978, and 37:979.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 26:

§1715. Approved Fees

A. Fees

- 1. License by examination \$ 85

- 2. License by endorsement \$ 50
- 3. Duplicate license \$ 20
- 4. Renewal of license \$ 30
- 5. Reinstatement of license which has been suspended, revoked or which has lapsed by nonrenewal \$100
- 6. Duplicate renewal \$ 10
- 7. Delinquency fee in addition to renewal fee for nursing license (per year delinquent) \$ 50
- 8. Survey fee \$250
- 9. Renewal of certificate of accreditation \$100
- 10. Evaluation of credits of applicants for admission to approved program \$ 25
- 11. Evaluation of credits of out-of-state applicants for Louisiana practical nurse license \$ 50
- 12. Verification of Louisiana license to out-of-state board \$ 15
- 13. Certification of good-stand license \$ 5

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:977 as amended Act 272, 1982 and Act 54, 1991.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 26:

Family Impact Statement

The proposed amendments, to rule XLVII.Subpart 1., should not have any impact on family as defined by R.S. 49:972. There should not be any effect on: the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, and/or the ability of the family or local government to perform the function as contained in the proposed rule.

Interested persons may submit written comments until 3:30 p.m., June 10, 2000, to Claire Doody Glaviano, Board of Practical Nurse Examiners, 3421 N. Causeway, Suite. 203, Metairie, LA 70002.

Claire Doody Glaviano
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Licensure; Education; Practice; and Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only cost associated with the implementation of the proposed rule changes will be the cost to publish the rule in the Louisiana Register at \$760.00.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated and intended that only Section 1715 of the proposed rule change will increase revenue by an estimated \$285,200 in FY00, \$284,690 in FY01, and \$273,701 in FY02. The main source of revenue for the agency is the license renewal fee. This fee increases by \$10 per year and accounts for \$200,000 of the revenue increase. Revenue increase will decline by about 3.9% in the second year as the trend toward a

decrease in the number of nurse license renewals is expected to continue. The fee increase was enacted by the 1999 Louisiana Legislature (Act 942).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Section 1715 of the proposed rule change will increase the renewal license fee for all licensed practical nurses. Practical nurses will pay \$30 per year to practice in Louisiana. Renewal of expired and delinquent license increases will affect a small number of nurses who fail to renew in a timely manner. Other fee increases affect: practical nurses making a first time application for Louisiana license by examination, \$85; those applying for evaluation of out of state credit, \$50. Educational programs will pay \$100 per year for state accreditation. The \$5 fee for documentation of good stand license will impact only those choosing to verify license in this manner.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Claire Doody Glaviano, RN, MN
Executive Director
0005#0016

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Sanitary Code, Water Supplies (LAC 48:XIII.Chapter XII)

Under the authority of R.S. 40:4 and 5.9(A)(4) and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) intends to amend Chapter XII (Water Supplies) of the Louisiana State Sanitary Code. These amendments are necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C.A. §300f, et seq.) primary implementing regulations (40 CFR Part 141).

The first amendment proposed is specifically necessary due to a federal rule promulgated by USEPA in the *Federal Register* dated August 19, 1998 (Volume 63, Number 160, pages 44526 through 44536), which is entitled "National Primary Drinking Water Regulations: Consumer Confidence Reports; Final Rule". This federal rule was promulgated under the authority of the federal Safe Drinking Water Act Amendments of 1996 (Pub.L. 104-182 dated August 6, 1996). The reason for this proposed amendment to Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is to adopt an equivalent state rule which will require all community water systems [public water systems (PWSs) which provide water to year-round residents, such as systems serving subdivisions, mobile home parks, municipalities, etc.] to provide to their consumers an annual report on the quality of the drinking water supplied to them.

This report is termed the annual Consumer Confidence Report. DHH-OPH intends to adopt this rule by reference.

The second amendment proposed is due to a federal rule promulgated by USEPA in the *Federal Register* dated August 14, 1998 (Volume 63, Number 157, pages 43846 through 43851), which is entitled "Revision of Existing Variance and Exemption Regulations To Comply With Requirements of the Safe Drinking Water Act; Final Rule". This federal rule was also promulgated under the authority of the federal Safe Drinking Water Act Amendments of 1996 (Pub.L. 104-182 dated August 6, 1996). The reason for this proposed amendment to Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is to adopt an equivalent state rule which will then authorize the State Health Officer to issue variances to small PWSs (serving less than 10,000 individuals) under USEPA's new small system variance criteria. This rule is intended to provide a mechanism for small PWSs to be able to obtain regulatory relief for some regulated contaminants under certain conditions, including, but not limited to, an affordability criterion. Variances generally allow a PWS to provide drinking water that may be above the maximum contaminant level (MCL) on the condition that the quality of the drinking water is still protective of public health. The duration of small PWS variances generally coincides with the life of the technology; however, DHH-OPH is required under federal rule to review each small PWS variance it issues at least every five years after the compliance date established in the small PWS variance itself. The review consists of whether the PWS continues to meet the eligibility criteria for such variance and is complying with the terms and conditions of the small PWS variance itself. A small PWS variance is not available for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant. DHH-OPH intends to also adopt this rule by reference.

The proposed Consumer Confidence Report portion of the rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972; however, in accordance with R.S. 49:972(B)(6) local governmental units may be affected if they own or operate a community water system. Local governmental units owning or operating a community water system are already subject to the requirements of the federal Consumer Confidence Report rule and were required to provide their first Consumer Confidence Report (covering calendar year 1998) to their consumers by October 19, 1999. The second annual Consumer Confidence Report (covering calendar year 1999) is required by federal rule to be provided to consumers no later than July 1, 2000. Community water systems are required to provide a Consumer Confidence Report to consumers no later than July 1 of each of the years following.

The proposed small PWS variance portion of the rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972; however, in accordance with R.S. 49:972(B)(6) local governmental units may be positively affected if they own or operate a small PWS and become eligible for a small PWS variance. Local governmental units owning or operating a small PWS which

cannot, among other criteria, afford to comply [either by treatment, alternative sources of water supply, restructuring or consolidation changes (including ownership change and /or physical consolidation with another PWS), or obtaining financial assistance pursuant to Louisiana's Drinking Water Revolving Loan Fund program or any other federal or state program] in accordance with affordability criteria established by DHH-OPH may potentially be able to obtain a small PWS variance and, in essence, obtain some regulatory relief for some regulated contaminants. Of course, there are other criteria, unrelated to affordability, which must also be met before any small PWS variance will be granted.

For the reasons set forth above, Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is proposed to be amended as follows:

Title 48

HEALTH AND HOSPITALS

Sanitary Code, State of Louisiana

Chapter XII (Water Supplies)

12:001 Definitions

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

* * *

National Primary Drinking Water Regulations regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act", 42 U.S.C.A. §300f, et seq., and as published in the July 1, 1999 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141) less and except the following:

a.) Subpart H - Filtration and Disinfection (40 CFR 141.70 through 40 CFR 141.75),

b.) Subpart L - Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors (40 CFR 141.130 through 141.135),

c.) Subpart M - Information Collection Requirements (ICR) for Public Water Systems (40 CFR 141.140 through 40 CFR 141.144), and

d.) Subpart P - Enhanced Filtration and Disinfection (40 CFR 141.170 through 141.175).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4, 40:5, and 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), LR 15:969 (November 1989), LR 17:781 (August 1991), LR 20:545 (May 1994), LR 26:

12:002-6 Upon determination that a public water supply is not in compliance with the maximum contaminant levels or treatment technique requirements of the National Primary Drinking Water Regulations, variances and/or exemptions may be issued by the State Health Officer in accordance with Sections 1415 and 1416 of the federal Safe Drinking Water Act and subpart K (Variances for Small System) of 40 CFR

part 142. The owner of the public water supply which receives a variance and/or exemption shall fully and timely comply with the all the terms and conditions of any compliance and/or implementation schedule specified by the State Health Officer in conjunction with the issuance of same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), LR 26:

Family Impact Statement

1. Effect on the Stability of the Family. No known impact.

2. Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. No known impact.

3. Effect on the Functioning of the Family. No known impact.

4. Effect on Family Earnings and Family Budget. No significant impact predicted. Assuming that a community water system decides to increase rates for all of its customers served by the system in order to reimburse itself for any additional expenses incurred by the Consumer Confidence Report portion of the rule, any increase in the individual homeowner's water bill is expected to be of an insignificant amount.

Homeowners may obtain an economic benefit if they are on a small water system (serving less than 10,000 individuals) and the system is eligible for and receives a small system variance from the State Health Officer since, for example, a less sophisticated treatment option may be allowed in order to achieve near, but possibly not full, compliance with a maximum contaminant level of a regulated contaminant. The DHH-OPH must determine that this lower level of treatment is still protective of health.

5. Effect on the Behavior and Personal Responsibility of Children. No known impact.

6. Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. No known impact on the family. Refer to the Fiscal and Economic Impact Statement which accompanies this rule for the effects on local governmental units.

The Department of Health and Hospitals will conduct a public hearing at 10 a.m. on Tuesday, June 27, 2000, in Room 118 of the Blanche Appleby Computer Complex Building, (on the Jimmy Swaggart Ministry Campus), 6867 Bluebonnet Blvd., Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally and in writing.

In addition, all interested persons are invited to submit written comments on the proposed rule. Such comments must be received no later than Friday, June 30, 2000 at COB, 4:30 p.m., and should be submitted to R. Douglas Vincent, Chief Engineer, Office of Public Health, 6867 Bluebonnet Boulevard, Box 3, Baton Rouge, LA 70810, or faxed to (225) 765-5040.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Sanitary Code Water Supplies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The DHH-OPH will have to pay a total of approximately \$480 in FY99-2000 funds to the Office of the State Register to have the Notice of Intent and the final rule published in the *Louisiana Register*. No staffing costs are anticipated at this time since existing staffing is believed to be sufficient to implement these rules. It is estimated that \$2,000 in additional administrative costs (paper, photocopying, labels, envelopes, postage, etc.) to DHH-OPH will be incurred for the Consumer Confidence Report (CCR) portion of the rule for the first full year (FY2000-01) with associated inflation costs of 3 percent annually thereafter.

Based on United States Environmental Protection Agency's (USEPA's) analysis, the agency estimates the annual cost of delivering a CCR to every customer served by all community water systems nationally is \$20,807,555. USEPA estimates that the average cost per system is approximately \$442. Community water systems surveyed which serve 10,001 to 100,000 individuals found the average cost of mailing and producing their annual CCR was approximately \$8,500.

The owners/managers/operators of Public Water Systems (PWSs) which qualify for and obtain a variance based upon the Small System Variance portion of the rule may find an economic benefit from the rule. The economic benefit would be in that the system would not have to achieve full compliance with a maximum contaminant level (MCL) regulated by the state and/or USEPA. Due to the various criteria which must be met prior to issuance of such variances, the amount of savings to the PWS would be on a case-by-case basis.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State or local governmental units which own, manage, and/or operate a community water system may determine a need to increase their revenue collections (i.e., increase water bills) to cover the cost of complying with the CCR portion of this rule; however, if such increases are warranted, they will be warranted regardless whether or not this equivalent state rule is adopted since such systems are already required (and will continue to be required) to comply under the existing federal CCR rule. The actual effect on revenue collections is hard to predict due to variables in the applicable requirements based upon various sized systems.

Local governmental units which own, manage, and/or operate a PWS may find an economic benefit if it were able to obtain a variance under the Small System Variance portion of the rule. The PWS's customers would likely pay a lower water bill if the system has a variance rather than having to achieve full compliance with a maximum contaminant level (MCL) which is normally required.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Any person, corporation, investor-owned utility company, etc., will be affected by the CCR portion of this new rule if they own, manage, or operate a community water system. Any such person, corporation, investor-owned utility company, etc., will be required to produce and provide their CCRs for their customers on an annual basis. Based on USEPA's analysis, the agency estimates the annual cost of delivering a report to every customer served by all community water systems nationally is \$20,807,555. USEPA estimates that the average cost per system is approximately \$442. Community water systems surveyed which serve 10,001 to 100,000 individuals found the

average cost of mailing and producing their annual CCR was approximately \$8,500.

Persons, corporations, investor-owned utility companies, etc., which own, manage, and/or operate a PWS may find an economic benefit if it were able to obtain a variance under the Small System Variance portion of the rule. The PWS's customers would likely pay a lower water bill if the system has a variance rather than having to achieve full compliance with the normally required maximum contaminant level (MCL).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact is expected on competition and employment.

Madeline McAndrew
Assistant Secretary
0005#031

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
Medicare Part B Claims**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted an emergency rule effective February 8, 2000 to the reimbursement full co-insurance and deductibles on Medicare Part B claims for durable medical equipment and supplies (*Louisiana Register*, Volume 26, Number 2). Section 1902(a)(10) of the Social Security Act provides States flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that States have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a State is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the State plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau determined that it was necessary to do a comparison of the Medicare payment and the Medicaid rate on file for the procedure codes on Medicare Part B claims for medical equipment and supply items. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 8, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims for durable medical equipment and supply items. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Durable Medical Equipment Program Medicare Part B Claims

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$29,582) for SFY 1999-00, (\$776,111) for SFY 2000-01, and (\$799,395) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 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 reduce federal revenue collections by approximately (\$70,232) for SFY 1999-00, (\$1,852,992) for SFY 2000-01, and (\$1,908,582) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement for durable medical equipment (DME) crossover claims by comparing the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims. This proposed rule will reduce reimbursement by approximately (\$99,974) for SFY 1999-00, (\$2,629,103) for SFY 2000-01, and (\$2,707,977) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some providers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden
Director
0005#062

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

Hemodialysis Centers
Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act,

which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted an emergency rule with an effective date of February 8, 2000 to limit the reimbursement of co-insurance and deductibles for Medicare Part B claims for hemodialysis center services (*Louisiana Register*, Volume 26, Number 2). Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau determined that it was necessary to do a comparison of the Medicare payment and the Medicaid rate on file for the procedure codes on Medicare Part B claims for hemodialysis center services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 8, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims for hemodialysis center services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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 the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Hemodialysis Centers' Medicare Part B Claims

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$482,865) for SFY 1999-00, (\$2,775,245) for SFY 2000-01, and (\$2,858,502) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 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 reduce federal revenue collections by approximately (\$1,144,697) for SFY 1999-00, (\$6,625,991) for SFY 2000-01, and (\$6,824,770) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement for hemodialysis crossover claims by comparing the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims. This proposed rule will reduce reimbursement by approximately (\$1,627,722) for SFY 1999-00, (\$9,401,236) for SFY 2000-01, and (\$9,683,272) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some hemodialysis centers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden
Director
0005#061

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

Inpatient Hospital Services Medicare Part A Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a State's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

Act 10 of the 1999 Regular Session of the Louisiana Legislature contained provisions limiting the payment of co-

insurance and deductibles for inpatient hospital services rendered to dually eligible Medicare/Medicaid recipients to the Medicaid maximum payment effective July 1, 1999. The provisions of Act 10 specifically excluded small rural hospitals from this limitation of payment to the Medicaid maximum. As a result of a budgetary shortfall, the Bureau determined it was necessary to do a comparison of the Medicare payment and the Medicaid per diem rate on file for inpatient services rendered in small rural hospitals and skilled nursing units in hospitals. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 1, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compares the Medicare payment to the Medicaid per diem rate on file for inpatient services rendered in small rural hospitals and skilled nursing units in hospitals. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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 the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Inpatient Hospital Services
Medicare Part A Claims**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$470,121) for SFY 1999-00, (\$2,628,319) for SFY 2000-01, and (\$2,707,169) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 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 reduce federal revenue collections by approximately (\$1,114,488) for SFY 1999-00, (\$6,275,201) for SFY 2000-01, and (\$6,463,457) for SFY 2001-02.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Implementation of this proposed rule will reduce the reimbursement paid on crossover claims by comparing the Medicare payment to the Medicaid per diem rate on file for inpatient services rendered in small hospitals and skilled nursing units in hospitals. This proposed rule will reduce reimbursement by approximately (\$1,584,769) for SFY 1999-00, (\$8,903,520) for SFY 2000-01, and (\$9,170,626) for SFY 2001-02.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no known effect on competition. As a result of the reduction in reimbursement, some providers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden
Director
0005#034

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**

Inpatient Psychiatric Services Medicare Part A

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization

review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule effective February 8, 2000 to limit the reimbursement of co-insurance and deductibles for inpatient services rendered in a free-standing psychiatric hospital or a distinct-part psychiatric unit of an acute care hospital (*Louisiana Register*, Volume 26, Number 2). Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary (QMB) is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau determined that it was necessary to do a comparison of the Medicare payment and the Medicaid per diem rate on file for inpatient psychiatric services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 8, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing compares the Medicare payment to the Medicaid per diem rate on file for inpatient psychiatric services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-

NOTICE OF INTENT

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

Laboratory and Portable X-Ray Services Medicare Part B Claims

insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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 the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Inpatient Psychiatric Services Medicare Part A**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$105,334) for SFY 1999-00, (\$732,389) for SFY 2000-01, and (\$754,361) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 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 reduce federal revenue collections by approximately (\$249,794) for SFY 1999-00, (\$1,748,605) for SFY 2000-01, and (\$1,801,063) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce the reimbursement paid on crossover claims by comparing the Medicare payment to the Medicaid per diem rate on file for inpatient psychiatric services. This proposed rule will reduce reimbursement by approximately (\$355,288) for SFY 1999-00, (\$2,480,994) for SFY 2000-01, and (\$2,555,424) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the reduction in reimbursement, some hospitals may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden
Director
0005#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau determined it was necessary to do a comparison of the Medicare payment and the Medicaid rate on file for the procedure codes on Medicare Part B claims for laboratory and portable x-ray services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment (*Louisiana Register*, Volume 26, Number 2). The

Bureau now proposes to adopt a rule to continue the provisions contained in the February 1, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims for laboratory and portable x-ray services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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 the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Laboratory and Portable X-Ray Services^c Medicare Part B Claims

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$13,038) for SFY 1999-00, (\$119,039) for SFY 2000-01, and (\$122,611) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 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 reduce federal revenue collections by approximately (\$31,014) for SFY 1999-00, (\$284,211) for SFY 2000-01, and (\$292,737) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce the reimbursement for laboratory and portable x-ray crossover claims by comparing the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims. This proposed rule will reduce reimbursement by approximately (\$44,212) for SFY 1999-00, (\$403,250) for SFY 2000-01, and (\$415,348) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the reduction in reimbursement, some providers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden
Director
0005#056

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

Outpatient Hospital Services^c Medicare Part B

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted an emergency rule effective February 8, 2000 to limit the reimbursement to hospitals for co-insurance and deductibles on Medicare Part B claims for outpatient services (*Louisiana Register*, Volume 26, Number 2). Section 1902(a)(10) of the Social Security Act provide states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that States have flexibility in complying with the requirements to pay Medicare cost sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the

state plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau determined that it was necessary to do a comparison of the Medicare payment and the Medicaid rate on file for the revenue or procedure codes on Medicare Part B claims for outpatient hospital services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 8, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the revenue or procedure codes on Medicare Part B claims for outpatient hospital services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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 the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the

receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Outpatient Hospital Services/ Medicare Part B

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$490,003) for SFY 1999-00, (\$2,739,458) for SFY 2000-01, and (\$2,821,641) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 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 reduce federal revenue collections by approximately (\$1,161,618) for SFY 1999-00, (\$6,540,548) for SFY 2000-01, and (\$6,736,765) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement for outpatient hospital crossover claims by comparing the Medicare payment to the Medicaid rate on file for the revenue or procedure codes on Medicare Part B claims. This proposed rule will reduce reimbursement by approximately (\$1,651,781) for SFY 1999-00, (\$9,280,006) for SFY 2000-01, and (\$9,558,406) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some hospitals may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden
Director
0005#054

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Pharmacy Program/ Average Wholesale Price

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states, "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures

to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

Act 10 of the 1999 Regular Session of the Louisiana Legislature contained provisions that amended the reimbursement methodology for prescription drugs under the Medicaid Program. The provisions of Act 10 limited the payments for prescription drugs by amending the Estimated Acquisition Cost formula from Average Wholesale Price (AWP) minus 10.5 percent to AWP minus 10.5 percent for independent pharmacies and 13.5 percent for chain pharmacies for dispensing single source drugs (brand name); multiple source drugs which do not have a state Maximum Allowable Cost (MAC) or Federal Upper Limit; and those prescriptions subject to MAC overrides based on the physician's certification that a brand name product is medically necessary. Chain pharmacies were defined as five or more Medicaid enrolled pharmacies under common ownership. All other Medicaid enrolled pharmacies were defined as independent pharmacies.

As a result of a budgetary shortfall, the Bureau determined that it was necessary to amend the current reimbursement methodology for prescription drugs by changing the Estimated Acquisition Cost formula from AWP minus 10.5 percent to AWP minus 15 percent for independent pharmacies and from AWP minus 13.5 percent to AWP minus 16.5 percent for chain pharmacies for dispensing single source drugs (brand name); multiple source drugs which do not have a state Maximum Allowable Cost (MAC) or Federal Upper Limit; and those prescriptions subject to MAC overrides based on the physician's certification that a brand name product is medically necessary. In addition, the definition of chain pharmacies was changed from five or more to more than fifteen Medicaid enrolled pharmacies under common ownership. All other Medicaid enrolled pharmacies will continue to be defined as independent pharmacies (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 1, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing limits payments for prescription drugs to the lower of:

1. Average Wholesale Price (AWP) minus 15 percent for independent pharmacies (all other Medicaid enrolled pharmacies) and 16.5 percent for chain pharmacies (more than fifteen Medicaid enrolled pharmacies under common ownership);
2. Louisiana's Maximum Allowable Cost limitation plus the Maximum Allowable Overhead Cost;
3. Federal Upper Limits plus the Maximum Allowable Overhead Cost; or

4. Provider's usual and customary charges to the general public. General public is defined as all other non-Medicaid prescriptions including third-party insurance, pharmacy benefit management plans and cash.

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 the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pharmacy Program Average Wholesale Price

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$1,951,743) for SFY 1999-00, (\$4,800,514) for SFY 2000-01, and (\$4,944,529) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 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 reduce federal revenue collections by approximately (\$4,626,537) for SFY 1999-00, (\$11,461,390) for SFY 2000-01, and (\$11,805,232) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement to pharmacies for dispensing prescribed drugs to Medicaid recipients. This proposed rule will reduce reimbursement by approximately (\$6,578,440) for SFY 1999-00, (\$16,261,904) for SFY 2000-01, and (\$16,749,761) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some pharmacies may find it necessary to reduce staff or staff hours of work. As a result of the change in the definition of chain pharmacy, approximately twenty-six pharmacies are no longer enrolled in the Medicaid Program as chain pharmacies.

Ben A. Bearden
Director
0005#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Professional Services; Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This proposed rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As the result of a budgetary shortfall, the Bureau determined it was necessary to compare the Medicare payment and the Medicaid rate on file for the procedure codes indicated on Medicare Part B claims for professional services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. However, Medicare B claims for the professional component of hemodialysis and transplant services are

excluded from this limitation to the Medicaid maximum payment.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the procedure codes indicated on Medicare Part B claims for professional services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. However, Medicare Part B claims for the professional component of hemodialysis and transplant services are excluded from this limitation to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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 the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA.

At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Professional Services; Medicare Part B Claims

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$1,297,168) for SFY 1999-00, (\$6,937,685) for SFY 2000-01, and (\$7,145,816) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 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 reduce federal revenue collections by approximately

(\$3,074,926) for SFY 1999-00, (\$16,563,959) for SFY 2000-01, and (\$17,060,877) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement for professional services crossover claims by comparing the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims. This proposed rule will reduce reimbursement by approximately (\$4,372,254) for SFY 1999-00, (\$23,501,644) for SFY 2000-01, and (\$24,206,693) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some providers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden
Director
0005#041

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**

Rehabilitation Services Medicare Part B

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This proposed rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted an emergency rule effective February 8, 2000 to limit the reimbursement of co-insurance and deductibles on Medicare Part B claims for rehabilitation services (*Louisiana Register*, Volume 26, Number 2). Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost-sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or co-payments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the

State plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau determined that it was necessary to do comparison of the Medicare payment and the Medicaid rate on file for the procedure codes on Medicare Part B claims for rehabilitation services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 8, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing compares the Medicare payment and the Medicaid rate on file for the procedure codes on Medicare Part B claims for rehabilitation services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Rehabilitation Services
Medicare Part B**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$66,488) for SFY 1999-00, (\$349,839) for SFY 2000-01, and (\$360,334) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 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 reduce federal revenue collections by approximately (\$157,714) for SFY 1999-00, (\$835,253) for SFY 2000-01, and (\$860,310) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement for rehabilitation services crossover claims by comparing the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims. This proposed rule will reduce reimbursement by approximately (\$224,362) for SFY 1999-00, (\$1,185,092) for SFY 2000-01, and (\$1,220,644) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some providers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden
Director
0005#038

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**

Substance Abuse Clinics Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for

dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or co-payments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau determined it was necessary to compare the Medicare payment and the Medicaid rate on file for the procedure codes on Medicare Part B claims for substance abuse clinic services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 1, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims for substance abuse clinic services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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

responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Substance Abuse Clinics/
Medicare Part B Claims**

**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 \$60 for SFY 1999-00, but will reduce state program costs by approximately (\$122) for SFY 2000-01 and (\$126) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 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 \$33 for SFY 1999-00, but will reduce federal revenue collections by approximately (\$291) for SFY 2000-01 and (\$300) for SFY 2001-02.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Implementation of this proposed rule will reduce reimbursement to substance abuse clinics by comparing the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims. This proposed rule will reduce reimbursement by approximately (\$67) for SFY 1999-00, (\$413) for SFY 2000-01, and (\$426) for SFY 2001-02.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is not anticipated that this proposed rule will have an effect on competition and employment.

Ben A. Bearden
Director
0005#036

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Louisiana Lottery Corporation

On-Line Lottery Games
(LAC 42:XV.Chapter 1)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9001 et seq., hereby gives notice of its intent to amend the rules and regulations pertaining to the operations of on-line lottery games in particular LAC 42:XV.141 to allow the Louisiana

Lottery Corporation to offer the Multi-State Lottery Association on-line game "Rolldown."

Title 42

LOUISIANA GAMING

Part XV. LOTTERY

Chapter 1. On Line Lottery Games

§141. Multi-State Lottery

This section authorizes the Louisiana Lottery Corporation, through an agreement with the Multi-State Lottery Association (MUSL), to offer the following games: "PowerBall," "Daily Millions," and "Rolldown." Introduction of any new game conducted by MUSL may only be accomplished by amendment of this Section to include the game as an authorized game. The detailed information regarding the Rules of the PowerBall game, the Daily Millions game, and the Rolldown game will be contained in a game directive promulgated by the president. The game directive must be signed by the president prior to the start of the game. The game directive will be distributed and posted at every corporation office and will be available for public inspection during the sales period of PowerBall, Daily Millions, and Rolldown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on October 21, 1994, and promulgated in *THE ADVOCATE*, October 28, 1994, amended LR 23:67 (January, 1997), amended LR 26:

Family Impact Statement

Pursuant to the provisions of LA R.S. 49:953.A., the Louisiana Lottery Corporation, through its president, has considered the potential family impact of the proposed repromulgation and amendment of LAC 42:XV. 141.

It is accordingly concluded that the repromulgation and amendment of the LAC 42:XV. 141 would appear to have no impact on any of the following:

1. The effect on stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family.
4. The effect on family earnings and family budget.
5. The effect on the behavior and personal responsibility of children.
6. The ability of the family or a local government to perform the function as contained in the proposed rule.

A public hearing, if requested, will be held June 27, 2000, at 10:00 a.m., at the offices of the Louisiana Lottery Corporation, 11200 Industriplex Boulevard, Suite 190, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than June 10, 2000, at 4:00 p.m., to John Carruth, Louisiana Lottery Corporation, P.O. Box 90008, Baton Rouge, LA 70879.

Charles R. Davis
President

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: On-Line Lottery Games

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Louisiana Lottery Corporation (Corporation) was created by La R.S. 47:9000 et seq. and exists as a quasi-public corporation. All costs of the Corporation are funded by revenue generated by the Corporation. The direct costs associated with any on-line game operated by the Corporation totals approximately 60.35% of sales, including prize expense (50.0%), retailer commissions (5.5%), and on-line vendor commissions (4.85%). With sales estimates for the new games of over \$11 million for the fiscal year ending June 30, 2001 and over \$13 million for the fiscal year ending June 30, 2002, the direct expenses are projected to be \$5.7 million and \$6.9 million, respectively. The general & administrative costs associated with the new games are projected to be \$394,776 for the fiscal year ending June 30, 2001 and \$413,731 for the fiscal year ending June 30, 2002 and subsequent years. A schedule (Attachment IV) is enclosed outlining all costs associated with the revenue from the proposed new games.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

As required by La. R.S. 47:9029, the Louisiana Lottery Corporation transfers not less than 35% of gross revenues to the lottery proceeds fund in the state treasury. As a result of the introduction of the new games, sales are expected to increase by approximately \$11.4 million for the fiscal year ending June 30, 2001 and \$13.7 million for the fiscal year ending June 30, 2002. The corresponding additional revenue to the lottery proceeds fund is estimated to be \$4 million for the fiscal year ending June 30, 2001 and \$4.8 million for the fiscal year ending June 30, 2002. Please note that the additional revenue is estimated based on a start date in September 2000. The first full year of sales will be the fiscal year ending June 30, 2002.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

As indicated in Attachment IV, the Corporation compensates retailers who sell lottery tickets and pays prizes to lottery winners. The distribution of each dollar received from the new games is shown in Attachment IV.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The additional revenue from the new games will be generated from consumer's discretionary income. The specific effects on competition and employment cannot be determined.

Charles R. Davis
President
0005#040

H. Gordon Monk
Staff Director
Legislative fiscal Office

NOTICE OF INTENT

**Office of Public Safety
Gaming Control Board**

Land Based Casino Gaming
(LAC 42:IX.Chapter 41)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:IX.4103 and to adopt LAC

42:IX.4201 through 4219 and to repeal LAC 42:IX:4327 through 4357 in accordance with La. R.S. 27:15 and 24, and the Administrative Procedure Act., R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part IX. Landbased Casino Gaming

Chapter 41. Enforcement Actions

§4103. Enforcement Actions of the Board

A. Pursuant to R.S. 27:15(B)(3)(b)(iii) and (B)(8), 27:24(A)(4), and 27:233(B), if the board, after investigation by the Division, is satisfied that a License or Permit should be limited, conditioned, suspended or revoked, or that other action is necessary or appropriate to carry out the provisions of the Act or Regulations, the Board may:

1. limit or restrict the operations of the Casino or a Permit; or
2. suspend or revoke the operations of the Casino or a Permit; or
3. direct Actions deemed necessary to carry out the intent of the Act or Regulations, including, but not limited to, requiring the Casino Operator to keep an individual from the Official Gaming Establishment, prohibiting payment for services rendered, prohibiting payment of profits, income, or accruals, or investment in the Casino or its operations. Such order may be an Emergency Order;
4. impose a civil penalty one each person, or entity or both, who is permitted, Approved, registered or other wise found suitable pursuant to the Act or these Regulations, of not more than \$1,000,000 per violation of the Act or these Regulations.

B. The Division may assess a civil penalty as provided for in the penalty schedule. The penalty schedule lists a base fine and proscriptive period for each violation committed by the Casino Operator or Casino Manager. The proscriptive period is the amount of time determined by the Division in which a prior violation is still considered active for purposes of consideration in assessment of penalties. A prior violation is a past violation of the same type which falls within the current violation's proscriptive period. The date of a prior violation shall be considered to be when the delay for requesting a hearing expires or the date of the final agency decision relative to such violation. If one or more violations exist within the proscriptive period, the base fine shall be multiplied by a factor based on the total number of violations within the proscriptive period. The violation of any rule may result in the assessment of a civil penalty, suspension, revocation, or other administrative action. If the calculated penalty exceeds the statutory maximum of \$1,000,000, the matter shall be forwarded to the Board for further administrative action. In such case, the Board shall determine the appropriate penalty to be assessed. Assisting in the violation of rules, laws, or procedures as provided in Section 2927 of these Regulations may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

C. Penalty Schedule

Penalty Schedule			
Section Reference	Description	Base Fine	Proscriptive Period (Months)
Chapter 19	Policy		
1905		\$10,000	18
Chapter 21	Licenses and Permits		
2119	Access to Applicant's Premises and Records	\$25,000	60
2127.A	Information Constituting Grounds for Delay or Denial of an Application	\$10,000	24
2153.A	Cash Transaction Reporting	\$5,000	12
2153.B	Cash Transaction Reporting (Violations in other states)	\$20,000	24
2159.A	Gaming Employee Permits Required	\$10,000	18
2163	Display of Gaming Employees Permit	\$500	12
2165.A	Gaming Equipment Must Be From Permitted Suppliers	\$25,000	60
2165.B and C	Permit Requirements for Persons Furnishing Services or Property or Doing Business with the Casino Operator or Casino Manager	\$2,000	12
Chapter 23	Compliance, Inspections, and Investigations		
2325	Sanctions	\$2,500	12
Chapter 25	Transfers of Interest in the Casino Operator and Permittee; Loans and Restrictions		
2521	Loans and Lines of Credit	\$75,000	60
Chapter 27	Accounting Regulation		
2701	Procedures for Reporting and Paying Gaming Revenues and Fees		
	Late Reports	\$2,000	12
	Late Wire Transfers	\$5,000	12
2703.A	Accounting Records (per issue)	\$2,000	12
2705	Records of Ownership	\$500	12
2707	Records Retention	\$10,000	18
2709.B	Quarterly Financial Statements	\$1,000	12
2709.C	SEC Reports	\$500	12
2711.B	Required Signatures	\$500	12
2711.D	Change of CPA Requirements	\$10,000	60
2711.F	Audited Financial Statements (submission date)	\$10,000	60
2711.G	Change of Business Year	\$2,000	60
2711.H	Other CPA Reports	\$2,000	60
2711.I	Quarterly Net Win Reports	\$5,000	24
2711.J	Additional CPA Information	\$10,000	60
2713.C	Submit Monthly Calculation to Division	\$5,000	12
2713.D	Submission of Revised Calculated Amount	\$5,000	12
2715.A.1-7,14	General Requirements	\$2,500	12
2715.A.8-13	Key Control & Entry Logs	\$10,000	24
2715.D	Internal Audit Department – Failure to Investigate and Resolve Material Exceptions & to Document Results	\$10,000	18
2715.E	Late Submission	\$10,000	60
2715.F-G	Amendment of Computerized Controls and Amendments to Internal Controls	\$25,000	24
2715.H	Amendments to Internal Controls required by the Division	\$20,000	24
2715.J-M	General Credit Requirements	\$5,000	18
2715.O	Quarterly Credit Report	\$5,000	18
2716	Clothing Requirements	\$5,000	12
2717	Internal Controls, Table Games:		
2717.A-E	Fills and Credits	\$2,000	12
2717.F	Table Inventory	\$5,000	12
2717.G	Credit Procedures in Pit	\$2,000	12
2717.H	Non-Marker Credit Play	\$5,000	12
2717.I	Call Bets	\$10,000	18
2717.J	Table Games Drop Procedures	\$10,000	24
2717.K	Table Games Count Procedures	\$10,000	24
2717.L	Table Games Key Control Procedures	\$10,000	24
2717.M		\$5,000	12
2717.N	Supervisory Controls of Table Games	\$2,500	12
2717.O	Table Games Records	\$2,500	12
2717.P	Accounting and MIS Functions	\$2,500	12
2719 A and B	Handling of Cash at Gaming Tables	\$5,000	18
2721	Tips and Gratuities:		
	Licensee Violation	\$2,000	12
	Permitee Violation	\$500	12
2723	Internal Controls, Slots:		
2723.B and C	Jackpot Request	\$2,000	12
2723.D	Jackpot Payout Slip	\$2,000	12
2723.E	Jackpot Payout Slips greater than \$1,200	\$1,000	12
2723.F	Jackpot Payout Slips greater than \$5,000	\$5,000	12
2723.G	Jackpot Payout Slips greater than \$10,000	\$10,000	18

2723.H	Jackpot Payout Slips greater than \$100,000	\$15,000	24
2723.I	Slot Fill Slips	\$2,000	12
2723.J	Slot Hard Drop	\$10,000	12
2723.K	Slot Count	\$10,000	12
2723.L	Hard Count Weight Scale	\$10,000	12
2723.M	Accurate and Current Records for each slot machine	\$5,000	12
2723.N	Slot Machines removed from gaming floor	\$10,000	18
2723.O	Key Control & Entry Logs	\$10,000	24
2723.P	Sensitive Keys removed from vessel	\$10,000	24
2723.Q	Currency Acceptor Drop and Count Standards	\$10,000	24
2723.R	Computer Records	\$5,000	12
2723.S	Management Information Systems (MIS) Functions	\$5,000	18
2723.T	Accounting Department audit procedures relative to slot operations	\$10,000	24
2723.U	Slot Department Requirements	\$2,000	12
2723.V	Progressive Slot Machines	\$5,000	12
2723.W	Training	\$5,000	24
2725.A-F	Poker	\$2,500	12
2729	Cage and Credit:		
2729.A-H	Cage Procedures	\$5,000	12
2729.I-HH	Credit Extension/Check Cashing	\$5,000	12
2729.II-NN	Other Credit Issues	\$5,000	12
2730	Exchange of Chips and Tokens	\$1,000	12
2731	Currency Transaction Reporting	\$5,000	12
2735.F	Inclusion of Chips, Tokens, Extensions of Credit or Comps in Gross Gaming Revenue	\$5,000	12
2735	Gross Gaming Revenue Computation	\$5,000	12
2736	Treatment of Credit for Computing Gross Gaming Revenue	\$5,000	12
Chapter 29	Operating Standards		
2901	Methods of Operation Generally	\$10,000	24
2903	Compliance with Laws	\$10,000	18
2909	Prohibited Transactions	\$25,000	60
2911	Finder's Fees	\$10,000	12
2921	Entertainment Activities	\$5,000	12
2922-2924	Promotions; Increased Slot Jackpots; Coupon and Scrip, Tournaments, Giveaways and Drawings	\$5,000	12
2925	Gaming Employees Prohibited from Gaming	\$2,500	12
2935.B	Age Restrictions for Casino	\$10,000	12
2939	Compulsive/Problem Gamblers – Telephone Info and Referral Service Posting (see Title 27:58.10)	\$1,000	24
2945	Restricted Areas	\$10,000	24
2949	Accessibility to Premises; Parking	\$1,000	12
2970	Agencies who may Collect; Collection by Unsuitable Person; Recordation of Collection Arrangements; Division Inspection	\$10,000	60
Chapter 31	Rules of Play		
	All rule violations other than 3101, 3105, 3107	\$5,000	12
3101	Authority and Applicability, Unauthorized Game	\$25,000	24
3105	Submission of Rules	\$25,000	24
3107	Wagers	\$10,000	18
Chapter 33	Surveillance and Security		
3301	Required Surveillance Equipment	\$10,000	24
3303	Surveillance System Plans	\$25,000	24
3305.A	Division Room	\$10,000	24
3305.B	Access to Surveillance Equipment	\$10,000	24
3305.C	Surveillance Employees Prohibited from Other Gaming Duties	\$5,000	24
3305.D and E	Security of Division and Surveillance Rooms	\$10,000	24
3305.F	Division Agents Access to Surveillance Room	\$15,000	24
3305.H	Licensee Surveillance	\$5,000	24
3307	Segregated Telephone Communication	\$5,000	24
3309.A	Maintaining Logs; Logging of Unusual Occurrences	\$10,000	24
3311	Storage and Retrieval	\$20,000	24
3315	Maintenance and Testing	\$20,000	24
3317	Surveillance System Compliance	\$25,000	24
Chapter 35	Patron Disputes		
3501	Division Notification	\$1,000	12
Chapter 37	List of Excluded Persons		
3705	Duty of Casino Operator, Casino Manager and Permittees to Exclude	\$5,000	12
Chapter 41	Enforcement Actions		
4103	Enforcement Actions of the Board	\$20,000	18
Chapter 42	Electronic Gaming Devices		
4202	Approval of Gaming Devices; Applications and Procedures; Manufacturers and Suppliers	\$10,000	12
4204	Progressive EGDs	\$5,000	12

4205	Computer Monitoring Requirements of Electronic Gaming Devices	\$10,000	12
4208	Certification by Manufacturer	\$1,000	12
4211	Duplication of Program Storage Media	\$20,000	24
4212	Marking, Registration, and Distribution of Gaming Devices	\$5,000	12
4213	Approval to Sell or Dispose of Gaming Devices	\$10,000	24
4214	Maintenance of Gaming Devices	\$20,000	24
4219	Approval of Associated Equipment; Application and Procedures	\$5,000	12
Chapter 43	Specifications for Gaming Devices And Equipment		
4301	Approval of Chips and Tokens; Applications and Procedures	\$5,000	12
4309	Use of Chips and Tokens	\$1,000	12
4311	Receipt of Gaming Chips or Tokens from Manufacturer or Supplier	\$5,000	12
4313	Inventory of Chips	\$5,000	12
4315	Redemption and Disposal of Discontinued Chips and Tokens	\$5,000	12
4317	Destruction of Counterfeit Chips and Tokens	\$5,000	12
4319	Approval and Specifications for Dice	\$5,000	12
4321	Dice; Receipt, Storage, Inspections and Removal From Use	\$5,000	12
4323	Approval and Specifications for Cards	\$5,000	12
4325	Cards; Receipt, Storage, Inspections and Removal From Use	\$5,000	12
4327	Approval of Gaming Devices; Applications and Procedures; Manufacturers and Suppliers	\$10,000	12
4331.B and C	Display	\$2,000	12
4331.D	Amount Reduction	\$5,000	12
4333	Computer Monitoring Requirements of Electronic Gaming Devices	\$10,000	12
4339	Certification by Manufacturer	\$1,000	12
4343	Duplication of Program Storage Media	\$20,000	24
4345	Marking, Registration, and Distribution of Gaming Devices	\$5,000	12
4347	Approval to Sell or Dispose of Gaming Devices	\$10,000	24
4349	Maintenance of Gaming Devices	\$20,000	24
4355	Approval of Associated Equipment; Application and Procedures	\$5,000	12
Title 27	Louisiana Gaming Control Law		
Chapter 4	The Louisiana Riverboat Economic Development and Gaming Control Act		
Part I	General Provisions		
27: 250A and 27:230E	License or permit required	\$10,000	60
Part V	Conducting of Gaming Operations		
27:260 A(1)(2)	No one under 21 allowed	\$10,000	12
27:244A(7)	Adequate insurance	\$25,000	60
Part VIII	Issuance of Permits to Manufacturers, Suppliers, and Others		
27:238(B)	Distribution of unapproved devices/supplies	\$25,000	60
27:250(G)	Unpermitted employee	\$10,000	18
27:260(A)(1)(2)(3)	Underage patron/employees	\$10,000	12

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:1900 (October 1999) amend LR 26:

Chapter 42. Electronic Gaming Devices

§4201. Reserved

§4202. Approval of Electronic Gaming Devices; Applications and Procedures; Manufacturers and Suppliers

A. A Manufacturer or Supplier shall not sell, lease or distribute EGD's or equipment in this state and the Casino Operator or Casino Manager shall not offer EGD's for play without first obtaining the requisite Permit or License and obtaining prior Approval by the Division for such action. This Section shall not apply to those Manufacturers or Suppliers licensed or permitted to sell, lease or distribute EGD's or equipment in the state to an entity licensed under a provision of state law other than the Administrative Rules when those Manufacturers or Suppliers are selling or distributing to such licensed entity.

B. Applications for Approval of a new EGD shall be made and processed in such manner and using such forms as the Division may prescribe. Casino Operator or Casino Managers may apply for Approval of a new EGD. Each

Application shall include, in addition to such other items or information as the Division may require:

1. a complete, comprehensive, and technically accurate description and explanation in both technical and lay language of the manner in which the device operates, signed under penalty of perjury; and

2. a statement, under penalty of perjury, that to the best of the applicant's knowledge, the EGD meets the standards set forth in this Chapter.

C. No Game or EGD other than those specifically authorized in this Chapter may be offered for play or played in the Casino except that the Division may authorize the operation of progressive electronic EGD's as part of a network of separate Gaming Operations licensed by the Division with an aggregate prize or prizes.

D. Approval shall be obtained from the Division prior to changing, adding, or altering the Casino configuration once such configuration has received final Divisional Approval. For the purpose of this Section, altering the Casino configuration does not include the routine movement of EGD's for cleaning and/or maintenance purposes.

E. All components, tools, and test equipment used for installation, repair or modification of EGD's shall be stored in the slot technician repair office, or in a Division Approved locked storage area. Such office/storage shall be kept secure and only authorized Personnel shall have access.

F. Any compartment or room that contains communications equipment used by the EGD's and the EGD monitoring system shall be kept secure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4203. Minimum Standards for Electronic Gaming Devices

A. All EGD's submitted for Approval:

1. shall be electronic in design and operation and shall be controlled by a microprocessor or micro-controller or the equivalent;

2. shall theoretically pay out a mathematically demonstrable percentage of all amounts Wagered, which shall not be less than 80 percent and not more than 99.9 percent for each Wager available for play on the device;

3. shall use a random selection process to determine the Game outcome of each play of a Game. The random selection process shall meet 99 percent confidence limits using a standard chi-squared test for goodness of fit and in addition:

a. each possible permutation or combination of Game elements which produce winning or losing Game outcomes shall be available for random selection at the initiation of each play; and

b. the selection process shall not produce detectable patterns of Game elements or detectable dependency upon any previous Game outcome, the amount wagered, or upon the style or method of play.

4. shall display an accurate representation of the Game outcome. After selection of the Game outcome, the EGD shall not make a variable secondary decision which affects the result shown to the player;

5. shall display the rules of play and payoff schedule;

6. shall not automatically alter pay-tables or any function of the device based on internal computation of the hold percentage;

7. shall be compatible to on-line data monitoring;

8. shall have a separate locked internal enclosure within the device for the control circuit board and the program storage media;

9. shall be able to continue a Game with no data loss after a power failure;

10. shall have current Game and the previous two Games data recall;

11. shall have a complete set of nonvolatile meters including coins-in, coins-out, coins dropped and total jackpots paid;

12. shall contain a surge protector on the line that feeds power to the device. The battery backup or an equivalent for the electronic meter information shall be capable of maintaining accuracy of all information required for 180 days after power is discontinued from the device. The backup shall be kept within the locked logic board compartment;

13. shall have an on/off switch that controls the electrical current used in the operation of the device which shall be located in an accessible place within its interior;

14. shall be designed so that it shall not be adversely affected by static discharge or other electromagnetic interference;

15. shall have at least one electronic coin acceptor and may be equipped with an Approved currency acceptor. Coin and currency acceptors shall be designed to accept designated coins and currency and reject others. The coin acceptor on a device shall be designed to prevent the use of cheating methods such as slugging, stringing, or spooning. All types of coin and currency acceptors are subject to Approval by the Division. The control program shall be capable of handling rapidly fed coins so that occurrences of inappropriate "coin-ins" are prevented;

16. shall not contain any unsecured hardware switches that alter the pay-tables or payout percentages in its operation. Hardware switches may be installed to control graphic routines, speed of play, and sound;

17. shall contain a non-removable identification plate containing the following information, appearing on the exterior of the device:

- a. Manufacturer;
- b. Serial Number; and
- c. Model Number.

18. shall have a communications data format from the EGD to the EGD monitoring system Approved by the Division;

19. shall be capable of continuing the current Game with all current Game features after a malfunction is cleared. This rule does not apply if a device is rendered totally inoperable. The current Wager and all credits appearing on the screen prior to the malfunction shall be returned to the Patron;

20. shall have attached a locked compartment separate from any other compartment of the device for housing a Drop bucket. The compartment shall be equipped with a switch or sensor that provides detection of the Drop door opening and closing by signaling to the EGD monitoring system;

21. shall have a locked compartment for housing currency, if equipped with a currency acceptor;

22. shall, at a minimum, be capable of detecting and displaying the following error conditions which an attendant may clear:

- a. coin-in jam;
- b. coin-out jam;
- c. currency acceptor malfunction or jam;
- d. hopper empty or time-out;
- e. program error;
- f. hopper runaway or extra coin paid out;
- g. reverse coin-in;
- h. reel error; and
- i. door open.

23. shall use a communication protocol which ensures that erroneous data or signal will not adversely affect the operation of the device;

24. shall have a mechanical, electrical, or electronic device that automatically precludes a player from operating the device after a jackpot requiring a manual payout and requires an attendant to reactivate the device; and

25. shall be outfitted with any other equipment required by this Chapter or the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4204. Progressive Electronic Gaming Devices

A. This Section authorizes the use of progressive EGD’s among Gaming Operations licensed pursuant to the provisions of R.S. 27:51 et seq., R.S. 27:201 et seq. and R.S. 27:351 et seq. in the state of Louisiana, within one eligible facility, provided that the EGD’s meet the requirements stated in this Chapter and any additional requirements imposed by the Administrative Rules, the Board, or the Division.

B. Wide area progressive Games that link EGD’s located in more than one location shall be approved by the Board or Division on a case-by-case basis.

C. Progressive EGD’s Defined

1. A progressive EGD is an electronic Gaming device with a payoff that increases uniformly as the EGD or another device on the same link is played.

2. "Base amount" means the amount of the progressive jackpot offered before it increases.

3. "Incremental amount" means the difference between the amount of a Progressive Jackpot and its base amount.

4. A Progressive Jackpot may be won where certain pre-established criteria, which does not have to be a winning combination, are satisfied.

5. A bonus Game where certain circumstances are required to be satisfied prior to awarding a fixed bonus prize is not a progressive EGD and is not subject to this Chapter.

D. Transferring of Progressive Jackpot which is in Play:

1. A Progressive Jackpot which is currently in play may be transferred to another progressive EGD in the Casino in the event of :

- a. EGD malfunction;
- b. EGD replacement; or
- c. other good reason deemed appropriate by the Division or Board to ensure compliance with this Chapter.

2. If the events set forth above do not occur, the Progressive award shall be permitted to remain until it is won by a player or transfer is approved by the Division.

E. Recording, Keeping and Reconciliation of Jackpot Amount

1. The Casino Operator or Casino Manager shall maintain a record of the amount shown on a Progressive Jackpot meter on the premises. The Progressive Jackpot meter information shall be read and documented, at a minimum, every 24 hours. Electronic meter information shall be recorded when a primary jackpot occurs on an EGD.

2. Supporting documents shall be maintained to explain any reduction in the payoff amount from a previous entry.

3. The records and documents shall be retained for a period of five years.

4. The Casino Operator or Casino Manager shall confirm and document, on a quarterly basis, that proper communication was maintained on each EGD linked to the progressive controller during that time.

5. The Casino Operator or Casino Manager shall record the progressive liability on a daily basis.

6. The Casino Operator or Casino Manager shall review, on a quarterly basis, the incremented rate and reasonableness of the progressive liability by either a physical coin-in test or by meter readings to calculate incremental coin-in multiplied by the rate incremented to

arrive at the increase in, and reasonableness of, the Progressive Jackpot amount.

7. The Casino Operator or Casino Manager shall formally adopt the Manufacturer's specified internal controls for Wide area progressive EGD’s, as Approved by the Division, as part of the Casino Operator or Casino Manager’s system of internal controls.

F. The Progressive Meter

1. The EGD shall be linked to a progressive meter or meters showing the current payoff to all players who are playing an EGD which may potentially win the progressive amount. A meter that shows the amount of the Progressive Jackpot shall be conspicuously displayed at or near the machines to which the jackpot applies.

G. Consistent Odds on Linked EGD’s

1. When more than one progressive EGD is linked together, each EGD in the link shall be of the same denomination and have the same coin in multiplier, and have the same probability of hitting the combination that will award the Progressive Jackpot or jackpots as every other machine in the link.

H. Operation of Progressive Controller-Normal Mode

1. During the normal operating mode of the progressive controller, the controller shall do the following:

- a. continuously monitor each EGD attached to the controller to detect inserted coins or credits wagered;
- b. multiply the accepted coins by the denomination and the programmed rate progression in order to determine the correct amounts to apply to the Progressive Jackpot.

2. The progressive display shall be constantly updated as play on the link is continued. It will be acceptable to have a slight delay in the update so long as when a jackpot is triggered, the jackpot amount is shown immediately.

I. Operation of Progressive Controller-Jackpot Mode

1. When a Progressive Jackpot is recorded on an EGD, which is attached to the progressive controller or another attached approved component or system ,(hereinafter progressive controller), the progressive controller shall allow for the following:

- a. display of the winning amount;
- b. display of the EGD identification that caused the progressive meter to activate if more than one EGD is attached to the controller.

2. The progressive controller is required to send to the EGD the amount that was won. The EGD is required to update its electronic meters to reflect the winning jackpot amount consistent with this Chapter.

3. When more than one progressive EGD is linked to the progressive controller, the progressive controller shall automatically reset to the reset amount and continue normal play. During this time, the progressive meter or another attached Approved component or system shall display the following information:

- a. the identity of the EGD that caused the progressive meter to activate;
- b. the winning progressive amount;
- c. the new normal mode amount that is current on the link.

4. A Wide Area progressive EGD and/or a progressive device, where a jackpot of one hundred thousand dollars (\$100,000) or more is won , shall automatically enter into a non-play mode which prohibits additional play on the device

after a primary jackpot has been won on the device. Upon conclusion of necessary inspections and tests by the Division, the device may be offered for play.

J. Alternating Displays

1. When this procedure prescribes multiple items of information to be displayed on a progressive meter, it is sufficient to have the information displayed in an alternating fashion.

K. Security of Progressive Controller

1. Each progressive controller linking two or more progressive EGD's shall be housed in a double keyed compartment in a location Approved by the Division. All keys shall be maintained in accordance with LAC 42:IX:Chapter 27 of the Administrative Rules.

2. The Division may require possession of one of the keys.

3. Persons having access to the progressive controller shall be Approved by the Division.

4. A list of Persons having access to a progressive controller shall be submitted to the Division.

L. Progressive Controller

1. A progressive controller entry authorization log shall be maintained within each controller. The log shall be on a form prescribed by the Division and completed by each individual who gains entrance to the controller.

2. Security restrictions shall be submitted in writing to the Division for Approval at least 60 days before their enforcement. All restrictions approved by the Division shall be made on a case by case basis in the case of a stand-alone progressive where the controller is housed in the logic area.

3. The progressive controller shall keep the following information in nonvolatile memory which shall be displayed upon demand:

a. the number of Progressive Jackpots won on each progressive level if the progressive display has more than one winning amount;

b. the cumulative amounts paid on each progressive level if the progressive display has more than one winning amount;

c. the maximum amount of the progressive payout for each level displayed;

d. the minimum amount or reset amount of the progressive payout for each level displayed;

e. the rate of progression for each level displayed.

M. Limits on jackpots of progressive EGD's

1. The Casino Operator or Casino Manager may impose a limit on the jackpot of a progressive EGD if the limit imposed is greater than the possible maximum jackpot payout on the EGD at the time the limit is imposed. The Casino Operator or Casino Manager shall inform the public with a prominently posted notice of progressive EGD's and their limits.

N. The Casino Operator or Casino Manager shall not reduce the amount displayed on a Progressive Jackpot meter or otherwise reduce or eliminate a Progressive Jackpot unless:

1. a player wins the jackpot;

2. the Casino Operator or Casino Manager adjusts the Progressive Jackpot meter to correct a malfunction or to prevent the display of an amount greater than a limit imposed pursuant to §4204.M of these Regulations and the

Casino Operator or Casino Manager documents the adjustment and the reasons for it;

3. the Casino Operator or Casino Manager's Gaming operations at the establishment cease for any reason other than a temporary closure where the same Casino Operator or Casino Manager resumes Gaming operations at the same establishment within a month;

4. the Casino Operator or Casino Manager distributes the incremental amount to another Progressive Jackpot at the Casino Operator or Casino Manager's establishment and:

a. the Casino Operator or Casino Manager documents the distribution;

b. any machine offering the jackpot to which the Casino Operator or Casino Manager distributes the incremental amount does not require that more money be played on a single play to win the jackpot, than the machine from which the incremental amount is distributed;

c. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.B of the Regulations; and

d. The distribution is completed within 30 days after the Progressive Jackpot is removed from play or within such longer period as the Division may for good cause approve; or

e. the Division approves a reduction, elimination, distribution, or procedure not otherwise described in this subsection, which Approval is confirmed in writing.

5. Casino Operator or Casino Managers shall preserve the records required by this section for at least five years.

O. Individual progressive EGD controls.

1. Individual EGD's shall have a minimum of seven electronic meters, including a coin-in meter, Drop meter, jackpot meter, win meter, manual jackpot meter, progressive manual jackpot meter and a progressive meter.

P. Link progressive EGD controls.

1. Each machine shall require the same number of Tokens be inserted to entitle the player to a chance at winning the Progressive Jackpot and every Token shall increment the meter by the same rate of progression as every other machine in the group.

2. When a Progressive Jackpot is hit on a machine in the group, all other machines shall be locked out, except if an individual progressive meter unit is visible from the front of the machine. In that case, the progressive control unit shall lock out only the machine in the progressive link that hit the jackpot. All other progressive meters shall show the current "Current Progressive Jackpot Amount."

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4205. Computer Monitoring Requirements of Electronic Gaming Devices

A. The Casino Operator or Casino Manager shall have a computer connected to all EGD's in the Casino to record and monitor the activities of such devices. No EGD shall be operated unless it is on-line and communicating to a computer monitoring system approved by a designated Gaming laboratory specified by the Division. Such computer monitoring system shall provide on-line, real-time monitoring and data acquisition capability in the format and media approved by the Division.

1. Any occurrence of malfunction or interruption of communication between the EGD's and the EGD monitoring system shall immediately be reported to the Division for determination of further action to be taken. These malfunctions include, but are not limited to, system down for maintenance or malfunctions, zeroed meters, invalid meters and any variance between EGD Drop meters and the actual count of the EGD Drop.

2. Prior written Approval from the Division is required before implementing any changes to the computerized EGD monitoring system or adopting manual procedures for when the computerized EGD monitoring system is down.

3. Each and every modification of the software shall be Approved by a designated gaming laboratory specified by the Division.

B. The computer Permitted by subsection A above shall be designed and operated to automatically perform and report functions relating to EGD meters, and other exceptional functions and reports in the Casino as follows:

1. record the number and total value of Tokens placed in the EGD for the purpose of activating play;

2. record the total value of credits received from the currency acceptor for the purpose of activating play;

3. record the number and total value of Tokens deposited in the Drop bucket of the EGD;

4. record the number and total value of Tokens automatically paid by the EGD as the result of a jackpot;

5. record the number and total value of Tokens to be paid manually as the result of a jackpot. The system shall be capable of logging in this data if such data is not directly provided by EGD;

6. have an on-line computer alert, alarm monitoring capability to insure direct scrutiny of conditions detected and reported by the EGD, including any device malfunction, any type of tampering, and any open door to the Drop area. In addition, any Person opening the EGD or the Drop area shall complete the machine entry authorization log including time, date, machine identity and reason for entry; with exclusion of the Drop team;

7. be capable of logging in and reporting any revenue transactions not directly monitored by Token meter, such as Tokens placed in the EGD as a result of a fill, and any Tokens removed from the EGD in the form of a credit; and

8. identify any EGD taken off-line or placed on-line of the computer monitor system, including date, time, and EGD identification number;

9. report the time, date and location of open doors or error conditions by each EGD.

C. The Casino Operator or Casino Manager shall store, in machine-readable format, all information required by subsection B above for the period of five years. The Casino Operator or Casino Manager shall store all information in a secure area and certify that this information is complete and unaltered. This information shall be available upon request by a Division agent in the format and media Approved by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4206. Employment of Individual to Respond to Inquires From the Division

A. Each Manufacturer shall employ or retain an individual who understands the design and function of each of its EGD's who shall respond within the time specified by the Division to any inquires from him concerning the EGD or any modifications to the device. Each Manufacturer shall writing any change in the designation within 15 days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4207. Evaluation of New Electronic Gaming Devices

A. The Division may require transportation of not more than two working models of a new EGD to a designated gaming laboratory for review and inspection. The Manufacturer seeking Approval of the device shall pay the cost of the inspection and investigation. The designated gaming laboratory may dismantle the models and may destroy electronic components in order to fully evaluate the device. The Division may require the Manufacturer or Supplier seeking approval to provide specialized equipment or the services of an independent technical expert to evaluate the equipment, and may employ an outside designated gaming laboratory to conduct the evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4208. Certification by Manufacturer

A. After completing its evaluation of a new EGD, the lab shall send a report of its evaluation to the Division and the Manufacturer seeking Approval of the device. The report shall include an explanation of the manner in which the device operates. The Manufacturer shall return the report within 15 days and shall either:

1. certify, under penalty of perjury, that to the best of its knowledge the explanation is correct; or

2. make appropriate corrections, clarifications, or additions to the report and certify, under penalty of perjury, that to the best of its knowledge the explanation of the EGD is correct as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4209. Approval of New Electronic Gaming Devices

A. After completing its evaluation of the new EGD, the Division shall determine whether the application for Approval of the new EGD should be granted. In considering whether a new EGD will be given final Approval, the Division shall consider whether Approval of the new EGD is consistent with this Chapter. Division Approval of an EGD does not constitute certification of the device's safety.

1. Equipment Registration and Approval

a. All electronic or mechanical EGD's shall be approved by the Division and/or its Approved designated gaming laboratory and registered by the Division prior to use.

b. The following shall not be used for Gaming by any Casino Operator or Casino Manager without prior written Approval of the Division:

- i. bill acceptors or bill validators;
- ii. coin acceptors;
- iii. progressive controllers;
- iv. signs depicting payout percentages, odds, and/or rules of the Game;
- v. associated Gaming equipment as provided for in Chapter 42 of the Administrative Rules.

c. The Casino Operator or Casino Manager and/or Manufacturer's request for Approval shall describe with particularity the equipment or device for which the Division's Approval is requested.

d. The Division may request additional information or documentation prior to issuing written Approval.

2. Testing

a. The following shall be tested prior to registration or Approval for use:

- i. all EGD's;
- ii. EGD monitoring systems;
- iii. any other device or equipment as the Division may deem necessary to ensure compliance with this.

b. The Division may employ the services of a designated gaming laboratory to conduct testing.

i. Any new EGD not presently Approved by the Division shall first meet the Approval and testing criteria of the Division's recognized designated gaming laboratory, who shall evaluate and test the product and issue a written opinion to the Division of all test results. The Casino Operator or Casino Manager, Manufacturer or Supplier shall incur all costs associated with the testing of the product. This may include costs for field tests, travel, laboratory tests, and/or other associated costs. Failure on the part of the requesting party to timely pay these costs may be grounds for the denial of the request and cause for Enforcement action by the Division. Recommendations of Approval by the designated gaming laboratory with regard to program Approval(s) shall constitute Division Approval and do not require separate written Approval by the Division. Other test determinations shall be reviewed by the Division and a written decision shall be issued by the Division. In situations wherein the need for specific guidelines and internal controls are required, the Division will work in concert with the designated gaming laboratory to develop guidelines for the Casino Operator or Casino Manager. The Casino Operator and Casino Managers shall be required to comply with these guidelines and they shall become part of the Casino Operator or Casino Manager's system of internal controls. At no time shall an unauthorized program, Gaming device, Associated Equipment and/or component be installed, stored, possessed, or offered for play by a Casino Operator or Casino Manager, Permittee, or their agent, representative, employee or other Person in the Louisiana Gaming Industry.

c. Registration and/or Approval shall not be issued unless payment for all costs of testing is current.

d. Registration, Approval, or the denial of EGD's, or any other device or equipment shall be issued in accordance with the Administrative Rules, and this Chapter.

e. EGD's shall meet all specifications as required in §4203 of these regulations and shall meet the following security and audit specifications:

- i. be controlled by a microprocessor;
- ii. be connected and communicating to an Approved on-line EGD monitoring system;

iii. have an internal enclosure for the circuit board which is locked or sealed, or both, prior to and during Game play;

iv. be able to continue a Game with no loss of data after a power failure;

v. have Game data recall for the current Game and the previous two Game

vi. have a random selection process that satisfies the 99 percent confidence level using the following tests:

- (a). standard chi-squared;
- (b). runs; and
- (c). serial correlation.

(Note: These tests shall not be predictable by players.)

vii. clearly display applicable rules of play and the Payout schedule;

viii. display an accurate representative of each Game outcome utilizing:

- (a). rotating wheels;
- (b). video monitoring; or
- (c). any other type of display mechanism that accurately depicts the outcome of the Game.

f. All EGD's shall be registered with the Division and shall have a registration sticker to the device on a viewable, accessible location on the interior of the frame of the EGD. It is incumbent on each Casino Operator or Casino Manager to ensure that the registration sticker is properly affixed and is valid. In the event that the registration sticker becomes damaged or voided, the Casino Operator or Casino Manager shall immediately notify the Division in writing. The Division shall issue a replacement sticker and re-register the device as soon as practical.

g. All EGD's shall be located within the Designated Gaming Area. This is inclusive of all "Free Pull" machines or similar devices. A device which is not in use may be stored in a secured area if Approved in writing by the Division.

h. The Casino Operator or Casino Manager shall maintain a current inventory report of all EGD's and equipment. The inventory report shall include, but is not limited to, the following:

- i. the serial number assigned to the EGD by the Manufacturer;
- ii. the registration number issued by the Division;
- iii. the type of Game for which the EGD is designed and used;
- iv. the denomination of Tokens or coins accepted by each EGD;
- v. the location of EGD's equipped with bill validators and any bill validators that stand alone;
- vi. the Manufacturer of the EGD;
- vii. the location or house number of the EGD.

i. This inventory report shall be submitted to the Division's Operational Section on a diskette, in a data text format, upon request by the Division.

j. All EGD's offered for play shall be given a "House Number" by the Casino Operator or Casino Manager. This house number shall not be altered or changed without prior written Approval from the Division. The Casino Operator or Casino Manager shall issue the "House Numbers" in a systematic manner which provides for easy recognition and location of the device's location. This number shall be a part of the Casino Operator or Casino Manager's "On-Line Computer EGD Monitoring System",

and shall be displayed, in part, on all on-line system reports. Each EGD shall have its respective House Number attached to the device in a manner which allows for easy recognition by Division Personnel and surveillance cameras.

k. Control Program Requirements:

i. EGD control programs shall test themselves for possible corruption caused by failure of the program storage media.

ii. The test methodology shall detect 99.99 percent of all possible failures.

iii. The control program shall allow for the EGD to be continually tested during Game play.

iv. The control program shall reside in the EGD which is contained in a storage medium not alterable through any use of its circuitry or programming of the EGD itself.

v. The control program shall check the following:

(a). corruption of RAM locations used for crucial EGD functions;

(b). information relating to the current play and final outcome of the two prior Games;

(c). random number generator outcome;

(d). error states.

vi. The control RAM areas shall be checked for corruption following Game initiation, but prior to display of the Game outcome to the player.

vii. Detection of corruption is a Game malfunction that shall result in a tilt condition which identifies the error and causes the EGD to cease further function.

viii. The control program shall have the capacity to display a complete play history for the current Game and the previous two Games.

ix. The control program shall display an indication of the following:

(a). the Game outcome or a representative equivalent;

(b). bets placed;

(c). credits or coins paid;

(d). credits or coins cashed out; and

(e). any error conditions.

x. The control program shall provide the means for on-demand display of the electronic meters via a key switch or other mechanism on the exterior of the EGD.

l. Accounting Meters:

i. All EGD's shall be equipped with electronic meters;

ii. All EGD's electronic meters shall have at least eight digits;

iii. All EGD's shall tally totals to eight digits and be capable of rolling over when the maximum value is reached;

iv. The required electronic meters are as follows:

(a). The coin-in meter shall cumulatively count the number of coins wagered by actual coins inserted or credits bet, or both.

(b). The coin-out meter shall cumulatively count the number of coins that are paid by the hopper as a result of a Win, or credits that are won, or both.

(c). The coins-dropped meter shall maintain a cumulative count of the number of coins that have been diverted into a Drop bucket and credit value of all bills inserted into the bill validator for play.

(d). The jackpots-paid meter shall reflect the cumulative amounts paid by an attendant for all jackpots.

(e). The Games-played meter shall display the cumulative number of Games played (handle pulls).

(f). The Drop door meter shall display the number of times the Drop door was opened.

(g). If the EGD is equipped with a bill validator, the device shall be equipped with a bill validator meter that records:

(i) the total number of bills that were accepted,

(ii) a breakdown of the number of each denomination of bill accepted, and

(iii) the total dollar amount of bills accepted.

(h). EGD's shall be designed so that replacement of parts, modules, or components required for normal maintenance does not affect the electronic meters.

(i). EGD's shall have meters which continuously display the following information relating to the current play or monetary transaction:

(i). the number of coins or credits wagered in the current Game;

(ii). the number of coins or credits won in the current Game, if applicable;

(iii). the number of coins paid by the hopper for a credit cash out or a direct pay from a winning outcome;

(iv). the number of credits available for wagering, if applicable.

(j). Electronically stored meter information required by this Section shall be preserved after power loss to the EGD by battery backup and be capable of maintaining accuracy of electronically stored meter information for a period of at least 180 days.

m. No EGD may have a mechanism that causes the electronic accounting meters to clear automatically when an error occurs.

n. Clearing of the electronic accounting meters, other than due to a malfunction, may be done only if Approved in writing by the Division. Meter readings, as prescribed by the Division, shall be recorded before and after any electronic accounting meter is cleared or a modification is made to the device.

o. Hopper:

i. EGD's shall be equipped with a hopper which is designed to detect the following and force the EGD into a tilt condition if one of the following occurs:

(a). jammed coins;

(b). extra coins paid out;

(c). hopper runaways;

(d). hopper empty conditions.

ii. The EGD control program shall monitor the hopper mechanism for these error conditions in all Game states in accordance with this Chapter.

iii. All coins paid from the hopper mechanism shall be accounted for by the EGD, including those paid as extra coins during hopper malfunction.

iv. Hopper pay limits shall be designed to Permit compliance by Casino Operator or Casino Managers with all applicable taxation laws, rules, and regulations.

p. Communication Protocol

i. An EGD which is capable of a bi-directional communication with internal or external Associated Equipment shall use a communication protocol which ensures that erroneous data or signals will not adversely affect the operation of the EGD.

q. EGD's installed and/or modified shall be inspected and/or tested by Division Agents prior to offering these devices for live play. Accordingly, no device shall be operated unless and until each regulated program storage media has been tested and sealed into place by Division Agent(s). The Division's security tape shall at all times remain intact and unbroken. It is incumbent on the Casino Operator or Casino Manager to routinely inspect every device to ensure compliance with this procedure. In the event a Casino Operator or Casino Manager discovers that the security tape has been broken or tampered with, the power to the EGD shall be immediately turned off, surveillance shall be immediately notified and shall take a photograph of the logic board. The board shall be maintained in the surveillance office until a Division Agent has the opportunity to inspect the board. A copy of the device's meal card shall be made and shall accompany the board.

r. No Casino Operator or Casino Manager or other Person shall modify an EGD without prior written Approval from the Division. A request shall be made by completing form(s) prescribed by the Division and filing it with the respective field office. The Casino Operator or Casino Manager shall ensure that the information listed on the EGD form(s) is true and accurate. Any misstatement or omission of information shall be grounds for denial of the request and may be cause for Enforcement Action.

s. EGD's shall meet the following minimum and maximum theoretical percentage payout during the expected lifetime of the EGD:

i. The EGD shall pay out at least 80 percent and not more than 99.9 percent of the amount wagered.

ii. The theoretical payout percentage shall be determined using standard methods of the probability theory. The percentage shall be calculated using the highest level of skill where player skill impacts the payback percentage.

iii. An EGD shall have a probability of obtaining the maximum payout greater than 1 in 50,000,000.

iv. An EGD shall be capable of continuing the current play with all the current play features after an EGD malfunction is cleared.

t. Modifications to an EGD's program shall be considered only if the new program has been Approved by the designated gaming laboratory, and if the existing program has met the minimum requirements as set forth herein. The minimum program change requirements are unique to each program or program storage media. Therefore, it is not practical to list each one. In general, a program shall meet the 99 percent confidence interval range of 80 percent to 99.9 percent prior to being removed or replaced. As stated, this confidence interval varies by program and manufacturer. The confidence interval is determined by the designated Gaming laboratory who tests each program and determines the interval. For the purpose of these procedures, an interval shall be determined by the Games played on the existing program. An EGD's program shall not be approved for change unless the existing program

has met or exceeded the minimum of one hundred thousand required Games played. Exceptions to this procedure are those situations in which it can be reasonably determined that a program chip is defective or malfunctioning, or during a 90 day trial period of a newly Approved program.

u. A Casino Operator or Casino Manager shall be allowed to test, on a limited basis, newly Approved programs. The Casino Operator or Casino Manager shall file an EGD 96-01 form and indicate in field 21 that the request is for a 90 day trial period. Failure to do so may be grounds for denial of the request to remove the program prior to reaching the 99.9 percent confidence interval. The Casino Operator or Casino Manager, upon Approval, shall be allowed to test the program and will be allowed to replace it during this 90 day period with cause. If a request to replace the test program is not filed with the Division prior to the expiration of the 90 day approval, the program shall not be replaced and the program replacement criteria as stated in these procedures shall be applicable.

v. When an Approved denomination change is made to an EGD which used or uses Tokens, the Casino Operator or Casino Manager shall make necessary adjustments to the initial hopper fill listed on the Daily Gross Gaming Revenue Report. Additionally, an adjustment shall be made to the Daily Gross Gaming Revenue Report to reflect the change in the initial hopper fill each time an EGD is taken off the floor or out of play. A final Drop shall be made for that machine, including the hopper. The initial hopper load should be deducted to determine the final net Drop for the device.

w. Randomness Events / Randomness Testing

i. Events in EGD's are occurrences of elements or particular combinations of elements which are available on the particular EGD.

ii. A random event has a given set of possible outcomes which has a given probability of occurrence called the distribution.

iii. Two events are called independent if the following conditions exist:

(a). the outcome of one event has no influence on the outcome of the other event;

(b). the outcome of one event does not affect the distribution of another event.

iv. An EGD shall be equipped with a random number generator to make the selection process. A selection process is considered random if the following specifications are met:

(a). The random number generator satisfies at least 99 percent confidence level using chi-squared analysis;

(b). The random number generator does not produce a measurable statistic with regard to producing patterns of occurrences. Each reel position is considered random if it meets at least the 99 percent confidence level with regard to the runs test or any similar pattern testing statistic;

(c). The random number generator produces numbers which are independently chosen.

x. Safety Requirements

i. Electrical and mechanical parts and design principles shall not subject a player to physical hazards.

ii. Spilling a conductive liquid on the EGD shall not create a safety hazard or alter the integrity of the EGD's performance.

iii. The power supply used in an EGD shall be designed to make minimum leakage of current in the event of an intentional or inadvertent disconnection of the alternate current power ground.

iv. A surge protector shall be installed on each EGD. Surge protection can be internal or external to the power supply.

v. A battery backup device shall be installed and capable of maintaining accuracy of required electronic meter information after power is disconnected from the EGD. The device shall be kept within the locked or sealed logic board compartment and be capable of sustaining the stored information for 180 days.

vi. Electronic discharges. The following shall not subject the player to physical hazards:

- (a). electrical parts;
- (b). mechanical parts;
- (c). design principles of the EGD and its component parts.

y. On and Off Switch. An on and off switch that controls the electrical current used to operate the EGD shall be located in an accessible place and within the interior of the EGD.

z. Power Supply Filter. EGD power supply filtering shall be sufficient to prevent disruption of the EGD by a repeated fluctuation of alternating current.

aa. Error Conditions and Automatic Clearing:

i. EGD's shall be capable of detecting and displaying the following conditions:

- (a). power reset.
- (b). door open.
- (c) inappropriate coin-in if the coin is not automatically returned to the player.

ii. The conditions listed above shall be automatically cleared by the EGD upon initiation of a new play sequence, if possible.

28. Error Conditions; Clearing by Attendant

a. EGD's shall be capable of detecting and displaying the following error conditions which an attendant may clear:

- i. coin-in jam;
- ii. coin-out jam;
- iii. hopper empty or timed-out;
- iv. RAM error;
- v. hopper runaway or extra coin paid out;
- vi. program error;
- vii. reverse token-in;
- viii. reel spin error of any type, including a mis-index condition for rotating reels. The specific reel number shall be identified in the error indicator;

ix. low RAM battery, for batteries external to the RAM itself, or low power source;

b. A description of EGD error codes and their meanings shall be affixed inside the EGD.

29. Coin Acceptors

a. At least one electronic coin acceptor shall be installed in each EGD.

b. All acceptors shall be approved by the Division or the designated gaming laboratory.

c. Coin acceptors shall be designed to accept designated coins and to reject others.

d. The coin receiver on an EGD shall be designed to prevent the use of cheating methods, including, but not limited to:

- i. slugging;
- ii. stringing; and
- iii. spooling.

e. Coins which are accepted but not credited to the current Game shall be returned to the player by activation of the hopper or credited toward the next play of the EGD control program and shall be capable of handling rapidly fed coins so that frequent occurrences of this type are prevented.

f. EGD's shall have suitable detectors for determining the direction and speed of the coin(s) travel in the receiver. If a coin traveling at improper speed or direction is detected, the EGD shall enter an error condition and display the error condition which shall require attendant intervention to clear.

30. Bill Validators

a. EGD's may contain a bill validator that will accept the following:

- i. \$1 bills;
- ii. \$5 bills;
- iii. \$10 bills;
- iv. \$20 bills;
- v. \$50 bills;
- vi. \$100 bills.

b. The bill acceptors may be for single denomination or combination of denominations.

31. Automatic Light Alarm

a. A light shall be installed on the top of the EGD that automatically illuminates when the door to the EGD is opened or Associated Equipment that may affect the operation of the EGD is exposed, excluding all bartop EGD's.

32. Access to the Interior

a. The internal space of an EGD shall not be readily accessible when the door is closed.

b. The following shall be in a separate locked or sealed area within the EGD's:

- i. logic boards;
- ii. ROM;
- iii. RAM;
- iv. program storage media.

c. No access to the area described above is allowed without prior notification to the Casino Operator or Casino Manager's surveillance room.

d. The Division shall be allowed immediate access to the locked or sealed area. The Casino Operator or Casino Manager shall maintain its copies of the keys to EGD's in accordance with the administrative rules and the Casino Operator or Casino Manager's system of internal controls. A Casino Operator or Casino Manager shall provide the Division a master key to the door of an Approved EGD, if so requested. Unauthorized tampering or entrance into the logic area without prior notification in accordance with subsection (c) is grounds for Enforcement Action.

33. Tape Sealed Areas.

a. An EGD's logic boards and/or any program storage media in a locked area within the EGD shall be sealed with the Division's security tape. The security tape

shall be affixed by a Division Agent. The security tape may only be removed by, or with Approval from, a Division Agent.

34. Hardware Switches.

a. No hardware switches may be installed which alter the pay tables or Payout percentages in the operation of an EGD.

b. Hardware switches may be installed to control the following:

- i. graphic routines;
- ii. speed of play;
- iii. sound; and
- iv. other approved cosmetic play features.

35. Display of Rules of Play

a. The rules of play for EGD's shall be displayed on the face or screen of all EGD's. Rules of play shall be Approved by the Division prior to play.

b. The Division may reject the rules if they are:

- i. incomplete;
- ii. confusing;
- iii. misleading; or
- iv. for any other reason stated by the Division.

c. Rules of play shall be kept under glass or another transparent substance and shall not be altered without prior Approval from the Division.

d. Stickers or other removable devices shall not be placed on the EGD face unless their placement is Approved by the Division.

36. Manufacturer's Operating and Field Manuals and Procedures.

a. A Casino Operator or Casino Manager shall comply with written guidelines and procedures concerning installations, modifications, and/or upgrades of components and Associated Equipment established by the Manufacturer of an EGD, component, on-line system, software, and/or Associated Equipment unless otherwise Approved in writing by the Division, or if the guideline(s) and/or procedure(s) conflict with any portion of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4210. Electronic Gaming Device Tournaments

A. EGD tournaments may be conducted by Casino Operator or Casino Managers, upon written Approval by the Division.

B. All tournament play shall be on machines which have been tested and Approved by the Division, and for which the tournament feature has been enabled.

C. All EGD's used in a single tournament shall utilize the same electronics and machine settings. Casino Operator or Casino Managers shall utilize, and each device shall be equipped with an Approved program which allows for tournament mode play to be enabled by a switch key (reset feature) and/or total replacement of the logic board, with an Approved tournament board. Replacement of program storage media is not permissible for tournament play only. Form(s) as prescribed by the Division are required to be submitted for each device used in tournament play when the non-tournament logic board is removed. The Casino Operator or Casino Manager shall submit, in writing, procedures regarding the storage and security of the both tournament and non-tournament boards when not in use.

D. EGD's enabled for tournament play shall not accept or pay out coins. The EGD's shall utilize credit points only.

E. Tournament credits shall have no cash value.

F. Tournament play shall not be credited to accounting or electronic (soft) meters of the EGD.

G. At the Casino Operator or Casino Manager's discretion, and in accordance with applicable laws and rules, the Casino Operator or Casino Manager may establish qualification or selection criteria to limit the eligibility of players in a tournament.

H. Rules of Tournament Play

1. The Casino Operator or Casino Manager shall submit rules of tournament play to the Division in accordance with LAC 42:IX:2953 or within such time period as the Division may designate. The rules of play shall include, but are not limited to, the following:

- a. the amount of points, credits, and playing time players will begin with;
- b. the manner in which players will receive EGD assignments and how reassignments are to be handled;
- c. how players are eliminated from the tournament and how the winner or winners are to be determined;
- d. the number of EGD's each player will be allowed to play;
- e. the amount of entry fee for participating in the tournament;
- f. the number of prizes to be awarded;
- g. an exact description of each prize to be awarded;
- h. any additional house rules governing play of the tournament;

i. any rules deemed necessary by the Division to ensure compliance with this Chapter.

2. A Casino Operator or Casino Manager shall not Permit any tournament to be played unless the rules of the tournament play have been Approved, in writing, by the Division.

3. The rules of tournament play shall be provided to all tournament players and each member of the public who requests a copy of the rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4211. Duplication of Program Storage Media

A. Personnel and Certification

1. Only the Casino Operator or Casino Manager's Director of Slot Operations, Assistant Director of Slot Operations or Slot Technical Manager shall be allowed to duplicate program storage media.

2. The Casino Operator or Casino Manager shall provide to the Division certified documentation, from the Manufacturer or copyright holder of the program storage media which is being duplicated, stating that the duplication of the program storage media is authorized.

3. The Casino Operator or Casino Manager shall assume the responsibility of complying with all rules and regulations regarding copyright infringement. Program storage media protected by the Manufacturer's federal copyright laws will not be duplicated for any reason or circumstance, unless approved otherwise by the Manufacturer and/or the Division.

4. Each duplicated program storage media shall be certified by the designated Gaming laboratory's signature for that program storage media.

B. Required Documentation

1. Each Casino Operator or Casino Manager shall maintain a program storage media Duplication Log which shall contain:

a. the name of the program storage media Manufacturer and the program storage media identification number of each program storage media to be erased;

b. serial number of program storage media eraser and duplicator;

c. printed name and signature of individual performing the erasing and duplication of the program storage media;

d. identification number of the new program storage media;

e. the number of program storage media duplicated;

f. the date of the duplication;

g. machine number (source and destination);

h. reason for duplication; and

i. disposition of permanently removed program storage media.

2. The log shall be maintained on record for a period of five years.

3. Corporate internal auditors shall verify compliance with program storage media duplication procedures at least twice annually.

C. Program Storage Media Labeling

1. Each duplicated program storage media shall have an attached white adhesive label containing the following:

a. manufacturer name and serial number of the new program storage media;

b. designated Gaming laboratory signature verification number;

c. date of duplication;

d. initials of Personnel performing duplication.

D. Storage of Program Storage Media and Duplicator/Eraser

1. Program storage media duplication equipment shall be stored with the security department or other department approved by the Division.

2. Equipment shall be released only to Casino Operator or Casino Manager's Director of Slot Operations, Assistant Director of Slot Operations or Slot Technical Manager.

3. At no time shall the Casino Operator or Casino Manager's Director of Slot Operations, Assistant Director of Slot Operations or Slot Technical Manager leave unattended the program storage media duplication equipment.

4. Program storage media duplication equipment shall only be released from the security department, or other department Approved by the Division, for a period not to exceed 4 hours within a 24 hour period.

5. An Equipment Control Log shall be maintained by the Casino Operator or Casino Manager and shall include the following:

a. Date, time, name of employee taking possession of, or returning equipment, and name of the Security Officer taking possession of or releasing equipment.

6. All Program storage media shall be kept in a secure area and the Casino Operator or Casino Manager shall maintain an inventory log of all Program storage media.

E. Internal Controls

1. The Casino Operator or Casino Manager shall adopt, and have Approved by the Division, internal controls which are in compliance with this section prior to duplicating program storage media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4212. Marking, Registration, and Distribution of Gaming Devices

A. No one, including a Casino Operator or Casino Manager, Permittee, Manufacturer or Supplier may ship or otherwise transfer a Gaming Device into this state, out of this state, or within this state unless:

1. a serial number (which shall be the same number as given the device pursuant to the provisions of §15 U.S.C. 1173 of the Gaming Device Act of 1962) permanently stamped or engraved in lettering no smaller than five millimeters on the metal frame or other permanent component of the EGD and on a removable metal plate attached to the cabinet of the EGD; and

2. a Manufacturer, Supplier, or Casino Operator or Casino Manager shall file forms as prescribed by the Division before receiving authorization to ship a device for use in the Louisiana Land Based Gaming Industry.

3. each Manufacturer or Supplier shall keep a written list of the date of each distribution, the serial numbers of the devices, the Division Approval number, and the name, state of residence, addresses and telephone numbers of the Person to whom the Gaming Devices have been distributed and shall provide such list to the Division immediately upon request;

4. a registration fee of \$100 per device shall be paid by company check, money order, or certified check made payable to State of Louisiana, Department of Public Safety. This fee is not required on devices which are currently registered with the Division and display a valid registration certificate. Upon receipt of the appropriate shipping forms and fees, the Division shall issue a written authorization to ship for Approved devices. This fee is applicable only to Gaming Devices destined for use in Louisiana by the Casino or Suppliers;

5. prior to actual receipt of the shipment, the Casino Operator or Casino Manager shall notify the Division of the arrival. The Division shall require that the shipper's manifest or other shipping documents are verified against the Letter of Authorization for that shipment. The shipment shall also have been sealed at the point of origin, or the last point of shipment. The seal number shall be recorded on the shipping documents and attached to the Casino Operator or Casino Manager's copy of the Letter of Authorization;

6. the storage of the shipment, once properly received, shall be in a containment area that is secure from any other equipment. There shall be a dual key locking system for the containment area. The containment area shall have been inspected and Approved in writing by the Division prior to any EGD storage. All electronic control boards and/or program storage media shall be securely stored in a separate containment area from the EGD's. The containment area

shall have been inspected and Approved in writing by the Division prior to any electronic control board and/or program storage media storage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4213. Approval to Sell or Disposal of Gaming Devices

A. No Gaming Device registered by the Division shall be destroyed, scrapped, or otherwise disassembled without prior written Approval of the Division. A Casino Operator or Casino Manager shall not sell or deliver a Gaming Device to a Person other than its affiliated companies or a Permitted Manufacturer or Supplier without prior written Approval of the Division. Applications for Approval to sell or dispose of a registered Gaming Device shall be made, processed, and determined in such manner and using such forms as the Division may prescribe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4214. Maintenance of Electronic Gaming Devices

A. The Casino Operator or Casino Manager shall not alter the operation of an Approved EGD except as provided otherwise in the Board's rules and regulations and shall maintain the EGD's as required in this Chapter. The Casino Operator or Casino Manager shall keep a written list of repairs made to the EGD offered for play to the public that require a replacement of parts that affect the Game outcome, and any other maintenance activity on the EGD, and shall make the list available for inspection by the Division upon request. The written list of repairs for all EGD's shall be kept in a maintenance log book in the slot tech office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4215. Analysis of Questioned Electronic Gaming Devices

A. If the operation of any EGD is questioned by any Casino Operator or Casino Manager, Patron or an Agent of the Division and the question cannot be resolved, the questioned device shall be examined in the presence of an agent of the Division and a representative of the Casino Operator or Casino Manager. If the malfunction can not be cleared by other means to the satisfaction of the Division, the Patron or the Casino Operator or Casino Manager, the EGD shall be disabled and be subjected to a program storage media memory test to verify signature comparison by the Division. Upon successful verification of the signature of the program storage media, and all malfunctions resolved, the EGD in question may be enabled for Patron play.

B. In the event that the malfunction can not be determined and corrected by this testing, the EGD may be removed from service and secured in a remote, locked compartment. The EGD may then be transported to the designated Gaming laboratory selected by the Division where the device shall be fully analyzed to determine the status and cause of the malfunction. All costs for transportation and analysis shall be borne by the Casino Operator or Casino Manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4216. Summary Suspension of Approval of Electronic Gaming Devices

A. The Board or Division may issue an order suspending Approval of an EGD if it is determined that the EGD does not operate in the manner certified by the designated gaming laboratory pursuant to this Chapter. The Board or Division after issuing an order may thereafter seal or seize all models of that EGD not in compliance with this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4217. Seizure and Removal of Electronic Gaming Equipment and Devices

A. EGD's and Associated Equipment may be summarily seized by the Division. Whenever the Division seizes and removes EGD's and/or Associated Equipment:

1. an inventory of the equipment or EGD's seized will be made by the Division, identifying all such equipment or EGD's as to make, model, serial number, type, and such other information as may be necessary for authentication and identification;

2. all such equipment or EGD's will be sealed or by other means made secure from tampering or alteration;

3. the time and place of the seizure will be recorded; and

4. the Casino Operator or Casino Manager or Permittee will be notified in writing by the Division at the time of the seizure, of the fact of the seizure, and of the place where the seized equipment or EGD is to be impounded. A copy of the inventory of the seized equipment or EGD will be provided to the Casino Operator or Casino Manager or Permittee upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4218. Seized Equipment and EGD's as Evidence

A. All Gaming equipment and EGD's seized by the Division shall be considered evidence, and as such shall be subject to the laws of Louisiana governing chain of custody, preservation and return, except that:

1. any article of property that constitutes a cheating device shall not be returned. All cheating devices shall become the property of the Division upon their seizure and may be disposed of by the Division, which disposition shall be documented as to date and manner of disposal;

2. the Division shall notify by certified mail each known claimant of a cheating device that the claimant has 10 days from the date of the notice within which to file a written claim with the Division to contest the characterization of the property as a cheating device;

3. failure of a claimant to timely file a claim as provided in Subsection B above will result in the Division's pursuit of the destruction of property;

4. if the property is not characterized as a cheating device, such property shall be returned to the claimant within 15 days after final determination;

5. items seized for inspection or examination may be returned by the Division without a court order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4219. Approval of Associated Equipment; Applications and Procedures

A. A Manufacturer or Supplier of Associated Equipment and/or Non-Gaming products shall not distribute Associated Equipment and/or Non-Gaming products unless such Manufacturer and/or Supplier has been Approved by the Division or Board. Applications for Approval of Associated Equipment and/or Non-Gaming products shall be made and processed in such manner and using such forms as the Division may prescribe. Each application shall include, in addition to such other items or information as the Division or Board may require:

1. the name, permanent address, social security number or federal tax identification number of the Manufacturer or Supplier of Associated Equipment and Non-Gaming products unless the Manufacturer or Supplier is currently Permitted by the Division or Board. If the Manufacturer or Supplier of associated equipment and Non-Gaming products is a corporation, the names, permanent addresses, social security numbers, and driver's license numbers of the directors and officers shall be included. If the Manufacturer or Supplier of Associated Equipment and Non-Gaming products is a partnership, the names, permanent addresses, social security numbers, driver's license numbers, and partnership interest of the partners shall be included. If social security numbers or driver's license numbers are not available, the birth date of the partners may be substituted;

2. a complete, comprehensive and technically accurate description and explanation in both technical and non-technical language of the equipment and its intended usage, signed under penalty of perjury;

3. detailed operating procedures; and

4. details of all tests performed and the standards under which such tests were performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

All interested persons may contact Thomas A. Warner III, Attorney General's Gaming Division, (225) 342-2465, and may submit written comments relative to these proposed rules through June 9, 2000, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Family Impact Statement

Pursuant to the provisions of R.S. 49:953 A., the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of the proposed amendments to LAC 42:IX.4103 and the proposed adoption of LAC 42:IX.4201-4219.

It is accordingly concluded that the amendments to LAC 42:IX.4103 and the adoption of LAC 42:IX.4201-4219 would appear to have no impact on any of the following:

- 1. The effect on stability of the family.
- 2. The effect on the authority and rights of parents regarding the education and supervision of their children.
- 3. The effect on the functioning of the family.
- 4. The effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule.

Hillary J. Crain
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Land Based Casino Gaming

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no direct implementation costs or savings to state or local government units. The addition of these rules may result in some increased workload to the Land Based Division of State Police but the amount of increase and cost cannot be estimated at this time due to the fact that the number and types of events involved are not constant. It is anticipated that any increase in workload can be performed at existing staffing levels.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This is the first year that penalties will be levied and collected from the Land Based Casino. The proposed rule amendment for LAC 42:IX.4103 specifies penalty amounts that fall within the existing parameters, and as such, will not increase or decrease the penalties.

The adoption of the Chapter 42 regulations, pertaining to electronic gaming devices, will have 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)

No significant costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No estimated effect on competition and employment is anticipated.

Hillary J. Crain
Chairman
0005#066

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Driver's License General Requirements
(LAC 55:III.118, 135, 138, and 141)

Pursuant to the authority contained in R.S. 32:408.1 and R.S. 32:412, and in accordance with the Administrative Procedures Act, the Department of Public Safety and Corrections, Office of Motor Vehicles proposes to amend LAC 55, Part III, Chapter 1, Subchapter A, §118, regarding third-party tester agreements, and to enact §135, and to repeal §139 and §141 regarding the renewal of driver's license by electronic commerce.

The amendment to §118 resolves a technical issue that was raised in current litigation. The enactment of §135 and the repeal of §139 and §141 are required as a result of the

passage of Act No. 6 of the 2000 Special Session which amended R.S. 32:412

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter A. General Requirements

§118. Administrative actions

A. The Department may suspend, revoke or cancel any certification, agreement, license, or permit granting the status of a third-party tester or third-party examiner for any violation of R.S. 32:401 et seq., LAC 55, Part III, Chapter 1, or the agreement signed by the third-party tester or third party examiner. Additionally, the Department may impose a fine or other sanction for violation of R.S. 32:401 et seq., or LAC 55, Part III, Chapter 1, or the agreement signed by the third party examiner or third party tester.

B. The Department shall deny any application, including any renewal application, for an agreement and a certification, as a third-party tester or third-party examiner if the applicant does not possess the qualification contained in R.S. 32:408.1 and LAC 55, Part III, Chapter 1. The Department may also deny any renewal application if the Department determines that the applicant has not administered skills test in accordance with the law and the agreement between the parties.

C. Any request for an administrative hearing to review the suspension, revocation or cancellation of any certification, license, or permit issued pursuant to R.S. 32:408.1 or LAC 55, Part III, Chapter 1, any other action, order or decision of the Department regarding a third-party tester or a third-party examiner shall be in writing and received by the Department within thirty days of the date the notice was mailed or hand delivered as the case may be.

D. Since the agreement between the parties is subject to contract law, and is not an order or decision for purposes of administrative law, no administrative hearing shall be granted in connection with the denial of an application for a new or renewal application to be certified as a third-party tester or third party examiner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:2315 (December 1998); amended LR 26:

§135. Renewal by Electronic Commerce

A. In addition to renewing a class "D" or "E" driver's license by mail, an individual who has received an invitation to renew pursuant to LAC 55, Part, III, Chapter 1, §129 may choose to renew his or her driver's license by contacting the Department via the Internet or by telephone.

B. Prior to initiating the renewal process via the Internet or by telephone, the individual shall be required by the Department to provide information verifying the individual's identity including the individual's license number, the individual's date of birth, and the date the individual's license expires.

C. Any individual who chooses to renew his or her driver's license by electronic commerce shall be required to give express consent to any disclosure of personal

information over the Internet that may be necessary in order to complete the renewal process. This consent shall be obtained by any means appropriate based upon the method chosen to renew the license.

E. Notwithstanding any other provision of LAC 55, Part III, Chapter 1 to the contrary, a class "D" or "E" driver's license which has been expired for a period of six months or less may be renewed by mail or electronic commerce upon the payment of the special late fee specified in R.S. 32:412(D)(3)(d).

F. Except as otherwise provided in §135, the rules governing renewal of class "D" or "E" driver's licenses by mail shall apply to renewals by electronic commerce.

G. All money submitted with an application to renew a class "D" or "E" driver's license by mail shall be in the form of a personal check with the applicant's name and address preprinted on the check, a money order, a cashier's check, or a certified check.

H. All fees due in connection the renewal of a class "D" or "E" driver's license by electronic commerce shall be paid using an approved credit card in accordance with applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR. 26:

§139. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 21:183 (February 1995); repealed LR 26:

§141. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 21:184 (February 1995); repealed LR. 26:

Family Impact Statement

1. The effect of these rules on the stability of the family. The amendment to §118 should have no effect on the stability of the family. The enactment of §135 and the repeal of §139 and §141 should have a positive effect on the family as an individual will have to spend less time renewing his or her driver's license.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children. These proposals should 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 proposals should have a positive effect on the functioning of the family since less time will be required to renew a driver's license.

4. The effect of these rules on family earnings and family budget. These proposals should have no effect on family earnings and family budget.

5. The effect of these rules on the behavior and personal responsibility of children. These proposals should 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 proposals should make it easier to renew a driver's license.

Nancy VanNortwick
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Driver's License General Requirements**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no increased costs or savings to the state other than minimal programming costs to allow on-line users to interface with the Department's computer during the renewal process. There should be no costs or savings to local government as only the state issues driver's licenses.

The changes to the section of the rules dealing with commercial driver's licenses, LAC 55 Part III, §118, are technical in nature and will not result in any new costs or savings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections may be slightly affected through the use of on-line renewals, but it is unknown whether the revenues will increase or decrease. Act 6 of the 2000 Special Session created a new late fee for driver's license renewals done through electronic commerce of ten dollars (\$10). This fee is five dollars less than the regular late fee, but this fee does not grant the ten day grace period that is granted in connection with the regular late fee. Therefore, the increase or decrease will depend on when those people with expired driver's licenses renew the license.

Since local governments do not issue driver's license, there will be no effect on revenues of local governments.

The amended section related to commercial driver's license does not effect revenue as the administrative hearing process is not a revenue raising event.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Louisiana citizens who choose to renew their driver's licenses through e-commerce will be affected by these rules. There people will be able to renew driver's license from their home or office. Additionally, those persons with expired driver's licenses will be allowed to renew their licenses through electronic commerce. This latter group may pay more or less of a late fee, depending how long their driver's license has been expired.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment as this is strictly a governmental function.

Nancy VanNortwick
Undersecretary
0005#070

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Special Identification Cards (LAC 55:III.1929)

Pursuant to the authority contained in R.S. 40:1321, and in accordance with the Administrative Procedures Act, the Department of Public Safety and Corrections, Office of Motor Vehicles proposes to enact LAC 55, Part III, Chapter 19, §1929, regarding the renewal of special identification card by mail or electronic commerce.

This proposal will allow any individual who has previously been issued a Louisiana special identification card the opportunity to renew the identification card by means of the U.S. mail, the Internet, or the telephone. This rule making is required as a result of the passage of Act No. 7 of the 2000 Special Session which amended R.S. 40:1321.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

**Chapter 19. Special Identification Cards
§1929. Renewals**

A. In addition to renewing a special identification card by mail, an individual who has received an invitation to renew pursuant to R.S. 40:1321 may choose to renew his or her special identification card by contacting the Department via the Internet or by telephone.

B. Prior to initiating the renewal process via the Internet or by telephone, the individual shall be required by the Department to provide information verifying the individual's identity including the individual's identification card number, the individual's date of birth, and the date the individual's identification card expires.

C. Any individual who chooses to renew his or her identification card by electronic commerce shall be required to give express consent to any disclosure of personal information over the Internet or telephone line that may be necessary in order to complete the renewal process. This consent shall be obtained by any means appropriate based upon the method chosen to renew the license.

D. Except as otherwise provided in §1929, the rules governing renewal of special identification cards shall apply to renewals by mail or electronic commerce.

E. All money submitted with an application to renew a special identification card by mail shall be in the form of a personal check with the applicant's name and address preprinted on the check, a money order, a cashier's check, or a certified check.

H. All fees due in connection with the renewal of a special identification card by electronic commerce shall be paid using an approved credit card in accordance with applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 26:

Family Impact Statement

1. The effect of these rules on the stability of the family. The enactment of §1929 should have a positive effect on the family as an individual will have to spend less time renewing his or her special identification card.
2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children. This proposal should 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. This proposal should have a positive effect on the functioning of the family since less time will be required to renew a special identification card.
4. The effect of these rules on family earnings and family budget. This proposal should have no effect on family earnings and family budget.
5. The effect of these rules on the behavior and personal responsibility of children. This proposal should 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. This proposal should make it easier to renew a special identification card.

Nancy VanNortwick
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Special Identification Cards

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no increased costs or savings to the state other than minimal programming costs to allow on-line users to interface with the Department's computer during the renewal process. There should be no costs or savings to local government as only the state issues the special identification card.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections may be slightly increased through the use of on-line renewals, but the amount of the increase is not known. Act 7 of the 2000 Special Session created a new late fee for special identification card renewals done through electronic commerce of ten dollars (\$10). There was no late fee in existing law. Therefore, the increase will depend on if a person renews the special identification card through electronic commerce after its expiration date.

Since local governments do not issue special identification cards, there will be no effect on the revenues of local governments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Louisiana citizens who choose to renew their special identification cards from their home or office.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment as this is strictly a governmental function.

Nancy VanNortwick
Undersecretary
0005#071

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Rehabilitation Services

Independent Living Policy Manual (LAC 67:VII.Chapter 15)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Social Services, Louisiana Rehabilitation Services proposes to adopt the following rule in LAC 67:VII.Rehabilitation Services, Independent Living Policy Manual.

The rule governing Louisiana Rehabilitation Services policy relative to Independent Living is proposed in order to comply with H.R. 1385, Workforce Investment Act of 1998, Title IV Rehabilitation Act Amendments of 1998.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 15. Independent Living Policy Manual

§1501. Agency Profile

A. Mission. To assist persons with disabilities in their desire to achieve independence in their home or community and/or to assist a responsible individual to obtain or maintain employment by providing independent living services and by working cooperatively with other community services.

B. Program Administration. Louisiana Rehabilitation Services, hereafter referred to as LRS, will secure appropriate resources and support in administering the various programs under the responsibility of the agency. These programs include, but are not limited to:

1. Title VII, Chapter 1, Part B Independent Living Program;

2. Title VII, Chapter 2, IL Services for Older Individuals Who are Blind

C. The Manual's Function. This manual sets forth the policies of LRS in carrying out the agency's mission, specifically as this mission relates to the Independent Living Program.

D. Exceptions. The director or designee shall have the sole responsibility for any exceptions to this policy manual.

E. Nondiscrimination. All programs administered by and all services provided by LRS shall be rendered on a nondiscrimination basis without regard to handicap, race, creed, color, sex, religion, age, national origin, duration of residence in Louisiana, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations to include Title VI of the Civil Rights Act of 1964.

F. Compliance with state laws, federal laws and Regulations, and Departmental Policies and Procedures. Staff shall comply with all state and federal laws, agency and civil service rules and regulations, Title VII of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA) of 1990 (Public Law 101-336).

G. Cost-Effective Service Provision. Services shall be provided in a cost-effective manner.

H. Records. A record must be maintained for each applicant/client and shall contain documentation to support a counselor's decision regarding eligibility, and subsequent decisions to provide, deny, or amend services.

I. Data Collection. Staff shall ensure the provision of client and financial data necessary for the operation of the agency's information and financial system as well as the Blind Registry.

J. Expeditious Service Delivery. All referrals, applications and provision of services will be handled expeditiously and equitably.

K. Client Assistance Program. All programs, including centers for independent living, community rehabilitation programs, and projects that provide services to individuals with disabilities under the Rehabilitation Act Amendments of 1998 shall advise such individuals, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of the availability and purposes of the client assistance program, including information on means of seeking assistance under such program.

L. Equal Employment Opportunities

1. LRS will comply with Title VII of the Civil Rights Act of 1964 as amended, and Title V of the Rehabilitation Act of 1973 as amended.

2. In addition, all community rehabilitation programs (including centers for independent living) supported by grants or funding from the Rehabilitation Services Administration, must be operated in compliance with Title VII of the Civil Rights Act of 1964 as amended, and Title V of the Rehabilitation Act of 1973 as amended.

M. Affirmative Action Plan. LRS will take affirmative action to ensure that the following will be implemented at all levels of administration: recruit, hire, place, train and promote in all job classifications without regard to non-merit factors such as race, color, age, religion, sex, national origin, disability or veteran status, except where sex is a bonafide occupational qualification.

N. Comprehensive System of Personnel Development. LRS will provide a comprehensive system of personnel development in accordance with the Rehabilitation Act Amendments of 1998.

O. Applicant/Client. For purposes of representation, the term applicant/client refers to an individual who has applied for independent living services or in certain cases, a parent, or family member, or guardian, an advocate, or any other authorized representative of the individual.

P. Cooperative Agreements. LRS will use services provided under cooperative agreements as comparable services and benefits.

Q. Services to American Indians with Disabilities. LRS will provide independent living services to American Indians with disabilities to the same extent that these services are provided to other individuals with disabilities which will

include, as appropriate, services traditionally available to Indian tribes on reservations.

R. Misrepresentation, Fraud, Collusion, or Criminal Conduct

1. Individuals who obtain access to the services provided by LRS through means of misrepresentation, fraud, collusion, or criminal conduct shall be held responsible for the return of funds expended by LRS on the individual's behalf. Further, such actions shall result in the closure of the individual's independent living case record. Failure on the individual's part to make reparation of funds to the agency may result in legal action being taken by LRS.

2. In cases in which LRS is in possession of clear evidence of misrepresentation, fraud, collusion, or criminal conduct on the part of the individual for the purpose of obtaining services for which the individual would not otherwise be eligible, the individual's case will be referred to the Department of Social Services, Bureau of General Counsel for consultation and/or recommendation regarding judicial action. If Department of Social Services, Bureau of General Counsel determines, through reviewing case data, that the individual has obtained services through misrepresentation, fraud, collusion, or criminal conduct, a certified letter will be directed to the individual by the LRS Counselor demanding payment in full of funds which have been expended by the agency on the individual's behalf. The failure of the individual to comply with the demand for reparation may result in legal action being taken on behalf of LRS.

S. Informed Choice. LRS shall provide information and support services to assist applicants and eligible individuals in exercising informed choice throughout the independent living process, consistent with the following:

1. to inform each applicant and eligible individual through appropriate modes of communication;

2. to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services;

3. to maintain flexible procurement guidelines and methods that facilitate the provision of services; and

4. to provide or assist eligible individuals in acquiring information necessary to develop the components of the Independent Living Plan.

T. Construction. Nothing in this Policy Manual shall be construed to create an entitlement to any independent living service.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S.49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

§1503. Enabling Legislation

A. The Rehabilitation Act Amendments of 1998, as contained in H.R. 1385, Workforce Investment Act of 1998.

B. Code of Federal Regulations. Volume 34, Sections 364, 365, 366, and 367.

C. Louisiana Revised Statutes

1. R.S. 49:664, Section 6B (1)(b) (Legislative Act that created the Department of Health and Hospitals), R.S. 36:477(c) (Legislative Act that created the Department of Social Services).

2. R.S. 46:331-335 mandates that a register be maintained of all persons known to be legally blind in the

state. (Louisiana Rehabilitation Services maintains and regularly updates the Blind Registry.)

3. Act 19 of 1988 effected the merger of the Division of Rehabilitation Services with the Division of Blind Services to form Louisiana Rehabilitation Services.

4. Act 109 of 1984, R.S. 39:1595.3, and Act 291 of 1986, R.S. 39:1594(I), enacted and authorized the State Use Law.

5. Act 10 of 1994, R.S. 18:59(I)(2), 61(A)(1), 62(A), 103(A), enacted and authorized to provide for the implementation of the National Voter Registration Act of 1993.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

§1505. Confidentiality

A. General Statement. All client information is confidential. All personal information in the possession of the state agency shall be used only for purposes directly connected with the administration of the program.

B. Notification to Clients. Individuals asked to supply the agency with information concerning themselves shall be informed of the agency's need to collect confidential information and the policies governing its use, release, and access including:

1. the Consent to Release Case Record Information form contained in case files which must document that individuals have been advised of the confidentiality of information pertinent to their case;

2. the principal purpose for which the agency intends to use or release the requested data;

3. whether individuals may refuse, or are legally required to supply the requested data;

4. any known consequence arising from not providing the requested information;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information

1. The case file must contain documentation concerning any information released with the individual's written consent. Informed written consent is not needed for the release of personal records to the following:

a. public assistance agencies or programs from which the client has requested services or to which the client is being referred for services under the circumstances for which the client's consent may be presumed;

b. the Louisiana Department of Labor and military services of the United States government;

c. doctors, hospitals, clinics, centers for independent living, and rehabilitation centers providing services to clients as authorized by Louisiana Rehabilitation Services;

d. schools or training centers, when LRS has authorized the service or is considering authorizing such services, and the information is required for the client's success in the program, for the safety of the client, or is otherwise in the client's best interest.

2.a. Confidential information will be released to an organization or an individual engaged in research, audit, or evaluation only for purposes directly connected with the administration of the state program (including research for

the development of new knowledge or techniques which would be useful in the administration of the program).

b. Such information will be released only if the organization or individual furnishes satisfactory assurance that:

i. the information will be used only for the purpose for which it is provided;

ii. it will not be released to persons not connected with the study under consideration; and

iii. the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the state agency without written consent of such person and the state agency.

c. Information for research, audit, or evaluation will be issued only on the approval of the director.

d. The client must be advised of these conditions.

3. LRS may also release personal information to protect the individual or others when the individual poses a threat to his/her safety or to the safety of others.

D. Client Access to Data. When requested in writing by the involved individual or an authorized representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the agency maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the individual's physical or mental health;

2. medical, psychological, or other information which the counselor determines harmful to the individual;

Note: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the individual's representative, or a physician or a licensed or certified psychologist.

3. personal information that has been obtained from another agency or organization. Such information may be released only by or under the conditions established by the other agency or organization.

E. Informed Consent. Informed consent means that the individual has signed an authorization to release information and such authorization is as follows:

1. in a language that the individual understands;

2. dated;

3. specific as to the nature of the information which may be released;

4. specifically designates the parties to whom the information may be released;

5. specific as to the purpose(s) for which the released information may be used;

6. specific as to the expiration date of the informed consent which must not exceed one year.

F. Confidentiality-HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

G. Court Orders, Warrants and Subpoenas. Subpoenaed case records and depositions are to be handled in the following manner:

1. with the written informed consent of the client, after compliance with the waiver requirements (signed

informed consent of client or guardian), the subpoena will be honored and/or the court will be given full cooperation;

2. without the written informed consent of the client, when an employee is subpoenaed for a deposition or receives any other request for information regarding a client, the employee will:

a. inform the regional manager or designee of the request;

b. contact the attorney, or other person making the request, and explain the confidentiality of the case record information; and request that such attorney or other person obtain a signed informed consent to release information from the client or guardian;

c. inform the regional manager or designee if the above steps do not resolve the situation. In this case, the regional manager or designee will then turn the matter over to the Department of Social Services' legal counsel.

3. when an employee is subpoenaed to testify in court or to present case record information in court concerning a client, the employee is to do the following:

a. notify the regional manager or designee;

b. honor the subpoena;

c. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

d. if called upon to testify or to present the case record information, inform the court of the following:

i. that the case record information or testimony is confidential information under the provisions of the 1973 Rehabilitation Act and amendments;

ii. the subpoenaed case record information is in agency possession;

iii. agency personnel will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

§1507. Applicant/Client Appeal Rights

A. Administrative Review

1. The administrative review is a process which may be used by applicants/clients (or as appropriate the applicant's/client's representative) for a timely resolution of disagreements. However, this process may not be used as a means to delay a fair hearing conducted by an Impartial Hearing Officer. The administrative review will allow the applicant/client an opportunity for a face to face meeting in which a thorough discussion with the regional manager or designee can take place regarding the issue(s) of concern. All administrative reviews render a final decision expeditiously after receipt of the initial written request from the applicant/client.

2. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Independent Living Plan, and upon reduction, suspension, or cessation of independent living services. Services will continue during the administrative review appeal process unless the services being provided under the current Independent Living Plan were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

3. In order to insure that an applicant/client is afforded the option of availing themselves of the opportunity to appeal agency decisions impacting their independent living case, adequate notification by the counselor must include:

a. the agency's decision;

b. the basis for, and effective date of the decision;

c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the name and address of the regional manager who should be contacted in order to schedule an administrative review or fair hearing.

Note: All administrative reviews must be conducted in a manner which ensures that the proceedings are understood by the applicant/client.

B. Fair Hearing

1. The fair hearing is the final level of appeal within Louisiana Rehabilitation Services. Subsequent to a decision being reached as a result of the fair hearing, any further pursuit of the issue by the applicant/client (or, as appropriate, the applicant's/client's representative) must be through the public court system.

2. The fair hearing process may be requested by applicants/clients to appeal disputed findings of an administrative review or as a direct avenue of appeal bypassing the administrative review option. The fair hearing will be conducted by an Impartial Hearing Officer.

3. An Impartial Hearing Officer shall be selected on a random basis to hear a particular case by agreement between the Louisiana Rehabilitation Services Director and the applicant/client. This officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation Council. The Impartial Hearing Officer shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services as expeditiously as possible.

4. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Independent Living Plan, and upon reduction, suspension, or cessation of independent living services.

5. Services will continue during the fair hearing process unless the services being provided under the current Independent Living Plan were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

6. In order to insure that the applicant/client is afforded the option of availing themselves of the opportunity to pursue a fair hearing, adequate notification by the counselor and/or Regional Manager must include:

a. the agency's decision (inclusive of an administrative review, if conducted);

b. the basis for, and effective date of, that decision;

c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation at the fair hearing;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the means through which a fair hearing may be requested, including the name and address of the regional manager.

Note: All fair hearings must be conducted in a manner which ensures that the proceedings are understood by the applicant/client.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

§1509. Eligibility and Ineligibility

A. Criteria for Eligibility. To be eligible for independent living services, an applicant must be an individual:

1. with a severe physical or mental impairment which substantially limits the individual's ability to function independently in the family or community, and

2. for whom the delivery of independent living services will improve their ability to function, continue functioning, or move towards functioning independently in the family or community.

B. Determinations by Officials of Other Agencies. To the extent appropriate and consistent with the requirements of this section, LRS will use determinations made by officials of other agencies regarding whether an individual satisfies one or more factors relating to whether an individual is an individual who has a physical or mental impairment which for such individual substantially limits their ability to function independently.

C. Compliance Provisions.

1. Nondiscrimination and Nonexclusion

a. Eligibility decisions must be made without regard to sex, race, age, creed, color or national origin of the individual applying for services.

b. No group of individuals is excluded or found ineligible solely on the basis of type of disability.

c. No upper or lower age limit is established which will, in and of itself, result in a finding of ineligibility for any individual with a disability who otherwise meets the basic eligibility requirements specified in this manual.

d. Louisiana Rehabilitation Services does not impose a residence requirement. Illegal aliens, however, cannot be served.

D. Determination of Ineligibility

1. A determination of ineligibility for independent living services is made:

a. when LRS is in possession of clear and convincing evidence that an individual has no physical and/or mental impairment which substantially limits an individual's ability to function independently in the family or community; or

b. when LRS is in possession of clear and convincing evidence that an individual with a disability does not require independent living services to function independently in the family or community; or

c. when LRS is in possession of clear and convincing evidence that an individual is incapable of benefitting from independent living services, in terms of becoming more independent in the home and/or community.

2. If an individual who applies for independent living services is determined (based on clear and convincing evidence) not eligible for services, or if an eligible individual receiving services under an Independent Living Plan (ILP) is determined to be no longer eligible for services, LRS shall:

a. provide an opportunity for full consultation with the individual or, as appropriate, the individual's representative; and

b. inform the individual, or as appropriate, the individual's representative, in writing of:

i. the reason(s) for the ineligibility determination; and

ii. an explanation of the means by which the individual may express and seek a remedy for any dissatisfaction with the determination, including the procedures for review by an Impartial Hearing Officer and the availability of services from the Client Assistance Program; and

iii. a referral to any other agencies or programs from whom the individual may be eligible to receive services, including a center for independent living or other components of the statewide workforce investment system.

3. LRS shall review the applicant's ineligibility at least once within 12 months after the ineligibility determination has been made and whenever it has been determined the applicant's status has materially changed. This review need not be conducted in situations where the applicant has refused the review, the applicant is no longer present in the state, or the applicant's whereabouts are unknown.

E. Use of Existing Information. To the maximum extent appropriate and consistent with the requirement of this Section, for purposes of determining eligibility of an individual for independent living services, LRS shall use information that is existing and current (as of the current functioning of the individual), including information available from the individual, other agencies and programs.

F. Eligibility for Nursing Home Residents. Eligibility is met if independent living services rendered enables the individual to permanently leave the nursing home or to participate in other ongoing community or family activities which will enhance the quality of the individual's life outside of the facility.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

§1511. Information and Referral Services

A. Purpose. The purpose of an expanded system of information and referral is as follows:

1. To ensure that individuals with disabilities receive accurate independent living information to assist such individuals in functioning more independently in the family and/or community; and

2. To ensure that such individuals, as appropriate, are referred to other federal and state programs, including centers for independent living.

B. Services

1. Information

a. As appropriate, to the extent that such services are not purchased by LRS, LRS will provide the following informational services:

- i. individualized guidance and counseling;
- ii. assistance in locating appropriate support groups;
- iii. assistance in securing appropriate community services;
- iv. assistance in securing reasonable accommodations.

2. Referral

a. As appropriate, LRS will make a referral to the appropriate federal or state program, including centers for independent living, that is best suited to address the specific needs of the individual with a disability.

b. Information provided by LRS to the individual will contain:

- i. a copy of the notice of the referral by LRS to the other agency carrying out the program; and
- ii. information identifying a specific point of contact within the agency carrying out the program; and
- iii. information and advice regarding the most suitable services to assist the individual to function more independently in the family and/or community.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

§1513. Comprehensive Assessment

A. Purpose

1. To make a determination of the independent living needs of the individual with a disability.

2. To make a determination of the objectives, nature, and scope of independent living services required for development of the Independent Living Plan (ILP) of an eligible individual.

B. Scope. To the extent additional data is necessary, LRS shall conduct a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, of the eligible individual.

C. Additional Considerations

1. The comprehensive assessment is limited to information necessary to identify the independent living needs of the eligible individual and to develop the Independent Living Plan (ILP).

2. LRS will use as a primary source of information, to the maximum extent possible and appropriate, existing information obtained for the purpose of determining eligibility.

3. LRS will use, to the maximum extent possible and appropriate, information provided by the individual and/or the individual's family.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

§1515. Independent Living Plan (ILP)

A. Purpose. The purpose of the Independent Living Plan, hereafter referred to as ILP, and all subsequent amendments is to assure that each individual determined eligible for independent living services shall have a formal plan, jointly developed and agreed upon by the individual (or as

appropriate the individual's family member or other authorized representative) and the LRS counselor.

B. Client Choice and Client Participation. The format of the ILP, to the maximum extent possible, will be in the language or mode of communication understood by the individual. Each individual's ILP will assure that the plan was developed in a manner empowering the individual with the ability to make an informed choice relative to the selection of an independent living goal, intermediate objectives, services and service providers. The client (or where appropriate, the client's parent, guardian or other representative) must sign the ILP and must receive a copy of the original ILP and amendments.

C. Mandatory Components of an ILP. An ILP shall, at a minimum, contain components consisting of the following:

1. the specific independent living goals chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual;

2. the specific independent living services (provided in the most integrated setting appropriate for the service and consistent with the individual's informed choice) needed to achieve the independent living goal;

3. the approximate dates for the initiation of each service and the anticipated date for the completion of each service;

4. a time frame for the achievement of the independent living goal;

5. the entity chosen to provide the independent living service and the methods to procure such services;

6. the criteria to evaluate the individual's progress towards achievement of the independent living goal;

7. the terms and conditions of the ILP, including, as appropriate, information describing:

a. responsibilities of LRS;

b. responsibilities of the eligible individual including those responsibilities the individual will assume in relation to the independent living goal;

c. if applicable, the participation of the eligible individual in paying for the costs of the planned services;

d. responsibility of the eligible individual with regard to applying for and securing comparable benefits;

e. if applicable, the responsibilities of any other entities as the result of arrangements made pursuant to comparable services and benefits;

8. the rights and remedies available to the individual through the Appeals Process and information regarding the availability of the Client Assistance Program.

D. Review and Amendment

1. The ILP shall be reviewed as least annually by a qualified LRS counselor and the eligible individual, or as appropriate, the individual's representative; and

2. Amended, as necessary, by the individual, or as appropriate, the individual's representative, in collaboration with a LRS counselor.

E. ILP Document

1. An ILP shall be a written document prepared on forms provided by LRS.

2. An ILP shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an independent living goal, the specific independent living services to be provided

under the ILP, the entity that will provide the independent living services, and the methods used to procure the services consistent with Informed Choice as defined in LRS in Chapter 1, Section S of this policy manual.

3. An ILP shall be agreed to, and signed by, such individual or, as appropriate, the individual's representative; and approved and signed by a qualified counselor employed by LRS.

4. A copy of the ILP shall be provided to the individual or, as appropriate, the individual's representative, in writing; and if appropriate, in the native language or mode of communication of the individual.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

§1517. Financial

A. Comparable Services and Similar Benefits

1. Determination of Availability

a. Prior to providing any independent living service to an eligible individual, LRS will determine whether comparable services and benefits are available under any other program (including programs carried out under Title I, Rehabilitation Act Amendments of 1998) unless such a determination would interrupt or delay;

i. the provision of such service to any individual at extreme medical risk, with such risk documented by an appropriate Licensed Medical Professional. "Extreme Medical Risk" is defined as a risk of substantially increasing functional impairment or risk of death if services are not provided expeditiously.

2. Exceptions to Use of Comparable Services and Benefits

a. The following independent living services can be provided without making a determination of the availability of comparable services and benefits:

i. services provided through LRS' Information and Referral System;

ii. assessment for determining eligibility and independent living needs, including if appropriate, assessment by personnel skilled in rehabilitation technology;

iii. counseling and guidance (provided by LRS Counselor), including information and support services to assist an individual in exercising informed choice;

iv. referral and other services needed to secure necessary services from other agencies through cooperative agreements, if such services are not available from LRS.

B. Individual's Participation in the Cost of IL Services.

1. LRS will consider, through budgetary analysis of assets, income, monthly liabilities, and comparable services and similar benefits, the financial need of eligible individuals for purposes of determining the extent of the individual's participation in the costs of certain independent living services.

a. Neither a financial needs test, nor a budgetary analysis, is applied and no financial participation is required as a condition for furnishing the following independent living services:

i. assessment for determining eligibility;

ii. assessment for determining independent living needs;

iii. counseling and guidance (provided by LRS Counselor), including information and support services to assist an individual in exercising informed choice;

iv. referral and other services to secure needed services from other agencies through cooperative agreements, if such services are not available from LRS;

v. rehabilitation technology assessments.

b. A financial needs test will be applied through budgetary analysis to determine the ability of the individual to financially contribute to the cost of the following independent living services:

i. counseling services, including psychological, psychotherapeutic and related services;

ii. services related to housing or shelter, including appropriate accommodations to, and modifications of, any space used to serve, or occupied by, individuals with disabilities;

iii. rehabilitation technology;

iv. personal assistance services, including attendant care;

v. consumer information programs on rehabilitation and independent living services;

vi. supported living;

vii. transportation;

viii. physical rehabilitation;

ix. therapeutic treatment;

x. provision of needed prostheses and other appliances and devices;

xi. individual and group social and recreational services;

xii. appropriate preventive services to decrease the need of individuals receiving IL services for similar services in the future;

xiii. any other IL service available under the State Plan for Independent Living which are appropriate to the IL needs of the eligible individual.

c. An individual's status for the budget analysis will be determined as follows:

i. the agency will perform the budget analysis on the basis of the resources of both the client and the spouse if the client is married;

ii. the agency will perform the budget analysis on the basis of the resources of the family unit for all single clients living in the family home as a family member. Temporary absences from the home, such as for vacations, school, or illness, count as time lived in the home.

iii. the agency will perform the budget analysis on an individual who has returned to the family unit on the basis of the resources of only that individual if the following conditions are met:

(a) the individual's disability has precluded their obtaining or maintaining employment; and

(b) the individual has a documented history of self-sufficiency that includes providing over one-half the costs of maintaining a residence for at least one year prior to their return to the family unit; and

(c) the individual's parent(s), legal guardian, or other head of household provides documentation that indicates such person(s) do not claim the individual as an exemption for federal and/or state income tax purposes.

d. Family unit is defined as the client and the client's parents or the client and any significant other(s),

such as aunts, uncles, friends, legal guardians, etc., who are living in the household and are providing support for the maintenance of the household in which the client lives. Adult siblings of the client can be excluded as a member of the family unit for income reporting; but, must also be excluded from the family unit in the determination of allowable monthly liabilities.

e. Individuals who do not provide LRS with necessary financial information to perform the budget analysis will be eligible only for those independent living services that are not conditioned upon an analysis to determine the extent of the individual's participation in the costs of such services.

f. Simultaneously with the comprehensive assessment, at the annual review of the ILP, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring independent living services as listed above. The amount of client participation in the cost of their independent living program will be based upon the most recent budget analysis at the time the relevant ILP or amendment is developed.

2. State and Departmental Purchasing Procedures. All applicable state, departmental and agency purchasing policies and procedures must be followed.

a. LRS does not purchase vehicles or real estate. LRS does not renovate or remodel housing.

b. Fee Schedule. Services and rates of payment must be authorized in accordance with LRS' Medical Fee Schedule and LRS' Technical Assistance and Guidance Manual, Section 500 which lists approved service providers.

c. Approval of Service Providers

i. Any service provider approved by the agency must agree not to make any additional charge to or accept any additional payment from the client or client's family for services authorized by the agency.

ii. Relatives of independent living clients will not be approved as a paid service provider unless such individuals are professionally and occupationally engaged in the delivery of such services by offering their services to the general public on a regular and consistent basis.

d. Prior Written Authorization and Encumbrance

i. Either before or at the same time as the initiation or delivery of goods or services, the agency must be in possession of the proper authorizing document.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

§1519. Independent Living Services

A. Independent Living Services are time limited services described in an ILP necessary to assist an individual with a disability in their desire to achieve independence in their home/community and are consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including:

1. an assessment for determining eligibility and independent living needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

2. counseling and guidance, including information and support services to assist an individual in exercising informed choice;

3. referral and other services to secure needed services from other agencies through cooperative agreements developed, if such services are not available from LRS;

4. independent living skills training;

5. psychological, psychotherapeutic, and related services;

6. services related to housing or shelter, including services related to community group living, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

7. rehabilitation technology;

8. mobility training;

9. services and training for individuals with cognitive and sensory disabilities, impairments, including life skills training;

10. interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet state license law;

11. personal assistance services, including attendant care and the training of personnel providing such services;

12. activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

13. education and training necessary for living in a community and participating in community activities;

14. supported living;

15. transportation, including referral and assistance for such transportation and training in the use of public transportation vehicles and systems;

16. physical rehabilitation;

17. therapeutic treatment;

18. provision of needed prostheses and other appliances and devices;

19. individual and group social and recreational services;

20. training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

21. services for children;

22. appropriate preventive services to decrease the need of individuals assisted through the independent living program for similar services in the future;

23. community awareness programs to enhance the understanding and integration into society of individuals with disabilities;

24. consumer information programs on rehabilitation and independent living services, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved; and

25. such other services as may be necessary and not inconsistent with the objectives listed in the State Plan for Independent Living.

B. Scope of Services for Diagnosis and Treatment of Physical and Mental Impairments

1. LRS will not provide ongoing medical rehabilitation treatment services.

2. LRS will not provide experimental services or supplies.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

§1521. Conditions for Case Closure

A. Options for Closure. An individual's case can be closed at any time in the independent living process when it has been determined that:

1. the individual is not available for services;
2. the individual is ineligible;
3. appropriate planned services, expenditures and reports have been completed, and additional services are either unnecessary or inappropriate.

B. Closure as Successfully Achieving IL Goal. In order to close a case as successfully achieving an IL goal, the case record must include:

1. documentation the client was determined eligible for services;
2. documentation the client was provided an assessment of IL potential;
3. documentation appropriate services were provided in accordance with the ILP;
4. documentation showing the basis on which the individual has met the goal of living more independently;
5. documentation the client has been informed the case is being closed as having successfully achieved IL goal.

C. Content of the ILP for Case Closure as Ineligible. The ILP and amendments relating to the case closure in cases of ineligibility based on the decision that the individual is not capable of achieving an independent living goal, must document with clear and convincing evidence that the individual is incapable of benefitting from independent living services. Such decisions shall be reviewed and reassessed twelve months from the date of closure.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

Interested persons may submit written comments for 40 days from the date of this publication to May Nelson, Director, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806-4834. Ms. Nelson is responsible for responding to inquiries regarding the proposed rule.

Public hearings will be conducted at 10:00 a.m. on Tuesday, June 27, 2000, as follows: Baton Rouge, LRS Regional Office, 3651 Cedar Crest; Alexandria, LRS Regional Office, 900 Murray Street; New Orleans, LRS Regional Office, 3500 Canal Street; Shreveport, LRS Regional Office, 1525 Fairfield Avenue.

Individuals with disabilities who require special services should contact Brenda Bercegeay, Program Manager,

Louisiana Rehabilitation Services, at least 14 days prior to the hearing if special services are needed for their attendance. For information or assistance, call 225-925-4134 or 1-800-737-2958.

Family Impact Statement

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

J Renea Austin-Duffin
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Independent Living Policy Manual

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is a minimal cost of \$800 for conducting public forums in order to implement this proposal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated increase or decrease in revenue.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individuals who will be effected will be those who receive Independent Living Services from Louisiana Rehabilitation Services. There should be no workload adjustments nor additional paperwork as a result of this proposed rule. Services are provided to between 100 and 400 individuals per year at an approximate cost of \$3000 per client.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no projected impact on competition and employment in public or private sectors.

May Nelson
Director
0005#058

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury State Bond Commission

Electronic Bidding

In accordance with the provisions of Administrative Procedures R.S. 49:950, et seq., notice is hereby given that the Louisiana State Bond Commission intends to amend the commission's rules as originally adopted November 20, 1976.

Pursuant to the provisions of R.S. 39:1410.60(B), the State Bond Commission intends to adopt the following rule regarding electronic bidding for general obligation bonds.

Rule

Bids for general obligation bonds of the State may be received by the State Bond Commission through sealed bids, electronic bids or facsimile bids as provided herein. Bids received electronically must be submitted via a qualified electronic bid provider, as determined by the State Treasurer, and as set forth in the Notice of Sale for the bonds. Bidders submitting a bid electronically must provide a signed Official Bid Form to the State Bond Commission not later than 4:00 p.m. (Baton Rouge time) on the day prior to the opening of bids. In the event that there is a malfunction in the electronic bidding system, bids may be submitted by facsimile as set forth in the Notice of Sale for the bonds, provided that the facsimile bids are received within the time limits set forth in the Notice of Sale. Delivery of a bid is at the risk of the bidder.

Interested persons may submit their views and opinions through June 26, 2000 to Sharon B. Perez, Secretary and Director of the State Bond Commission, Twenty-first Floor, State Capitol Building, Box 44154, Baton Rouge, LA 70804.

The commission shall, prior to the adoption of the rule, afford all interested persons reasonable opportunity to submit data, views, or arguments, if requested by 25 persons, or a committee of either house of the legislature to which the rule change has been referred, as required under the provisions of Section 968 of Title 49.

At least eight working days prior to the meeting of the commission at which a rule or rules are proposed to be adopted, amended or repealed, notice of any intention to make an oral or written presentation shall be given to the director of the commission. If the presentation is to be oral, such notice shall contain the names or names, telephone numbers, and mailing addresses of the person or persons who will make such oral presentation, who they are representing, the estimated time needed for the presentation, and a brief summary of the presentation. Notice of such oral presentation may be sent to all commission members prior to the meeting. If the presentation is to be written, such notice shall contain the name or names of the persons submitting such written statement. Who they are representing, and a copy of the statement itself. Such written statement shall be sent to all commission members prior to the meeting.

The commission shall consider all written and oral submissions concerning the proposed rules. Upon adoption of a rule, the commission if requested to do so by an

interested person either prior to the adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for or against its adoption.

John Neely Kennedy
State Treasurer and Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Electronic Bidding**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs (savings) to state or local governmental.

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)

Underwriting syndicates will be able to use "up to the minute" interest rates when bidding on state general obligation bonds, through electronic bidding. There often is a very small interest rate differential between the winning bid and the bid that comes in second, therefore, this could mean the possibility that the syndicate would not provide the winning bid

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule provides for more competition in that interest rate spreads among bidding syndicates will be less.

Sharon B Perez
Director
0005#075

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury State Bond Commission

Surety Bond Deposit

In accordance with the provisions of Administrative Procedures R.S. 49:950, et seq., notice is hereby given that the Louisiana State Bond Commission intends to amend the commission's rules as originally adopted November 20, 1976.

Pursuant to the provisions of R.S. 39:1410.60(B), the State Bond Commission intends to adopt the following rule regarding surety bond deposit for general obligation bonds.

Rule

Bidders for general obligation bonds of the State must furnish a good faith deposit in the amount of two percent of the par value of the bonds (the ~~ADeposit~~) offered for sale in the form of a certified check or cashier's check or by surety bond. If a check is used, it must accompany each sealed bid. For an electronic bid or a facsimile bid as authorized by the Electronic Bidding Rule, the check must be provided in advance of the submission of the bid. Such check must be drawn on a bank or trust company authorized to transact

business in the State of Louisiana or in the State of New York, payable to or in favor of the State Treasurer of Louisiana on behalf of the State of Louisiana. Any surety bond must be from an insurance company licensed to issue such a bond in the State of Louisiana and such bond must be submitted to the State Bond Commission prior to the opening of the bids. The surety bond must identify each bidder whose Deposit is guaranteed by such surety bond. If the bonds are awarded to a bidder utilizing a surety bond, then the successful bidder is required to submit its Deposit to the State Bond Commission in the form of a certified check or cashier's check drawn on a bank or trust company authorized to transact business in the State of Louisiana or in the State of New York, payable to or in favor of the State Treasurer of Louisiana on behalf of the State of Louisiana (or wire transfer such amount as instructed by the State Bond Commission) not later than 2:00 p.m. (Baton Rouge time) on the next business day following the award. If such good faith deposit is not received by that time, the surety bond will be drawn on by the State to satisfy the Deposit requirement. No interest on the Deposit will accrue to the successful bidder. The Deposit will be applied to the purchase price of the bonds. In the event the successful bidder fails to honor its accepted bid, the Deposit will be retained by the State. Delivery of the Deposit is at the risk of the bidder.

Interested persons may submit their views and opinions through June 26, 2000 to Sharon B. Perez, Secretary and Director of the State Bond Commission, Twenty-first Floor, State Capitol Building, Box 44154, Baton Rouge, LA 70804.

The commission shall, prior to the adoption of the rule, afford all interested persons reasonable opportunity to submit data, views, or arguments, if requested by 25 persons, or a committee of either house of the legislature to which the rule change has been referred, as required under the provisions of Section 968 of Title 49.

At least eight working days prior to the meeting of the commission at which a rule or rules are proposed to be adopted, amended or repealed, notice of any intention to make an oral or written presentation shall be given to the director of the commission. If the presentation is to be oral, such notice shall contain the names or names, telephone numbers, and mailing addresses of the person or persons who will make such oral presentation, who they are representing, the estimated time needed for the presentation, and a brief summary of the presentation. Notice of such oral presentation may be sent to all commission members prior to the meeting. If the presentation is to be written, such notice shall contain the name or names of the persons submitting such written statement. Who they are representing, and a copy of the statement itself. Such written statement shall be sent to all commission members prior to the meeting.

The commission shall consider all written and oral submissions concerning the proposed rules. Upon adoption of a rule, the commission if requested to do so by an interested person either prior to the adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for or against its adoption.

John Neely Kennedy
State Treasurer and Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Surety Bond Deposit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

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)

Underwriting syndicates will be able to purchase a surety bond in lieu of a good faith check when bidding on state general obligation bonds. This will allow the State to draw on the surety bond in the event the successful bidder does not submit a good faith deposit timely (by 2:00 PM Baton Rouge time the day following the award of the bid).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule provides for a more modern approach to the "good faith check" and is the industry standard.

Sharon B. Perez
Director
0005#074

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Deer Management Assistance Program
(LAC 76:V.109 and 111)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend rules and regulations governing participation in the deer management assistance program.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§109. Regulations for Signs and Sign Placement for DMAP Cooperators

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:111.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:78 (January 1991), repealed LR 26:

§111. Rules and Regulations for Participation in the Deer Management Assistance Program

A. The following rules and regulations shall govern the Deer Management Assistance Program

1. Application Procedure

a. - d. ...

e. Boundaries of lands enrolled in DMAP shall be clearly marked and posted with DMAP signs in compliance with R.S. 56:110 and the provisions of R.S. 56:110 are only applicable to property enrolled in DMAP. DMAP signs shall be removed if the land is no longer enrolled in DMAP. Rules and regulations for compliance with R.S. 56:110 are as follows.

i. The color of DMAP signs shall be orange. The words DMAP and Posted shall be printed on the sign in letters no less than four inches in height. Signs may be constructed of any material and minimum size is 11 1/4" x 11 1/4".

ii. Signs will be placed at 1000 foot intervals around the entire boundary of the property and at every entry point onto the property.

f. - 3.c. ...

B. Suspension and cancellation of DMAP Cooperators

1. Failure of the cooperator to follow these rules and regulations may result in suspension and cancellation of the program on those lands involved. Failure to make a good faith attempt to follow harvest recommendations may also result in suspension and cancellation of the program.

a. Suspension of Cooperator from DMAP - Suspension of the Cooperator from DMAP, including forfeiture of unused tags, will occur immediately for any misuse of tags, failure to tag any antlerless deer, or failure to submit records to the Department for examination in a timely fashion. Suspension of the Cooperator, including forfeiture of unused tags, may also occur immediately if other DMAP rules or wildlife regulations are violated. Upon suspension of the Cooperator from DMAP, the Contact Person may request a Department of Wildlife and Fisheries hearing within 10 working days to appeal said suspension. Cooperation by the DMAP Cooperator with the investigation of the violation will be taken into account by the Department when considering cancellation of the program following a suspension for any of the above listed reasons. The Cooperator may be allowed to continue with the program on a probational status if, in the judgement of the Department, the facts relevant to a suspension do not warrant cancellation.

b. Cancellation of cooperator from DMAP - Cancellation of a cooperator from DMAP may occur following a guilty plea or conviction for a DMAP rule or regulation violation by any individual or member hunting on the land enrolled in DMAP. The Cooperator may not be allowed to participate in DMAP for one year following the cancellation for such guilty pleas or conviction. Upon cancellation of the Cooperator from DMAP, the Contact Person may request an administrative hearing within 10 working days to appeal said cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:204 (February 1991), amended LR 25:1656 (September 1999), LR 26:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may comment on the proposed rule in writing to Mr. Tommy Prickett, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 until 4:30 p.m., July 6, 2000.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Deer Management Assistance Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule amends permanent rules and regulations established for the Deer Management Assistance Program (DMAP) and will have no implementation costs to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule amendment simply clarifies regulations that are currently required by DMAP participants. No additional costs or economic benefits are anticipated to occur.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James L. Patton
Undersecretary
0005#060

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Landowner Antlerless Deer Tag Program
(LAC 76:V.119)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a rule on participating in the Landowner Antlerless Deer Tag Program.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

**§119. Rules and Regulations for Participation in the
Landowner Antlerless Deer Tag Program**

A. The following rules and regulations shall govern the Landowner Antlerless Deer Tag Program:

1. Eligibility. The following landowners or lessees are eligible to participate in this program.

a. Licensed Deer Farmers authorized to hunt deer by Department of Agriculture and Forestry and Department of Wildlife and Fisheries (LDWF).

b. Landowners or lessees with less than 500 acres who have verified deer depredation problems and have met all of the requirements of LDWF as stated in the Nuisance

Deer Management Program and who are dependent upon this commercial crop as a major source of income.

c. Landowners with less than 500 acres and more than 40 acres enrolled in the Louisiana Forest Stewardship Program and who have a written wildlife management plan on file with LDWF.

2. Application Procedure

a. Application for enrollment in the Landowner Antlerless Deer Tag Program must be submitted to the Deer Program personnel or Forest Stewardship Program personnel of LDWF prior to September 1. The application will become an official agreement between the applicant and LDWF.

b. Each applicant will be assessed a \$25 administrative processing fee which must be paid prior to October 1.

c. By enrollment in this program the applicant agrees to allow LDWF personnel access to their land for management surveys, investigations of violations and other inspections deemed appropriate by the Department.

3. Tags

a. A fixed number of Landowner Antlerless Deer Tags will be provided by the department to each applicant that must be attached to each antlerless deer harvested during the regular deer season. These tags can be used only on the land for which they were issued and must be attached to all antlerless deer killed during the entire deer season including special either-sex days. Tag allotment for each applicant will be determined by Deer Program personnel.

b. The total harvest of antlerless deer is restricted to that number of antlerless deer for which tags were issued. Once the number of antlerless deer for which tags were issued have been killed, all deer hunting will then be for bucks-only, even though there may be either-sex days later in the season for the Area at large. No additional tags will be issued to the applicant.

c. In order to harvest an antlerless deer, each hunter must have the Landowner Antlerless Deer Tag in his possession while hunting on the property for which the tag was issued and immediately upon kill of an antlerless deer, the hunter must tag the animal through the hock. The deer must be tagged before it is transported from the site of kill and the tag will remain with the deer while the hunter is in route to his domicile. The tag number will be recorded on the possession tag for the deer or any part(s) of the animal when divided and properly tagged among other individuals.

4. Records

a. Approved applicants will keep daily records for all deer harvested as required by the Deer Program personnel. This information along with any unused tags will be submitted to the Deer Program or Forest Stewardship Program personnel by March 1. Information will include: Date of kill; Name of hunter; Hunting license # or date of birth of hunter, whichever applicable; Sex of animal; Landowner Antlerless Tag Number. Additional biological information from harvested deer may be required of some applicants for management purposes.

b. Approved applicants will provide documentation of harvested deer during the season to Department personnel upon request. Applicants will be given 48 hours to provide this requested information.

5. Cancellation of Program

a. Failure of the approved applicant or other persons permitted to hunt on this property to follow these rules and regulations may result in cancellation of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Mr. David Moreland, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, July 6, 2000.

In accordance with Act#1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Landowner Antlerless Deer Tag Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Estimated state implementation cost of the Landowner Antlerless Deer Tag Program is \$4,675. The voluntary program will be handled in the same fashion as the Deer Management Assistance Program and will utilize existing staff. Local government units will not be affected.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Department will charge a \$25 administrative processing fee to participate in the Landowner Antlerless Tag Program (the same basic fee charged for enrollment in the Deer Management Assistance Program). It is anticipated that 187 landowners will enroll in this voluntary program during fiscal year 2000-2001. This will result in an estimated increase in state revenue collections of \$4,675. As the Landowner Antlerless Deer Tag Program develops, more participation is anticipated which will result in additional state revenue collections in future years.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Landowners wishing to enroll in this program will be required to pay a \$25 administrative processing fee to receive deer tags associated with the program. They will also be required to maintain deer harvest and tag utilization records. Economic benefits will occur from reduced agricultural losses, habitat degradation and esthetic damages in urban areas caused by deer depredation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James L. Patton
Undersecretary
0005#069

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given July 24-28, 2000, at 9:30 a.m. at Lomax Hall, Louisiana Tech University, Ruston, LA. The deadline for sending in application and fee is June 9, 2000. No applications will be accepted after June 9, 2000.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to June 9, 2000. Questions may be directed to (225) 925-7772.

Bob Odom
Commissioner

0005#002

POTPOURRI

Department of Agriculture and Forestry Office of Animal Health Services

Pet Turtles (LAC 7:XXI. Chapter 23)

The Department of Agriculture and Forestry, Office of Animal Health Services, published, in the April 20, 2000 issue of the Louisiana Register, notification of the intent to promulgate rules and regulations regarding pet turtles. At the end of that notification the date for the public hearing, to hear comments regarding pet turtles, was set for May 26, 2000 at 9:30 a.m. However, due to the Department of Agriculture and Forestry employees having a reduced work week, the Department will be unable to hold the hearing at this time. The Office of Animal Health Services has rescheduled this meeting to be held on Wednesday, May 31, 2000 at 9:30 a.m. in the auditorium located at 5825 Florida Boulevard, Baton Rouge, LA 70806.

If you have any questions regarding the change of date for the pet turtle hearing please contact Dr. Maxwell Lea at (225) 925-3980.

Bob Odom
Commissioner

0005#072

POTPOURRI

Department of Economic Development Office of the Secretary

Highway 988 Relocation

The Louisiana Legislature appropriated \$1,200,000 for relocation of a 1.65-mile section of Louisiana Highway 988 to improve economic development opportunities in Iberville and West Baton Rouge Parishes.

Pursuant to a Cooperative Endeavor Agreement between the Louisiana Department of the Treasury, the Department of Economic Development (DED) and West Baton Rouge and Iberville Parishes, Forte and Tablada, Inc. drafted a Public Trust Analysis. This analysis was approved by the West Baton Rouge and Iberville Parish Councils. Under the Cooperative Endeavor Agreement, construction of the relocated section of highway may not proceed unless the DED determines the benefits of the project outweigh its environmental costs, taking into account any necessary mitigation to be performed.

The DED has reviewed the Public Trust Analysis and has made a preliminary determination of approval. For 30 days from the date of publication of this notice, the public is being provided with the opportunity to comment on the proposed project.

A copy of the Public Trust Analysis and drawings showing the relocated highway are available for review at the DED, 101 France Street, Baton Rouge, Louisiana 70802, at the Iberville Parish Council Office, Meriam Street, Plaquemine, Louisiana 70764, and at the West Baton Rouge Parish Council Office, 880 North Alexander Avenue, Port Allen, Louisiana 70767-2327.

Written comments on the Public Trust Analysis may be submitted to Daryl Manning, Department of Economic Development, P.O. Box 94185, Baton Rouge, Louisiana 70804-9185.

Additional information may be obtained from Daryl Manning at (225) 342-5678.

Kevin P. Reilly, Sr.
Secretary

0005#048

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Revision to the Lafourche Parish Attainment Status State Implementation Plan (SIP)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et seq. and in accordance with the

provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Secretary gives notice that a change in the State Implementation Plan (SIP) has been initiated. Lafourche Parish was originally designated as a nonattainment area for ozone in 1978. The LDEQ proposed a SIP to redesignate Lafourche Parish to ozone attainment on November 18, 1994. On August 18, 1995, EPA issued a direct final notice approving Louisiana's redesignation request (60 FR 43020), because it met the maintenance plan and redesignation requirements set forth in the Clean Air Act.

The ozone monitor in Lafourche Parish recorded a violation (a fourth exceedance of the ozone standard in three years) on August 27, 1995, during the 30-day comment period of EPA's approval action on the redesignation request. The EPA did not withdraw its approval of the redesignation action, and it took effect on October 18, 1995. The fourth exceedance was validated on January 10, 1996.

On January 5, 1998, EPA changed the designation of Lafourche Parish to ozone nonattainment and classified the parish as an incomplete data area. Lafourche Parish has had three years of monitored ozone data that again shows attainment of the one-hour ozone National Ambient Air Quality Standard (NAAQS), qualifying the parish for attainment status.

The public comment period begins May 20, 2000, and ends at 4:30 p.m. Central Standard Time (CST) on June 30, 2000. A public hearing will be held at 3 p.m. on June 21, 2000, at the Thibodaux Court House, Stark Municipal Complex, 1309 Canal Boulevard, Thibodaux, LA 70302. A public hearing will also be held at 1:30 p.m. on June 26, 2000, on the Second Floor of the Trotter Building, 7290 Bluebonnet, Baton Rouge, LA.

Interested persons are invited to attend and submit oral comments on the proposed SIP. Written comments may also be submitted at the time of the public hearing or sent to Mrs. Stacy Efferson, Environmental Planning Division, Box 82178, Baton Rouge, LA 70884-2178. A copy of the SIP may be viewed at the Environmental Planning Division from 8 a.m. until 4:30 p.m., Monday through Friday (excluding holidays) at 7290 Bluebonnet, Fifth Floor, Baton Rouge, LA.

James H. Brent
Assistant Secretary

0005#063

POTPOURRI
Office of the Governor
Oil Spill Coordinator's Office

Facility and Vessel Response Plans

Under the authority of Louisiana Oil Spill Prevention and Response Act, R.S. 30:2475 the Louisiana Oil Spill Coordinator's Office in the Office of the Governor will now accept electronic copies of Facility and Vessel Response plans on compact disk (CD) in place of paper copies. Companies providing electronic copies should also provide a contact person and phone number for technical assistance. Paper copies will be accepted if an electronic copy is

unavailable. Electronic updates must include the full version of the original.

For more information, please contact the Louisiana Oil Spill Coordinator's Office/Office of the Governor, (Attn. John H. Brolin), 625 North Fourth Street, Suite 800, Baton Rouge, LA 70802; phone (225) 219-5800.

Roland J. Guidry
Oil Spill Coordinator

0005#050

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	Well Name	Well Number	Serial Number
Basic Energy & Affil. Res. Inc.	Caddo Pine Island	McClenaghan	001	132602
Basic Energy & Affil. Res. Inc.	Caddo Pine Island	McClenaghan	002	133104
Basic Energy & Affil. Res. Inc.	Caddo Pine Island	McClenaghan	003	133394
Basic Energy & Affil. Res. Inc.	Caddo Pine Island	McClenaghan	004	133633
Basic Energy & Affil. Res. Inc.	Caddo Pine Island	McClenaghan	005	216143
Basic Energy & Affil. Res. Inc.	Redoak Lake	J W Coats	001	158729
Basic Energy & Affil. Res. Inc.	Redoak Lake	J W Coats	002	158800
Basic Energy & Affil. Res. Inc.	Redoak Lake	C H Smith	001	159072
Basic Energy & Affil. Res. Inc.	Redoak Lake	J W Coats	008	163587
Basic Energy & Affil. Res. Inc.	Redoak Lake	J W Coats	009	163588
Basic Energy & Affil. Res. Inc.	Redoak Lake	J W Coats A	001	215093
Basic Energy & Affil. Res. Inc.	Lake End	Irene Berry	002	174000
Basic Energy & Affil. Res. Inc.	Lake End	Irene Berry	001	183251
Calumet Refining Company	Caddo Pine Island	Gleason	001	113729
Chief Exploration Corp.	Logansport	Baxter	001	049026

D&V Petroleum Corporation	Big Lake	Amoco Fee SWD	003	150921
John E. Gaffney	Grand Cane	DeSoto Properties	001	017903
Griffin Southern Corp.	San Miguel Creek	Ray Canton	001	163853
Janex Oil Co., Inc.	Big Lake	LEBLEU RA SUD:LeBleu et al	001	203931
Janex Oil Co., Inc.	Fort Pike	TUSC RA SUA;SL 7260	001	158187
Janex Oil Co., Inc.	Ellis	BM SUA;H Jabusch	001	042478
Janex Oil Co., Inc.	Bell City	Sweetlake Land & Oil E	003	122727
Jefferson Lake Sulphur Company	Westwego	Wiogand Unit #4	001	053046
Sam Jones & Associates Products Division, Inc.	Florence	AM Gilmore SWD	001	058892
Midla, Ltd.	San Miguel Creek	LAF RA SUBB;G L Cobb	001	174734
Miles Oil & Gas Co.	Wildcat	Pardee 12	001	172715
Mississippi Ventures, Inc.	Curry	Cavenham	001	209269
Pontchartrain Oil & Gas Corp. 2	Bourg	Guidry SWD	001	970140
Recile Oil of La., Inc.	Vinton	M Gray /A/	003	071472
Red River Gas Company	Cotton Valley	VUA;J O McMichael	001	087199
Rowe, Inc.	Big Creek	Hopper	002	162765
C. I. Vick and Roy I. Davis	Caddo Pine Island	State Mineral Board	A-1	076939
C. I. Vick and Roy I. Davis	Caddo Pine Island	Caddo Levee Board	A-2	077031

Philip N. Asprodites
Commissioner

0005#046

POTPOURRI

**Department of Natural Resources
Office of the Secretary**

Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1, et seq., notice is given that 18 claims in the amount of \$52,659.80 were received during the period April 2000. There were 15 claims paid and 3 claims denied.

Loran Coordinates of reported underwater obstructions are:

26644	46979	Cameron
26731	46980	Cameron
26756	46979	Cameron
27105	46943	Vermilion
27922	46832	Terrebonne

A list of claimants and amounts paid, can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 94396 Baton Rouge, LA 70804 or you can call (225) 342-0122.

Jack C. Caldwell
Secretary

0005#027

POTPOURRI

**Department of Social Services
Office of the Secretary
Bureau of Licensing**

Meetings of Louisiana Advisory Committee
on Licensing of Child Care Facilities
and Child Placing Agencies

The Louisiana Advisory Committee on Licensing of Child Care Facilities and Child Placing Agencies will meet on the second Wednesday of each month at 11 a.m. These meetings are open to the public, and are held at offices of the Department of Social Services, Bureau of Licensing, located at 2751 Wooddale Boulevard, Suite 330, Baton Rouge, LA 70806.

J. Renea Austin-Duffin
Secretary

0005#029

POTPOURRI

**Department of Transportation and Development
Sabine River Compact Administration**

Spring Meeting Notice

The spring meeting of the Sabine River Compact Administration will be held at the Hilton Riverside, New Orleans, Louisiana, June 30, 2000, at 9:30 A.M.

The purpose of the meeting will be to conduct business as programmed in Article IV of the By Laws of the Sabine River Compact Administration.

The fall meeting will be held at a site in Texas to be designated at the above described meeting.

Contact person concerning this meeting is:

Mary H. Gibson, Secretary
Sabine River Compact Administration
15091 Texas Highway
Many, Louisiana 71449
(318) 256-4112

Mary H. Gibson
Secretary

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